

Tab 1	CS/SB 642 by CJ, Brandes (CO-INTRODUCERS) Gruters, Rouson, Perry, Broxson; (Similar to H 00705) Criminal Justice
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Tab 2	CS/SB 656 by JU, Baxley; (Compare to CS/H 07081) Background Screening
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Tab 3	CS/SB 1074 by CJ, Brandes; Sentencing
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Tab 4	SB 7072 by AP; (Compare to CS/H 00337) Justice System
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON CRIMINAL AND
CIVIL JUSTICE
Senator Brandes, Chair
Senator Bracy, Vice Chair

MEETING DATE: Tuesday, April 9, 2019
TIME: 1:30—3:30 p.m.
PLACE: *Mallory Horne Committee Room, 37 Senate Building*

MEMBERS: Senator Brandes, Chair; Senator Bracy, Vice Chair; Senators Gainer, Gruters, Harrell, Perry, Rouson, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 642 Criminal Justice / Brandes (Similar H 705, Compare H 859, CS/H 953, CS/H 963, S 400, CS/S 1334)	Criminal Justice; Citing this act as the Florida First Step Act; requiring that the court impose, for an offense relating to trafficking in certain substances, a sentence pursuant to the Criminal Punishment Code and without regard to any statutory minimum sentence if the court makes specified findings under certain circumstances; authorizing the Correctional Education Program to establish a Prison Entrepreneurship Program and adopt procedures for admitting student inmates; requiring a probation officer to determine whether a probationer or offender on community control who commits a technical violation is eligible for a certain alternative sanctioning program, etc. CJ 03/04/2019 Fav/CS ACJ 04/09/2019 Temporarily Postponed AP	Temporarily Postponed
2	CS/SB 656 Judiciary / Baxley (Compare H 7081, Linked S 1764)	Background Screening; Requiring that applicants for certification as a foreign language court interpreter or as a mediator, respectively, undergo certain background security investigations, etc. JU 03/04/2019 Fav/CS ACJ 04/09/2019 Favorable AP	Favorable Yeas 7 Nays 0
3	CS/SB 1074 Criminal Justice / Brandes	Sentencing; Creating a conditional sentence for substance use and mental health offenders in accordance with s. 948.012, F.S.; authorizing a court to sentence an offender to a conditional sentence; authorizing the sentencing court to have the Department of Corrections provide a presentence investigation report in accordance with s. 921.231, F.S., to provide the court with certain information to determine the type of probation most appropriate for the offender; requiring an offender to comply with specified terms of drug offender or mental health probation, etc. CJ 03/18/2019 Fav/CS ACJ 04/09/2019 Temporarily Postponed AP	Temporarily Postponed

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Criminal and Civil Justice
Tuesday, April 9, 2019, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 7072 Appropriations (Compare CS/H 337, CS/CS/H 589, H 937, CS/S 328, S 406, S 1226, CS/S 1334)	Justice System; Authorizing certain Supreme Court justices to have an appropriate facility in their district of residence designated as their official headquarters; increasing the number of circuit judges in certain judicial circuits; revising the circumstances under which an offense of retail theft constitutes a felony of the second or third degree, etc. ACJ 04/09/2019 Fav/CS AP 03/07/2019 Temporarily Postponed AP 03/14/2019 Submitted and Reported Favorably as Committee Bill	Fav/CS Yeas 6 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

BILL: CS/SB 642

INTRODUCER: Criminal Justice Committee and Senator Brandes and others

SUBJECT: Criminal Justice

DATE: April 8, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones	CJ	Fav/CS
2.	Forbes	Jameson	ACJ	Pre-meeting
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 642, which is cited as the “Florida First Step Act,” makes changes to a number of provisions related to the criminal justice system, including:

- Authorizing a court to depart from the imposition of a mandatory minimum sentence in drug trafficking cases if certain circumstances are met;
- Providing legislative intent language that the Department of Corrections (DOC) should attempt to place an inmate as close as practicable to within 300 miles driving distance of his or her primary residence;
- Requiring the DOC to provide inmates with a comprehensive community reentry resource directory that includes specified information related to services and portals available in the county to which the inmate is to be released;
- Permitting specified entities to apply with the DOC to be registered to provide inmate reentry services and requiring the DOC to create a process for screening, approving, and registering such entities;
- Authorizing the department to contract with specified entities to assist veteran inmates in applying for veteran’s benefits upon release;
- Requiring the DOC to notify each inmate or offender of all terms of his or her sentence that are outstanding at the time of release or termination of probation or community control, respectively;
- Requiring county detention facilities to notify each inmate of all terms of his or her sentence that are outstanding at the time of release;

- Authorizing the DOC to develop, within its existing resources, a Prison Entrepreneurship Program (PEP) that includes education with specified curriculum;
- Authorizing an inmate to obtain educational gain-time for participating in the PEP and allowing such gain time to pierce 85 percent in certain instances;
- Authorizing the court to order or the DOC to transfer offenders to administrative probation if the offender presents a low risk of harm to the community and has completed at least half of their term of probation;
- Requiring each circuit to create an alternative sanctions program to handle specified types and occurrences of technical violations of probation or community control with the judge's concurrence; and
- Requiring the DOC to include in the Florida Crime Information Center system all conditions of probation as determined by the court.

The bill has a “negative significant” prison bed impact (i.e., a decrease of more than 25) as a result of the provisions related to departure from drug trafficking mandatory minimums and the requirement of each circuit to create an Alternative Sanctioning Program (ASP). Additionally, the bill has an indeterminate fiscal impact to the DOC and local governments associated with additional workload and the need for information technology updates. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2019.

II. Present Situation:

Federal First Step Act

In December, 2018, the United States Congress passed, and President Trump signed into law, the “Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person Act” or the “FIRST STEP Act” (First Step Act).¹ The law makes a number of changes to the federal criminal justice system, including changes to the manner in which offenders are sentenced for federal criminal offenses and the services that are available to such offenders once sentenced to federal prison. In part, the First Step Act:

- Directs the Department of Justice to establish, and the Bureau of Prisons (BOP) to implement, a risk and needs assessment system to assess and classify the recidivism risk of prisoners and to use such classification to:
 - Guide housing, grouping, and program assignments; and
 - Incentivize and reward participation in and completion of recidivism reduction programs and productive activities.
- Modifies the computation of good time credit.²

¹ First Step Act of 2018, Pub. L. No. 115-391 (2018).

² The bill provides that inmates who avoid a disciplinary record can currently get credits of up to 47 days per year incarcerated. The law increases the cap to 54, allowing well-behaved inmates to cut their prison sentences by an additional week for each year they're incarcerated. The change applies retroactively, which will allow some prisoners — as many as 4,000, according to supporters — to qualify for an earlier release fairly soon. *Supra*, n. 1; *See also* Vox, German Lopez, *The First Step Act, explained*, February 5, 2019, available at <https://www.vox.com/future-perfect/2018/12/18/18140973/state-of-the-union-trump-first-step-act-criminal-justice-reform> (last visited April 2, 2019).

- Requires the BOP to place low-risk prisoners on home confinement for the maximum amount of time permitted.
- Requires prisoners to be placed within 500 miles of their primary residence, subject to bed availability and the prisoner’s security designation.
- Reduces mandatory minimum prison terms for certain nonviolent repeat drug offenses.³
- Broadens the existing safety valve to permit a sentence below the mandatory minimum for certain nonviolent, cooperative drug offenders with a limited criminal history.
- Expands in-prison and post-release employment programming.⁴

The White House stated that “The First Step Act will help prepare inmates to successfully rejoin society and enact commonsense sentencing reforms to make our justice system fairer for all Americans.”⁵

Report on Diverting Low-Risk Offenders from Florida Prisons

The Office of Program Policy Analysis and Government Accountability (OPPAGA) was directed to conduct a review of Florida’s sentencing laws and identify policy options to reduce or divert low-risk offenders from entering Florida’s prisons.⁶ The OPPAGA released its report in January 2019. The report analyzed prison trends in Florida and discussed tools available to divert low-risk offenders and thereby reduce the prison population.⁷

The OPPAGA, in part, analyzed the trends for the types of offenders being admitted into Florida’s prisons currently and reported that drug and property offenders comprise the majority of prison admissions.⁸ Further, offenders admitted for these types of offenses tend to cycle through prison relatively quickly and comprise a smaller portion of the total inmate population, including only 14 percent for drug offenses. The OPPAGA identified lower-level inmates and found that such lower-risk offenders comprised 13 percent of the inmate population,⁹ of which

³ These reductions were achieved through easing a “three strikes” rule so people with three or more convictions, including for drug offenses, automatically get sentenced to 25 years instead of life, among other changes. It also restricts the current practice of stacking gun charges against drug offenders to add additional years to a term of imprisonment. All of these changes will likely lead to shorter prison sentences in the future.

⁴ *Supra*, n. 1.

⁵ The Jurist, Erin McCarthy Holliday, *President Trump signs criminal justice reform First Step Act into law*, December 21, 2018, available at <https://www.jurist.org/news/2018/12/president-trump-signs-criminal-justice-reform-first-step-act-into-law/>; The Washington Post, John Wagner, *Trump signs bipartisan criminal justice bill amid partisan rancor over stopgap spending measure*, December 21, 2018, available at https://www.washingtonpost.com/politics/trump-to-sign-bipartisan-criminal-justice-bill-amid-partisan-rancor-over-stopgap-spending-measure/2018/12/21/234f9ffc-0510-11e9-b5df-5d3874f1ac36_story.html?utm_term=.fe211312ebb2 (all sites last visited on April 2, 2019).

⁶ Chapter 2018-9, L.O.F., p. 356.

⁷ The OPPAGA, *Diverting Low-Risk Offenders from Florida Prisons*, Report No. 19-01, at p. 8, January 2019, available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1901rpt.pdf> (last visited on April 2, 2019)(hereinafter cited as “OPPAGA Report”). The report stated that the incarceration rate in Florida is at approximately 500 inmates per 100,000 Floridians.

⁸ *Id.*

⁹ OPPAGA Report p. 8.

4,809 inmates were drug offenders.¹⁰ Of the more than 96,000 inmates in state prisons, 5 percent or 4,696 inmates, were serving mandatory minimum sentences for drug offenses.¹¹

The OPPAGA cited projections by the Criminal Justice Estimating Conference, published by the Office of Economic and Demographic Research, that a reduction of 1,500 inmate beds is equivalent to closing an entire prison, and a cost savings of approximately \$30 million annually.¹²

The OPPAGA further found that “there are lower-level offenders who could be diverted from prison without increasing recidivism.”¹³ The OPPAGA, in part, recommended that the Legislature create a safety valve or modify mandatory minimum terms of imprisonment for drug offenses.¹⁴

Drug Trafficking Sentencing Departure

Florida’s Controlled Substance Schedules

Section 893.03, F.S., classifies controlled substances into five categories, known as schedules. These schedules regulate the manufacture, distribution, preparation, and dispensing of the substances listed in the schedules. The most important factors in determining the schedule classification of a substance are the “potential for abuse”¹⁵ of the substance and whether there is a currently accepted medical use for the substance in the United States.¹⁶

Drug Trafficking

Drug trafficking, which is punished in s. 893.135, F.S., consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state (importation), or knowingly being in actual or constructive possession of, certain Schedule I or Schedule II controlled substances in a statutorily specified quantity. The statute only applies to a limited number of such controlled substances.¹⁷ The controlled substance involved in the trafficking must meet a specified weight or quantity threshold.

¹⁰ The OPPAGA report considered low-risk offenders to be inmates who have never been convicted of any violent or sexual felony and who have never served any sentence of imprisonment prior to their current sentence.

¹¹ OPPAGA Report, p. 18. Almost half of this group of inmates had been admitted to prison for the first time.

¹² OPPAGA Report, p. 17-18. It should be noted that Florida’s prisons are primarily funded through General Revenue.

¹³ OPPAGA Report, p. 19-21

¹⁴ OPPAGA Report, p. 23.

¹⁵ Pursuant to s. 893.035(3)(a), F.S., “potential for abuse” means a substance has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of the substance being: (1) used in amounts that create a hazard to the user’s health or the safety of the community; (2) diverted from legal channels and distributed through illegal channels; or (3) taken on the user’s own initiative rather than on the basis of professional medical advice.

¹⁶ See s. 893.03(1)-(5), F.S.

¹⁷ See s. 893.135, F.S., for the substances which are included in the offense if drug trafficking.

Most drug trafficking offenses are first degree felonies¹⁸ and are subject to a mandatory minimum term of imprisonment¹⁹ and a mandatory fine, which is determined by the weight or quantity range applicable to the weight or quantity of the substance involved in the trafficking.²⁰ For example, trafficking in 28 grams or more, but less than 200 grams, of cocaine, a first degree felony, is punishable by a 3-year mandatory minimum term of imprisonment and a mandatory fine of \$50,000.²¹ Trafficking in 200 grams or more, but less than 400 grams, of cocaine, a first degree felony, is punishable by a 15-year mandatory minimum term of imprisonment and a mandatory fine of \$100,000.²²

Criminal Punishment Code

The Criminal Punishment Code (Code) is Florida's primary sentencing policy.²³ Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).²⁴ Points are assigned and accrue based upon the level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses like a Level 7 or 8 drug trafficking offense. The lowest permissible sentence is any nonstate prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.²⁵ Absent mitigation,²⁶ the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S. The statutory maximum sentence for a first-degree felony is 30 years, for a second-degree felony is 15 years, and for a third degree felony is 5 years.²⁷

Mandatory Minimum Sentences and Departures

Mandatory minimum terms of imprisonment limit judicial discretion in Code sentencing: "If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence."²⁸ As previously noted, the sentencing range under the Code is generally the scored lowest permissible sentence up to and including the statutory maximum penalty. However, if there is a mandatory minimum sentence that is longer than the

¹⁸ A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to \$10,000. However, when specifically provided by statute, a first degree felony may be punished by imprisonment for a term of years not exceeding life imprisonment. Sections 775.082 and 775.083, F.S.

¹⁹ There are currently 56 mandatory minimum terms of imprisonment in s. 893.135, F.S., which range from 3 years to life imprisonment.

²⁰ See s. 893.135, F.S.

²¹ Section 893.135(1)(b)1.a., F.S.

²² Section 893.135(1)(b)1.b., F.S.

²³ Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

²⁴ Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

²⁵ Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

²⁶ The court may "mitigate" or "depart downward" from the scored lowest permissible sentence if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

²⁷ See s. 775.082, F.S.

²⁸ Fla. R. Crim. P. 3.704(d)(26).

scored lowest permissible sentence, the sentencing range is narrowed to the mandatory minimum sentence up to and including the statutory maximum penalty.

Prosecutors have “complete discretion” in the charging decision.²⁹ The exercise of this discretion may determine whether a defendant is subject to a mandatory minimum term or a reduced mandatory minimum term. A prosecutor could determine in a particular case that mandatory minimum sentencing is inappropriate or too severe and avoid or ameliorate such sentencing. Further, a prosecutor could move the court to reduce or suspend a sentence if the defendant renders substantial assistance.

There are few circumstances in which a court of its own accord can depart from a mandatory minimum term. A court may depart from a mandatory minimum term if the defendant is a youthful offender.³⁰ A court may also depart from a mandatory minimum term for a violation of s. 316.027(2)(c), F.S., (driver involved in a fatal crash fails to stop and remain at the scene of a crash), if the court “finds that a factor, consideration or circumstance clearly demonstrates that imposing a mandatory minimum term of imprisonment would constitute or result in an injustice.”³¹

Probation and Community Control

Forms of Supervision through the Department of Corrections

At sentencing, a judge may place an offender on probation or community control in lieu of or in addition to incarceration.³² The DOC supervises more than 166,000 offenders on active community supervision. This includes offenders released from prison on parole, conditional release, or conditional medical release and offenders placed on court ordered supervision including probation, drug offender probation, sex offender probation, and community control.³³

Probation

Probation is a form of community supervision requiring specified contacts with probation officers and other conditions a court may impose.³⁴ There are also specialized forms of supervision such as drug offender probation³⁵ and mental health probation.³⁶ Section 948.03, F.S., provides that a court must determine the terms and conditions of probation. Standard conditions of probation that are enumerated in s. 948.03, F.S., are not required to be announced on the record, but the court must orally pronounce, as well as provide in writing, any special conditions of probation imposed.

²⁹ “Under Florida’s constitution, the decision to charge and prosecute is an executive responsibility, and the state attorney has complete discretion in deciding whether and how to prosecute.” *State v. Bloom*, 497 So.2d 2, 3 (Fla. 1986).

³⁰ Section 958.04, F.S.

³¹ Section 316.027(2)(g), F.S.

³² Section 948.01, F.S.

³³ The DOC, *Probation Services*, available at <http://www.dc.state.fl.us/cc/index.html> (last visited February 25, 2019).

³⁴ Section 948.001(8), F.S. Terms and conditions of probation are provided in s. 948.03, F.S.

³⁵ Section 948.001(4), F.S., defines “drug offender probation” as a form of intensive supervision that emphasizes treatment of drug offenders in accordance with individualized treatment plans administered by probation officers with reduced caseloads.

³⁶ Section 948.001(5), F.S., “mental health probation” means a form of specialized supervision that emphasizes mental health treatment and working with treatment providers to focus on underlying mental health disorders and compliance with a prescribed psychotropic medication regimen in accordance with individualized treatment plans.

Administrative Probation

Section 948.013, F.S., provides that the DOC may establish procedures for transferring an offender to administrative probation. Administrative probation is defined in s. 948.001(1), F.S., to mean a form of no contact, nonreporting supervision to which an offender may be transferred upon the satisfactory completion of certain conditions. Administrative probation is only for offenders that are a low-risk of harm to the community and there are specified underlying offenses that are prohibited from being transferred to administrative probation.³⁷

Community Control

Section 948.001(3), F.S., defines “community control” as a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads.³⁸ The community control program is rigidly structured and designed to accommodate offenders who, in the absence of such a program, will be committed to the custody of the DOC or a county jail.³⁹ A person on community control (controlee) has an individualized program and is restricted to his or her home or noninstitutional residential placement, unless working, attending school, performing public service hours, participating in treatment or another special activity that has been approved in advance by his or her parole and probation officer.⁴⁰

Conditions of community control are determined by the court when the offender is placed on such supervision. There are standard conditions of community control with which all controlees must comply.⁴¹ A person may be placed on additional terms of supervision as part of his or her community control sentence.⁴²

Violations of Probation or Community Control

If an offender violates the terms of his or her probation or community control, the supervision can be revoked in accordance with s. 948.06, F.S.⁴³ A violation of probation (VOP) or violation of community control (VOCC) can be the result of a new violation of law or a technical violation of the conditions imposed. If reasonable grounds exist to believe that an offender on probation or community control has violated his or her terms of supervision in a material respect, an offender may be arrested without a warrant by a:

- Law enforcement officer who is aware of the inmate’s supervised community release status;
- Probation officer; or
- County or municipal law enforcement officer upon request by a probation officer.⁴⁴

³⁷ See s. 948.013(2) and (3), F.S.

³⁸ Section 948.10(2), F.S., provides that caseloads must be no more than 30 cases per officer.

³⁹ Section 948.10(1), F.S.

⁴⁰ *Id.*

⁴¹ See s. 948.101(1), F.S., for the standard conditions of community control.

⁴² Section 948.101(2), F.S.

⁴³ Section 948.10(3), F.S.

⁴⁴ Section 948.06(1)(a), F.S.

The offender must be returned to the court granting such probation or community control.⁴⁵ Additionally, the committing court judge may issue a warrant, upon the facts being made known to him or her by affidavit of one having knowledge of such facts, for the arrest of the offender.⁴⁶

Upon a finding through a VOP or VOCC hearing, a court may revoke, modify, or continue the supervision. If the court chooses to revoke the supervision, it may impose any sentence originally permissible before placing the offender on supervision.⁴⁷ In addition, if an offender qualifies as a violent felony offender of special concern (VFOSC), the court must revoke supervision, unless it makes written findings that the VFOSC does not pose a danger to the community.⁴⁸ The VFOSC status also accrues sentence points under the Code, which affects the scoring of the lowest permissible sentence.⁴⁹

Alternative Sanctioning Programs

In FY 2017-18 a total of 64,672 technical violations were reported.⁵⁰ Many of these violations resulted in the offender returning to some form of supervision or serving a county jail sentence.⁵¹ Prior to 2016, the DOC developed and implemented an alternative sanctioning program (ASP) in twelve counties within six judicial circuits.⁵² An ASP allows for an alternative resolution of technical violations of probation that ensures a swift and certain response without initiating the court process or arresting and booking the offender. Section 948.06, F.S., was amended during the 2016 Legislative Session to codify the ASPs.⁵³ The use of such programs has substantially increased since enactment of the ASP option. As of February 2019, 16 circuits (including 49 of 67 counties) have established ASPs by administrative order. These participating jurisdictions have resolved 3,740 violations through ASPs.⁵⁴

Section 948.06(1)(h), F.S., authorizes the chief judge of each judicial circuit to establish an ASP, in consultation with the State Attorney, Public Defender, and the DOC to address technical VOPs and VOCCs. A technical violation is defined to include any alleged violation of

⁴⁵ *Id.*

⁴⁶ Section 948.06(1)(b), F.S. The committing trial court judge may also issue a notice to appear if the probationer or controlee has never been convicted of committing, and is not currently alleged to have committed, a qualifying offense as enumerated in s. 948.06(8)(c), F.S.

⁴⁷ Section 948.06(2)(b), F.S.

⁴⁸ See s. 948.06(8)(a), F.S., for all VFOSC qualifications and enumerated list of felonies that are considered qualifying offenses. See also ch. 2007-2, L.O.F.

⁴⁹ Section 921.0024, F.S.

⁵⁰ Email from the DOC Staff (February 28, 2019).

⁵¹ The DOC, *Copy of Tech Violations and Disposition 02-16-18* (on file with the Senate Criminal Justice Committee),

⁵² The DOC, *Agency Analysis for SB 642*, p. 6, February 27, 2019 (hereinafter cited as “The DOC SB 642 Analysis”); See also the DOC, *Agency Analysis HB 1149 (2016)*, p. 2 (January 20, 2016)(all documents on file with the Senate Criminal Justice Committee).

⁵³ Ch. 2016-100, L.O.F.

⁵⁴ Email from the DOC Staff (February 26, 2019)(on file with the Senate Criminal Justice Committee). The circuits that have enacted administrative orders include the: Third (Columbia, Dixie, Hamilton, Lafayette, Madison, Suwannee, and Taylor Counties); Fourth (Duval County); Fifth (Citrus, Hernando, Lake, Marion, and Sumter Counties); Sixth (Pasco and Pinellas Counties); Seventh (Flagler, Putnam, St. Johns and Volusia Counties); Eighth (Alachua, Baker, Bradford, Gilchrist, Levy, and Union Counties); Tenth (Hardee, Highlands, and Polk Counties); Twelfth (DeSoto, Manatee, and Sarasota Counties); Thirteenth (Hillsborough County); Fourteenth (Bay, Calhoun, Gulf, Holmes, Jackson, and Washington Counties); Fifteenth (Palm Beach County); Eighteenth (Brevard and Seminole Counties); and Nineteenth (Indian River, Martin, Okeechobee, and St. Lucie Counties).

supervision that is not a new felony offense, misdemeanor offense, or criminal traffic offense.⁵⁵ Once an ASP administrative order is signed establishing the terms⁵⁶ of the program, the DOC may enforce specified sanctions for certain technical violations with court approval.

Common sanctions issued through the ASP include increased reporting requirements, which can be in person or via phone, community service hours, imposition or modification of a curfew, electronic monitoring, drug evaluation and treatment, employment searches and workforce training.⁵⁷ As of January 2018, two circuits and Brevard County had included short jail sentences as a possible ASP sanction through administrative order.⁵⁸

After receiving written notice of an alleged technical violation and disclosure of the evidence supporting the violation, an offender who is eligible for the ASP may elect to either participate in the program or waive participation.⁵⁹ If the offender waives participation, the violation proceeds through the court resolution process.⁶⁰ If the offender elects to participate, he or she must admit to the technical violation, agree to comply with the probation officer's recommended sanction, and agree to waive the right to:

- Be represented by counsel;
- Require the state to prove his or her guilt;
- Subpoena witnesses and present evidence to a judge in his or her defense;
- Confront and cross-examine witnesses; and
- Receive a written statement from a factfinder as to the evidence relied on and the reasons for the sanction imposed.⁶¹

Upon the offender admitting to the technical violation and agreeing with the probation officer's recommended sanction, the probation officer must submit the recommended sanction to the court for approval. The submission to the court must include documentation related to the offender's admission to the technical violation and agreement with the recommended sanction. The court may impose the recommended sanction or may direct the DOC to submit a violation report, affidavit, and warrant.⁶²

Participation in an ASP is voluntary. Additionally, the offender may elect to waive or discontinue participation in an ASP at any time before the issuance of a court order imposing the

⁵⁵ Section 946.08(2)(h)1., F.S.

⁵⁶ Section 948.06(1)(h)2., F.S., provides that the administrative order must address which technical violations are eligible for alternative sanctioning, offender eligibility criteria, permissible sanctions, and the process for reporting technical violations.

⁵⁷ The Third Judicial Circuit, *Administrative Order 2016-003, Criminal Alternative Sanctioning Program*, available at http://www.jud3.flcourts.org/Admin_Orders/All/2016-003-Criminal%20Alternative%20Sanctioning%20Program.pdf Thirteenth Judicial Circuit, *Administrative Order S-2016-019, Alternative Sanctioning Program*, available at <http://www.fljud13.org/Portals/0/AO/DOCS/S-2016-019.pdf?ver=2016-06-07-104033-303> (all sites last visited April 2, 2019).

⁵⁸ The Eighth and Tenth circuits offer short county jail time as a sanction and Brevard County offers weekends with the Brevard County Sheriff's Work Farm. Email and pdf attachment from the DOC Staff (February 22, 2018)(on file with Senate Criminal Justice Staff).

⁵⁹ Section 948.06(1)(h)3., F.S.

⁶⁰ Section 948.06(1)(h)3.a., F.S.

⁶¹ Section 948.06(1)(h)3.b., F.S.

⁶² Section 948.06(1)(h)4. and 5., F.S.

recommended sanction. The offender's prior admission to the technical violation may not be used as evidence in subsequent proceedings.⁶³

Conditions of Probation in the Florida Crime Information Center

The Florida Crime Information Center (FCIC) is the state's central database for tracking crime related information. Information contained in the FCIC database includes, but is not limited to, statewide information on persons and property, driver's license and registration information, wanted and missing persons, stolen guns, vehicles, and other property, and persons' status files, and computerized criminal history.⁶⁴ It is commonly used by law enforcement officers to gather relevant information when responding to a call for service or engaging in a citizen encounter.

Every criminal justice agency within Florida is eligible for access to the FCIC.⁶⁵ Access is divided into limited access and full access. With limited access, the user is able to run a query in the system. With full access, the user is able to make modifications in the system.⁶⁶ Currently, an officer may run a driver license, warrant, or person query in the FCIC and the results will include information on whether the individual is currently on probation.⁶⁷ However, in general, a law enforcement officer will only see that the person is on probation. The FCIC will not include the specific terms of probation.⁶⁸

The DOC sends a probationer's data electronically to the Florida Department of Law Enforcement (FDLE) through a real time direct data pipeline. To include a probationer's conditions, the DOC will enter the information into a "Miscellaneous Field of the Status Record" field available in the FCIC.⁶⁹ However, the DOC reports that it includes a number of special conditions of probation as prioritized by the FDLE, but that the current FDLE system only allows a smaller, specified amount of data and typically does not allot enough space to include all special conditions of probation.⁷⁰

A court has authority to modify or alter conditions of probation based on a probationer's particular circumstances.⁷¹ As a result, a probation officer may have permission to allow certain exceptions to conditions of probation on a case-by-case basis. For example, a court may allow a

⁶³ Section 948.06(1)(h)6. and 7., F.S.

⁶⁴ The Florida Department of Law Enforcement (FDLE), *Criminal Justice Information System, Limited Access Certification Course*, p. 7, available at <http://www.fdle.state.fl.us/Limited-Access/Documents/Limited-Access-v5-2018-1.aspx> (last visited April 2, 2019).

⁶⁵ The FDLE, *FDLE Frequently Asked Questions, What is criminal history information and how do I obtain it?*, available at <http://www.fdle.state.fl.us/FAQ-s/Frequently-Asked-Questions.aspx> (last visited on April 2, 2019).

⁶⁶ *Id.*

⁶⁷ The FDLE, *FDLE Frequently Asked Questions, What is criminal history information and how do I obtain it?*, available at <http://www.fdle.state.fl.us/FAQ-s/Frequently-Asked-Questions.aspx> (last visited on April 2, 2019).

⁶⁸ Email from Florida Sheriffs Association (FSA) Staff (February 22, 2018)(on file with Senate Criminal Justice Committee).

⁶⁹ The DOC SB 642 Agency Analysis, p. 6. *See also* Email from the DOC Staff (February 23, 2018)(on file with the Senate Criminal Justice Committee). The DOC currently includes the specified conditions of probation for each probationer in the data it sends to the FDLE, including, but not limited to: Sex offender curfew; Curfew for non-sex offenders; Remain confined to approved residence; No unsupervised contact with minors; No work or volunteer work with children; Do not live or work within 1,000 feet of school or bus stop; Submit to search; No driving or driver license revoked or suspended; Driving for employment only; No alcohol or illegal drugs; No contact with victim; No pornographic material; Restrictions to enter or leave a city; No employment that involves handling money; No post office box; and No checking account.

⁷⁰ *Id.*

⁷¹ Section 948.039, F.S.

probation officer to give permission to a probationer to stay out past a designated curfew if the reason is for work, school, or health care emergencies. When this occurs, probation officers may not have access to the DOC databases in order to update in real time any exceptions to the individual's probation in the FCIC.⁷²

State Inmates Admission Process, Facility Placement, and Available Programming

Legislative Findings

Section 944.611, F.S., provides various legislative findings applicable to the care of inmates in Florida's prisons. These findings are one part of the framework utilized by the DOC when developing the below-mentioned procedures for determining an inmate's most appropriate placement. These finding include, in part, that:

- It is desirable that each inmate be confined in and released from an institution or facility as close to the inmate's permanent residence or county of commitment as possible, in order to lessen the transportation expense to the public.
- To the extent possible, an inmate be returned, upon release, to the same area from which the inmate was committed.

General Admission Process

Once sentenced to the DOC, an inmate will first go to a reception center for diagnostic tests and evaluations. During reception, an inmate's custody level is determined, health care, programming needs are assessed, and the rules and regulations of prison life are taught.⁷³ All inmates are screened at reception and assessed and placed into programs using the Correctional Integrated Needs Assessment System (CINAS).⁷⁴ The CINAS is administered to inmates at reception and again at 42 months from release. Additionally, the DOC conducts updates every six months thereafter to evaluate the inmate's progress and ensure enrollment in needed programs. The DOC's use of the CINAS allows for development and implementation of programs that increase the likelihood of successful transition through the selection of services that are matched to the offender's learning characteristics and then to the offender's stage of change readiness.⁷⁵

The inmate is then sent to a major institution (prison)⁷⁶ that can accommodate his or her custody level and needs. The custody evaluation is based upon factors such as the sentence structure, outstanding detainers or warrants, age, education, and recent employment history. Background

⁷² The DOC SB 642 Agency Analysis, p. 6.

⁷³ See The DOC, *Inmate Orientation Handbook, Reception Center Processing, NII-091*, p. 2-3, December 2, 2016, available at <http://www.dc.state.fl.us/pub/files/InmateOrientationHandbook.pdf> (last visited April 2, 2019)(hereinafter cited as "Inmate Handbook").

⁷⁴ The DOC, *Agency Analysis for SB 1222 (2018)*, p. 2, January 18, 2018 (on file with the Senate Criminal Justice Committee)(hereinafter cited as "The DOC SB 1222 Analysis").

⁷⁵ The DOC SB 1222 Analysis, p. 2. The DOC reports that it matches factors that influence an inmate's responsiveness to different types of services with programs that are proven to be effective within an inmate population.

⁷⁶ All major institutions, or prisons, are similar to small towns in that they have their own academic and vocational schools, places of worship, medical services, maintenance facilities, parks (for visiting family), and often their own water supplies. The DOC, *Annual Report Fiscal Year 2017-18*, p. 13, available at http://www.dc.state.fl.us/pub/annual/1718/FDC_AR2017-18.pdf (last visited April 2, 2019)(hereinafter cited a "Annual Report").

factors such as previous terms of incarceration, previous escapes, and past disciplinary problems also affect the decision. The result of the evaluation is called a custody assignment.⁷⁷

An inmate's custody assignment is important because it determines the type of institution in which an inmate must be housed. After completing the orientation process at a reception center, inmates are transferred to a "permanent facility." Placement is based on institutional and individual need such as programs, education, health, and availability of bed space.⁷⁸

As the inmate serves his sentence, he or she will be reevaluated whenever something happens that could change the inmate's custody, including positive or negative events. An example of a positive change is earning gain-time that reduces the time remaining to serve. Alternatively, an example of a negative event is an inmate receiving a disciplinary report for a rule violation. When the custody assignment changes, so can the inmate's location and it's possible for an inmate to be moved to a different prison. When possible, the DOC will assign an inmate to an institution in the vicinity of his/her home to encourage family support.⁷⁹

The DOC reports that 65 percent of its beds are located in Region 1 or Region 2, located in Northwest Florida and Northeast Florida, respectively. In FY 2017-18, the DOC received approximately 27,916 new admissions of which 64 percent were from the Region 3 or Region 4 area, which are the Central and South Florida areas, respectively.⁸⁰

Determining an Inmate's Classification Level

Section 944.1905, F.S., requires each inmate placed in the custody of the DOC to be classified or reclassified based upon the inmate's risk level. An inmate's initial classification is determined by a number of factors including, but not limited to, length of sentence, criminal history, any history of violence, and escape history.⁸¹ Classification levels impact the facility placement and programming that an inmate is eligible to participate in while incarcerated.⁸²

Programming Offered to Inmates in the Custody of the DOC

Chapter 944, F.S., requires the DOC to provide a variety of services and programming to inmates committed to the custody of the DOC, including:

- Substance abuse treatment programs;⁸³

⁷⁷ *Id.*

⁷⁸ All major institutions, or prisons, are similar to small towns in that they have their own academic and vocational schools, places of worship, medical services, maintenance facilities, parks (for visiting family), and often their own water supplies. The DOC, *Annual Report Fiscal Year 2017-18*, p. 13, available at http://www.dc.state.fl.us/pub/annual/1718/FDC_AR2017-18.pdf (last visited April 2, 2019)(hereinafter cited a "Annual Report").

⁷⁹ The DOC, *Victim Services, What Happens After Sentencing?*, available at <http://www.dc.state.fl.us/vict/index.html> (last visited February 22, 2019).

⁸⁰ The DOC SB 642 Analysis, p. 2. A map of the DOC's regions may be found at <http://www.dc.state.fl.us/ci/index.html> (last visited March 1, 2019).

⁸¹ Inmate Handbook, at 8; *See also* Section 944.1905(1)-(3), F.S.

⁸² Inmate Handbook, at 7.

⁸³ Section 944.473(2), F.S., requires each inmate to be assessed to determine if he or she qualifies to receive mandated substance-abuse treatment while incarcerated. The DOC provides four levels of inmate substance abuse programming, including intensive outpatient, residential therapeutic community, program centers, and work release centers. In FY 2017-18, a total of 10,844 inmates participated in some form of substance abuse treatment. *See* Annual Report, p. 45.

- Transitional services;⁸⁴
- Educational and vocational programs;⁸⁵ and
- Faith- and character-based programs.⁸⁶

These services and programs provide inmates with skills and tools to assist with an inmate's successful transition into the community upon release. These services are not offered at all prisons, therefore, services that an inmate needs to best provide rehabilitative programming are paramount to placement decisions.⁸⁷

Education for State Prisoners

Section 944.801(1), F.S., establishes a Correctional Education Program (CEP), which must be composed of the educational facilities and services of all institutions, and facilities housing inmates operated by the DOC. The duties of the CEP, in part, include:

- Developing guidelines for collecting education-related information during the inmate reception process and for disseminating such information to the classification staff of the DOC.⁸⁸
- Approving educational programs of the appropriate levels and types in the correctional institutions and developing procedures for the admission of inmate students into such programs.⁸⁹
- Entering into agreements with public or private school districts, entities, community colleges, junior colleges, colleges, or universities as may be deemed appropriate for the purpose of carrying out the CEP duties.⁹⁰
- Ensuring that such local agreements require minimum performance standards and standards for measurable objectives, in accordance with established Department of Education (DOE) standards.⁹¹
- Developing and maintaining complete and reliable statistics on the number of high school equivalency diplomas and vocational certificates issued by each institution in each skill area, the change in inmate literacy levels, and the number of inmate admissions to and withdrawals from education courses.⁹²

Prison Entrepreneurship Programs

In 2011, the University of Virginia's Darden School of Business implemented a prison entrepreneurship program at Virginia's Dillwyn Correctional Center, a medium-security prison housing more than 1,000 inmates. The program focuses on entrepreneurship skills, ethics, and

⁸⁴ Sections 944.701-944.708, F.S.

⁸⁵ Section 944.801, F.S. In FY 2017-18, the DOC had 16,630 inmates participating in educational programs, 18,734 in academic programs, and 6,328 in vocational programs. Annual Report, at 33.

⁸⁶ Section 944.803, F.S., encourages the DOC to operate faith- and character-based facilities, which emphasize the importance of personal responsibility, meaningful work, education, substance abuse treatment, and peer support.

⁸⁷ Annual Report, at 33.

⁸⁸ Section 944.801(3)(a), F.S., also provides that the information collected must include the inmate's areas of educational or vocational interest, vocational skills, and level of education.

⁸⁹ Section 944.801(3)(d), F.S.

⁹⁰ Section 944.801(3)(e), F.S.

⁹¹ *Id.*

⁹² Section 944.801(3)(g), F.S.

business strategy. Students must complete math testing, develop a personal business plan, and complete a final exam.⁹³

Similar programs have had success in other states. Texas has a prison entrepreneurship program at the Cleveland Correctional Facility in Houston and approximately 800 inmates graduate from the program annually. Of its graduates, 106 have founded businesses and the recidivism rate of those inmates is less than 7 percent.⁹⁴ Though not statutorily mandated, the DOC partners with several educational institutions to offer inmates job training and readiness skills, including, but not limited to, Stetson University, Florida State University, University of Central Florida, and University of West Florida.⁹⁵ Additionally, the DOC operates an entrepreneurship education program at Hardee Correctional Institution.⁹⁶

Reentry and Transitional Services

The DOC is required to provide a wide range of transitional services, including the areas of employment, life skills training, and job placement, for the purpose of increasing the likelihood of the inmate's successful reentry into society, thereby reducing recidivism.⁹⁷

Section 944.705, F.S., requires the DOC to establish a standard release orientation program available to every eligible inmate.⁹⁸ Release orientation must include instruction addressing:

- Employment skills;
- Money management skills;
- Personal development and planning;
- Special needs;
- Community reentry concerns;
- Community reentry support; and
- Any other appropriate instruction to ensure the inmate's successful reentry into the community.⁹⁹

To provide these services, the DOC may contract with outside public or private entities, including faith-based service groups.¹⁰⁰

Additionally, s. 944.705(6), F.S., requires the DOC to notify every inmate, in no less than 18-point type in the inmate's release documents, that the inmate may be sentenced pursuant to

⁹³ University of Virginia, UVA Today, Carlos Santos, *Second Chances: Darden's Fairchild Launches Prison Entrepreneurship Program*, January 4, 2013, available at <https://news.virginia.edu/content/second-chances-darden-s-fairchild-launches-prison-entrepreneurship-program> (last visited April 2, 2019).

⁹⁴ *Id.* See also The Prison Entrepreneurship Program, *Releasing Potential*, available at <http://www.pep.org/releasing-potential/> (last visited April 2, 2019).

⁹⁵ Email and attachments from the DOC Staff (February 22, 2018)(on file with Senate Criminal Justice Committee).

⁹⁶ *Id.*

⁹⁷ See ss. 944.701-708, F.S.

⁹⁸ Sections 944.703 and 944.7031, F.S., provide that all inmates released from the custody of the DOC are eligible to receive transition services. However, the law instructs the DOC to give priority for these services to substance abuse addicted inmates. The law provides that inmates released from private correctional facilities should be informed of and provided with the same level of transition assistance services as provided by the DOC for an inmate in a state correctional facility.

⁹⁹ Section 944.705(2), F.S.

¹⁰⁰ Section 944.705(5), F.S.

s. 775.082(9), F.S., if the inmate commits any enumerated felony offense within 3 years after the inmate's release. Additionally, the notice must be prefaced by the word "WARNING" in boldfaced type.¹⁰¹

Gain-Time

Gain-time awards, which result in deductions to the court-ordered sentences of specified eligible inmates, are used to encourage satisfactory prisoner behavior or to provide incentives for prisoners to participate in productive activities while incarcerated.¹⁰² An inmate is not eligible to earn or receive gain-time in an amount that results in his or her release prior to serving a minimum of 85 percent of the sentence imposed.¹⁰³

Basic gain-time, which automatically reduced an inmate's sentence by a designated amount each month, was eliminated for offenses committed on or after January 1, 1994.¹⁰⁴ The only forms of gain-time that can currently be earned are:

- Incentive gain-time, which is a total of up to ten days per month that may be awarded to inmates for institutional adjustment, performing work in a diligent manner, and actively participating in training and programs;¹⁰⁵
- Meritorious gain-time, which is awarded to an inmate who commits an outstanding deed or whose performance warrants additional credit, such as saving a life or assisting in recapturing an escaped inmate;¹⁰⁶ and
- Educational achievement gain-time, which is a one-time award of 60 days that is granted to an inmate who receives a General Education Development (GED) diploma or a certificate for completion of a vocational program.¹⁰⁷

The procedure for applying gain-time awards to an inmate's sentence is dependent upon the calculation of a "maximum sentence expiration date" and a "tentative release date." The tentative release date may not be later than the maximum sentence expiration date.¹⁰⁸ The maximum sentence expiration date represents the date when the sentence or combined sentences imposed on a prisoner will expire. To calculate the maximum sentence expiration date, the DOC reduces the total time to be served by any time lawfully credited.¹⁰⁹

¹⁰¹ Section 944.705(6), F.S., further provides that evidence that the DOC failed to provide this notice to an inmate will not prohibit a person from being sentenced pursuant to s. 775.082(9), F.S. The state is not required to demonstrate that a person received any notice from the DOC in order for the court to impose a sentence pursuant to s. 775.082(9), F.S.

¹⁰² Section 944.275(1), F.S. Further, s. 944.275(4)(f), F.S., provides that an inmate serving a life sentence is not able to earn gain-time. Additionally, an inmate serving the portion of his or her sentence that is included in an imposed mandatory minimum sentence or whose tentative release date is the same date as he or she achieves service of 85 percent of the sentence are not eligible to earn gain-time. Section 944.275(4)(e), F.S., also prohibits inmates committed to the DOC for specified sexual offenses committed on or after October 1, 2014, from earning incentive gain-time.

¹⁰³ Section 944.275(4)(f), F.S.

¹⁰⁴ Chapter 93-406, L.O.F.

¹⁰⁵ Section 944.275(4)(b), F.S. The amount an inmate can earn is stable throughout the term of imprisonment and is based upon the date an offense was committed.

¹⁰⁶ Section 944.275(4)(c), F.S. The award may range from one day to 60 days and the statute does not prohibit an inmate from earning meritorious gain-time on multiple occasions if warranted.

¹⁰⁷ Section 944.275(4)(d), F.S.

¹⁰⁸ Section 944.275(3)(c), F.S.

¹⁰⁹ Section 944.275(2)(a), F.S.

The tentative release is the date projected for the prisoner's release from custody after gain-time is granted or forfeited in accordance with s. 944.275, F.S.¹¹⁰ Gain-time is applied when granted or restored to make the tentative release date proportionately earlier; and forfeitures of gain-time, when ordered, are applied to make the tentative release date proportionately later.¹¹¹

III. Effect of Proposed Changes:

The bill provides that it may be cited as the "Florida First Step Act."

The bill amends s. 893.135, F.S., authorizing a court to depart from a mandatory minimum term of imprisonment and mandatory fine applicable to that offense. The departure is authorized if the court finds on the record, after the state attorney has had the opportunity to make a recommendation, that the person:

- Has not previously been convicted of a:
 - Dangerous crime as defined in s. 907.041, F.S.;¹¹² or
 - Violation specified as a predicate offense for registration as a sexual predator or offender under s. 775.21, F.S.,¹¹³ or s. 943.0435, F.S.,¹¹⁴ respectively;
- Did not use or threaten violence or possess a firearm or other dangerous weapon or induce another to do so, during the commission of the crime;
- Did not cause a death or serious bodily injury; and
- Was not engaged in a continuing criminal enterprise.¹¹⁵

Additionally, the bill requires the defendant to have truthfully provided to the state all information and evidence he or she has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan.

The bill applies to all drug trafficking acts (possession, sale, manufacture, delivery, and importation) and trafficking mandatory minimum terms of imprisonment (ranging from 3 years to life imprisonment).¹¹⁶

Administrative Probation (Sections 7 and 8)

The bill amends ss. 948.001(1) and 948.013, F.S., relating to administrative probation to authorize the department to transfer an offender to administrative probation if the offender presents a low risk of harm to the community and to restructure the placement of relevant

¹¹⁰ Section 944.275(3)(a), F.S.

¹¹¹ See also s. 944.275(4)(b), F.S.

¹¹² See s. 907.041, F.S., for a complete list of offenses that are defined as "dangerous crimes."

¹¹³ See s. 775.21, F.S., for a complete list of offenses that are predicates to registration as a sexual predator.

¹¹⁴ See s. 943.0435, F.S., for a complete list of offenses that are predicates to registration as a sexual offender.

¹¹⁵ Section 893.20(1), F.S., provides that any person who commits three or more felonies under ch. 893, F.S., in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management and who obtains substantial assets or resources from these acts is guilty of engaging in a continuing criminal enterprise.

¹¹⁶ The drug-trafficking statute imposes a mandatory life sentence for trafficking in especially large amounts of certain substances. However, this threshold, which triggers a mandatory life sentence, is never described as a "mandatory minimum" sentence like the other mandatory minimum sentences imposed by various threshold amounts covered by the statute. Nonetheless, the mandatory life sentence that is required for certain offenses seems to be a mandatory minimum sentence, and thus a sentence to which the bill would apply.

language. These changes do not appear to have a substantive impact on the laws applicable to administrative probation.

Conditions of Probation in the FCIC (Section 9)

The bill requires the DOC to input into the FCIC all of a probationer's specific conditions of probation as determined by the court.

Alternative Sanctioning Programs (ASP) (Section 11)

The bill amends s. 948.06, F.S., *requiring* each judicial circuit to establish an ASP and providing specific guidelines for the types of technical violations and sanctions that can be provided for in an ASP. The bill authorizes a court, by administrative order, to define additional sanctions or eligibility criteria and specify the process for reporting technical violations. For each instance that a technical violation of probation or violation of community control is alleged to have been committed, the DOC is required to determine whether such person is eligible for the ASP. If eligible, the probation officer may submit recommended sanctions to the court, with documentation of the probationer's admission to the violation and agreement with the recommended sanction for its approval in lieu of filing an affidavit of violation with the court. The bill maintains the same definition for technical violations as is in current law and limits ASPs to resolving technical violations.

The bill classifies technical violations eligible for an ASP as low-risk and moderate risk. Specifically:

- A low-risk violation includes:
 - Positive drug or alcohol test result;
 - Failure to report to the probation office;
 - Failure to report a change in address or other required information;
 - Failure to attend a required class, treatment or counseling session, or meeting;
 - Failure to submit to a drug or alcohol test;
 - Violation of curfew;
 - Failure to meet a monthly quota on any required probation condition, including, but not limited to, making restitution payments, payment of court costs, or completing community service hours;
 - Leaving the county without permission;
 - Failure to report a change in employment;
 - Associating with a person engaged in criminal activity; or
 - Any other violation as determined by administrative order of the chief judge of the circuit.
- A moderate-risk violation includes:
 - A low-risk violation listed above, which is committed by an offender on community control;
 - Failure to remain at an approved residence by an offender on community control;
 - A third low-risk violation by a probationer within the current term of supervision; or
 - Any other violation as determined by administrative order by the chief judge of the circuit.

The bill excludes certain probationers or offenders on community control from participating in an ASP if any of the following criteria apply:

- The offender is a violent felony offender of special concern.
- The violation is absconding.
- The violation is of a stay-away order or no-contact order.
- The violation is not identified as low-risk or moderate-risk under the bill or by administrative order.
- He or she has a prior moderate-risk level violation during the current term of supervision.
- He or she has three prior low-risk level violations during the same term of supervision.
- The term of supervision is scheduled to terminate in less than 90 days.
- The terms of the sentence prohibit the use of an ASP.

An eligible person who has committed a first or second low-risk technical violation within his or her current term of supervision may be offered one or more of the following as a sanction:

- Up to five days in a county jail;
- Up to 50 additional community service hours;
- Counseling or treatment;
- Support group attendance;
- Drug testing;
- Loss of travel or other privileges;
- Curfew for up to 30 days;
- House arrest for up to 30 days; or
- Any other sanction as determined by administrative order by the chief judge of the circuit.

An eligible person who has committed a first time moderate-risk violation within the current term of supervision may be offered, provided the probation officer receives approval from his or her supervisor, one or more of the following as a sanction:

- Up to 21 days in the county jail;
- Curfew for up to 90 days;
- House arrest for up to 90 days;
- Electronic monitoring for up to 90 days;
- Residential treatment for up to 90 days;
- Any other sanction available for a low-risk violation; or
- Any other sanction as determined by administrative order of the chief judge of the circuit.

The bill retains current law regarding the ability of an offender to enter or waive his or her participation in the program; the process for an offender to acknowledge his or her desire to participate in the program, including the specified rights that must be waived; the ability of a court to approve the sanction and the effect of a court not approving the probation officer's recommendation; the effect of an offender's discontinued participation in the program; and the prohibition on the court using a prior admission to a technical violation as evidence in subsequent proceedings.¹¹⁷ However, if an offender waives, discontinues participation, or fails to successfully complete the alternative sanction within the 90-day timeframe, the probation officer may submit a violation report, affidavit, and warrant to the court.

¹¹⁷ See s. 948.06(1)(h)4.-7., F.S. (2017), for the relevant provisions retained in the bill.

Limitation on the Distance of Placement (Section 4)

The bill amends the legislative findings in s. 944.611, F.S., requiring the DOC secretary to designate the place of each inmate's confinement and place, or transfer, each inmate in an institution or facility as close as practicable to within 300 driving miles of the inmate's primary residence, unless the safety of department employees or inmates requires other placement. The findings also provide that such a limitation on the distance of a placement are subject to:

- Bed availability; and
- The inmate's security designation, programmatic needs, and mental and medical health needs.

Release Orientation Program (Section 5)

The bill amends s. 944.705, F.S., requiring that each inmate receive a comprehensive community reentry resource directory organized by the county to which the inmate is being released with specified information related to providers and portals of entry.¹¹⁸

The DOC must allow a nonprofit faith-based or professional business, or a civic or community organization, to apply to be registered under this section to provide inmate reentry services. The DOC must also adopt policies and procedures for screening, approving, and registering an organization that applies to be registered to provide inmate reentry services. The DOC may deny approval and registration of an organization or a representative from an organization if it determines that the organization or representative does not meet such policies or procedures. The bill defines reentry services as services that include, but are limited to counseling; providing information on housing and job placement; money management assistance; and programs addressing substance abuse, mental health, or co-occurring conditions.

The bill also authorizes the DOC to contract with a public or private educational institution's Veteran's Advocacy Clinic or Veteran's Legal Clinic to assist qualified veteran inmates in applying for veteran's assistance benefits upon release.

Prison Entrepreneurship Program (Section 6)

The bill amends s. 944.801, F.S., authorizing the Correctional Education Program to develop a Prison Entrepreneurship Program (PEP). The PEP must include at least 180 days of in-prison education with curriculum that includes a component on developing a business plan, procedures for graduation and certification of successful student inmates, and at least 90 days of transitional and post-release continuing education services. The bill provides transitional and post release continuing education services may be offered to graduate student inmates on a voluntary basis and are not required for completion of the PEP.

The PEP must be funded within existing resources and the DOC is required to enter into agreements with public or private community colleges, junior colleges, colleges, universities, or other non-profit entities to implement the program. The bill provides rulemaking authority and authority to adopt procedures for admitting student inmates.

¹¹⁸ The directory must include the name, address, telephone number and a description of services offered by each provider and also include the name, address, and telephone number of existing portals of entry.

Gain-Time (Section 3)

Lastly, the bill expands the educational gain-time award category by including the PEP as a program that, when completed, may result in the award of educational achievement gain-time. The bill still limits educational gain-time to one 60-day award, regardless of whether the inmate completes more than one type of educational activity included in the program. The bill authorizes an award of educational achievement gain-time to reduce the inmate's sentence to less than 85 percent of the sentence imposed. The bill prohibits the sentence of an inmate who is serving a sentence for a dangerous crime or for a predicate offense to registration as a sexual predator or sexual offender from being reduced below the 85 percent.

Written Notification of Outstanding Terms of the Sentence (Sections 5, 10, and 12)

The bill requires the DOC and county detention facilities to notify specified persons of all outstanding terms of the sentence. The bill amends s. 944.705, F.S., and creates s. 948.041, F.S., requiring the DOC to notify an inmate or offender in writing of all outstanding terms of sentence at the time of release or termination of probation or community control. The bill includes a list of potential terms of sentence that must be included in the written notification, including, but not limited to:

- A term of supervision and any conditions required upon release from imprisonment;
- Uncompleted conditions; or
- Unpaid:
 - Restitution;
 - Court costs;
 - Fees; or
 - Fines.

The bill creates s. 951.30, F.S., requiring all county detention facilities to notify a prisoner in writing upon the discharge of all outstanding terms of the prisoner's sentence similar to the notification mentioned above.

For inmates being released from imprisonment with the DOC or county detention facilities, the bill provides that written notification does not have to be given if the inmate or prisoner is being released to a term of supervision by the DOC.

The bill also amends s. 893.03, F.S., conforming a cross-reference to changes made by the bill.

The bill is effective July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill requires all county detention facilities to notify a prisoner in writing upon the discharge of all outstanding terms of the prisoner's sentence at the time of release, unless the prisoner is being discharged to the custody or control of the DOC. It is possible that the requirements of the bill related to notification of outstanding terms of sentence will

result in an increased workload or expenditures by the local governments. However, because any such local funding resulting from the requirements of the bill will directly relate to the detention and imprisonment of persons who have been arrested or convicted of criminal offenses, under article VII, subsection 18(d) of the Florida Constitution, it appears there is no unfunded mandate.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Drug Trafficking Sentencing Departure (Section 2)

The Criminal Justice Impact Conference (CJIC) heard CS/CS/SB 1218 (2018), which had a provision substantially similar to the sentencing departure included in this bill, and estimated that the provisions relating to departure from drug trafficking mandatory minimum sentences would have a “negative significant” prison bed impact (i.e., a decrease of more than 25 prison beds).¹¹⁹

Probation Provisions (Sections 9 and 11)

The CJIC considered HB 7089 (2018), which included the identical provisions relating to probation, on February 19, 2018, and determined that creating statewide ASPs will have a

¹¹⁹ 2018 Conference Results (through February 12, 2018), CJIC, available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/CJIC18.xls> (last visited on February 26, 2019).

negative significant impact on the prison population (i.e. decrease of more than 25 prison beds). The CJIC reports that in FY 2016-17, 5,443 technical violators were sentenced to prison.¹²⁰ The ASP would apply to certain technical violators and result in greater non-prison sanctions for these violators.

However, one of the ASP sanctions included in the bill is up to 5 days incarceration in a county detention facility for a low-risk violation and up to 21 days for a moderate-risk violation. This section will likely result in increased costs on local government, but any such increase is indeterminate.

HB 7089 (2018) required, as does this bill, the DOC to submit additional information to the FCIC if the court modifies conditions of probation. The DOC reported in its analysis for HB 7089 (2018) that this requirement would cost a nonrecurring amount of \$6,800 to modify their existing data feed to the FDLE and a nonrecurring amount of \$13,600 to modify the OBIS. The DOC reported that it anticipated that these fiscal impacts could be absorbed within existing resources.¹²¹

Reentry Provisions (Sections 3, 5, 6, 10, and 12)

Release Orientation Program

The DOC reports that it does not have the existing programming capability to provide an application method for specified businesses or organizations to be registered to provide inmate reentry services. In order to accomplish this, the DOC provides that a new system/web portal would need to be created or purchased. The DOC indicates that the cost to create a new system/web portal is indeterminate and may require a procurement to identify possible solutions. Additionally, the DOC provides that it will likely need two FTE Government Operations Consultant I positions and six Data Entry Operators at a total cost of approximately \$391,364.¹²²

Prison Entrepreneurship Program

The DOC is authorized in the bill to develop an entrepreneurship program. If the DOC elects to do so, the bill requires the program to be implemented within existing resources. The DOC states that it will likely not be able to develop the program without adequate funding resources, which may include the need to have one Correctional Services Consultant to coordinate program services. The DOC estimates that the entire fiscal impact for this provision, including contracted staff, materials, and supplies is \$200,000 per location.¹²³

Educational Gain-Time

The DOC estimates that this provision will likely result in an average daily population reduction of 66 inmates during the first year of implementation and a 40 inmate reduction

¹²⁰ Economic and Demographic Research (EDR), CJIC, February 19, 2018, available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/PCBJDC1803.pdf> (last visited February 26, 2019).

¹²¹ The DOC, *Agency Analysis of HB 7089 (2018)*, p. 8 (February 20, 2018)(on file with Senate Criminal Justice Committee).

¹²² The Florida Department of Corrections Analysis of Senate Bill 642, page 5 and 8.

¹²³ *Id.*

in the average daily population for subsequent years, which equates to a cost savings of \$482,764 and \$292,584, respectively.¹²⁴ In addition, the department anticipates there will need to be changes to the gain time screens and the calculator for both Institution and Community Corrections; an estimated non-recurring cost is approximately \$26,100.¹²⁵ The FDLE must also modify FCIC to accept conditions of probation. These modifications can be made using existing staff resources, however, the FDLE will need to work with the DOC to determine how many conditions of probation exist, which are most relevant, how to code, and how to display to FCIC users.¹²⁶

Notification of Outstanding Terms of Sentence

The DOC reports that it does not track various costs associated with an inmate's resolved case, with the exception of certain inmates in various forms of paid employment, such as work release, prison industries, etc. To comply with the requirements, the DOC will have to research clerk of court records prior to release for updated information on what an inmate, who is not being released to supervision, presently owes in regard to each case for which sentence was imposed. Additionally, the DOC states that this will be a significant workload increase as it could generate a significant volume of contacts to the clerks to determine the current status of various assessed costs. The DOC estimates it will need additional full-time equivalent positions (FTE) to achieve this requirement of the bill.¹²⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 893.135, 944.275, 944.611, 944.705, 944.801, 948.001, 948.013, 948.03, 948.06, and 893.03.

The bill creates the following sections of the Florida Statutes: 948.041 and 951.30.

IX. Additional Information:

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

CS by Criminal Justice on March 4, 2019:
The Committee Substitute:

¹²⁴ The DOC SB 642 Analysis, p. 4 and 7.

¹²⁵ The Florida Department of Corrections Analysis of Senate Bill 642, page 8.

¹²⁶ The Florida Department of Law Enforcement Analysis of Senate Bill 642, 4.

¹²⁷ The Florida Department of Corrections Analysis of Senate Bill 642, page 5.

- Modifies the intent language providing that the DOC must attempt to place an inmate 300 miles, rather than 150 miles, from their primary residence.
- Clarifies the types of businesses offering reentry services that may register with the DOC to provide such services.
- Requires the DOC and county detention facilities to provide written notification of all outstanding terms of an offender's sentence upon release from imprisonment, probation, or community control.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senators Brandes, Gruters, Rouson, Perry, and Broxson

591-02648A-19

2019642c1

1 A bill to be entitled
2 An act relating to criminal justice; providing a short
3 title; amending s. 893.135, F.S.; requiring that the
4 court impose, for an offense relating to trafficking
5 in certain substances, a sentence pursuant to the
6 Criminal Punishment Code and without regard to any
7 statutory minimum sentence if the court makes
8 specified findings under certain circumstances;
9 amending s. 944.275, F.S.; requiring an education
10 program manager to recommend, and authorizing the
11 Department of Corrections to grant, an award of a
12 specified amount of incentive gain-time to an inmate
13 who has completed the Prison Entrepreneurship Program;
14 revising circumstances under which certain inmates are
15 not eligible for certain types of gain-time in amounts
16 that would cause a sentence to end or require a
17 release prior to serving a minimum percentage of a
18 sentence; amending s. 944.611, F.S.; providing
19 legislative intent with respect to the location of an
20 inmate's confinement; amending s. 944.705, F.S.;
21 requiring that the department provide an inmate with a
22 comprehensive community reentry resource directory
23 organized by county before an inmate's release;
24 authorizing a nonprofit faith-based or professional
25 business or a civic or community organization to apply
26 for registration with the department to provide inmate
27 reentry services; requiring the department to adopt
28 certain policies and procedures; authorizing the
29 department to deny approval and registration of an

591-02648A-19

2019642c1

30 organization or representative of an organization
31 under certain circumstances; authorizing the
32 department to contract with a public or private
33 educational institution's Veterans Advocacy Clinic or
34 Veterans Legal Clinic for certain purposes; requiring
35 the department to include notification of all
36 outstanding terms of sentence in an inmate's release
37 documents; providing an exception to the notification
38 requirement for inmates who are released to any type
39 of supervision monitored by the Department of
40 Corrections; requiring the department to adopt certain
41 rules; amending s. 944.801, F.S.; authorizing the
42 Correctional Education Program to establish a Prison
43 Entrepreneurship Program and adopt procedures for
44 admitting student inmates; providing requirements for
45 the program; authorizing transitional and postrelease
46 continuing educational services to be offered under
47 certain circumstances; requiring the department to
48 enter into certain agreements to implement the
49 program; requiring that the program be funded with
50 existing resources; amending s. 948.001, F.S.;
51 redefining the term "administrative probation";
52 amending s. 948.013, F.S.; authorizing the department
53 to transfer an offender to administrative probation
54 under certain circumstances; amending s. 948.03, F.S.;
55 requiring the department to include in the Florida
56 Crime Information Center system all conditions of
57 probation as determined by the court for each
58 probationer; creating s. 948.041, F.S.; requiring the

591-02648A-19

2019642c1

59 department to provide notification in writing to an
60 offender, upon the termination of his or her term of
61 probation or community control, of all outstanding
62 terms of sentence; amending s. 948.06, F.S.; requiring
63 a probation officer to determine whether a probationer
64 or offender on community control who commits a
65 technical violation is eligible for a certain
66 alternative sanctioning program; authorizing the
67 probation officer to take certain actions if such
68 probationer or offender is eligible; defining the term
69 "technical violation"; requiring that judicial
70 circuits establish an alternative sanctioning program;
71 authorizing the chief judge of each judicial circuit
72 to issue specified administrative orders; requiring a
73 probation officer to submit to the court for approval
74 any recommended sanctions against a probationer or
75 offender determined to be eligible for the program to
76 the court for approval; defining the terms "low-risk
77 violation" and "moderate-risk violation"; specifying
78 circumstances under which a probationer or offender on
79 community control is not eligible for an alternative
80 sanction; authorizing a probation officer to offer an
81 eligible probationer one or more specified alternative
82 sanctions for a first or second low-risk violation;
83 authorizing a probation officer, under certain
84 circumstances, to offer an eligible probationer or
85 offender on community control one or more specified
86 alternative sanctions for a first moderate-risk
87 violation; providing that the participation of a

591-02648A-19

2019642c1

88 probationer or offender on community control in the
89 alternative sanctioning program is voluntary, subject
90 to certain requirements; specifying actions that a
91 probationer or offender on community control may take
92 if he or she is eligible for an alternative
93 sanctioning program; providing that a probation
94 officer, under certain circumstances, submit a
95 recommended sanction to the court; authorizing the
96 court to impose the recommended sanction or direct the
97 department to submit a violation report, affidavit,
98 and warrant to the court; authorizing a probation
99 officer to submit a violation report, affidavit, and
100 warrant to the court under certain circumstances;
101 prohibiting certain evidence in subsequent
102 proceedings; creating s. 951.30, F.S.; requiring each
103 county detention facility to notify a prisoner in
104 writing, upon such prisoner's release, of all
105 outstanding terms of sentence; providing an exception
106 to the notification requirement for prisoners who are
107 released into the custody or control of the Department
108 of Corrections; amending s. 893.03, F.S.; conforming a
109 cross-reference; providing an effective date.

110
111 Be It Enacted by the Legislature of the State of Florida:

112
113 Section 1. This act may be cited as the Florida First Step
114 Act.

115 Section 2. Present subsections (6) and (7) of section
116 893.135, Florida Statutes, are redesignated as subsections (7)

591-02648A-19

2019642c1

117 and (8), respectively, and a new subsection (6) is added to that
118 section, to read:

119 893.135 Trafficking; mandatory sentences; suspension or
120 reduction of sentences; conspiracy to engage in trafficking.—

121 (6) Notwithstanding any other provision of law, for an
122 offense under this section the court shall impose a sentence
123 pursuant to the Criminal Punishment Code under chapter 921 and
124 without regard to any statutory minimum sentence, if the court
125 finds at sentencing, after the state attorney has been afforded
126 the opportunity to make a recommendation, all of the following:

127 (a) The defendant has not previously been convicted of a
128 dangerous crime as defined in s. 907.041, or a violation
129 specified as a predicate offense for registration as a sexual
130 predator under s. 775.21 or for registration as a sexual
131 offender under s. 943.0435.

132 (b) The defendant did not use violence or credible threats
133 of violence or possess a firearm or other dangerous weapon, or
134 induce another participant to do so, in connection with the
135 offense.

136 (c) The offense did not result in death or serious bodily
137 injury to any person.

138 (d) The defendant was not engaged in a continuing criminal
139 enterprise, as defined in s. 893.20.

140 (e) By the time of the sentencing hearing, the defendant
141 has truthfully provided to the state all information and
142 evidence the defendant has concerning the offense or offenses
143 that were part of the same course of conduct or of a common
144 scheme or plan. The fact that the defendant has no other
145 relevant or useful information to provide or that the state is

591-02648A-19

2019642c1

146 already aware of the information does not preclude a
147 determination by the court that the defendant has complied with
148 this requirement.

149 Section 3. Paragraphs (d) and (f) of subsection (4) of
150 section 944.275, Florida Statutes, are amended to read:

151 944.275 Gain-time.—

152 (4)

153 (d) Notwithstanding the monthly maximum awards of incentive
154 gain-time under subparagraphs (b)1., 2., and 3., the education
155 program manager shall recommend, and the Department of
156 Corrections may grant, a one-time award of 60 additional days of
157 incentive gain-time to an inmate who is otherwise eligible and
158 who successfully completes requirements for and is, or has been
159 during the current commitment, awarded a high school equivalency
160 diploma or vocational certificate, or has completed the Prison
161 Entrepreneurship Program. Under no circumstances may an inmate
162 receive more than 60 days for educational attainment pursuant to
163 this section.

164 (f) An inmate who is subject to subparagraph (b)3. is not
165 eligible to earn or receive gain-time under paragraph (a),
166 paragraph (b), or paragraph (c), ~~or paragraph (d)~~ or any other
167 type of gain-time other than under paragraph (d) in an amount
168 that would cause a sentence to expire, end, or terminate, or
169 that would result in a prisoner's release, prior to serving a
170 minimum of 85 percent of the sentence imposed. An inmate who is
171 currently serving a sentence for or has been previously
172 convicted of a dangerous crime as defined in s. 907.041, or a
173 violation specified as a predicate offense for registration as a
174 sexual predator under s. 775.21 or for registration as a sexual

591-02648A-19

2019642c1

175 offender under s. 943.0435, is not eligible to earn or receive
176 gain-time under paragraphs (a) through (d), or any other type of
177 gain-time in an amount that would cause a sentence to expire,
178 end, or terminate, or that would result in a prisoner's release,
179 prior to serving a minimum of 85 percent of the sentence
180 imposed. For purposes of this paragraph, credits awarded by the
181 court for time physically incarcerated shall be credited toward
182 satisfaction of 85 percent of the sentence imposed. Except as
183 provided by this section, a prisoner may not accumulate further
184 gain-time awards at any point when the tentative release date is
185 the same as that date at which the prisoner will have served 85
186 percent of the sentence imposed. State prisoners sentenced to
187 life imprisonment shall be incarcerated for the rest of their
188 natural lives, unless granted pardon or clemency.

189 Section 4. Subsection (2) of section 944.611, Florida
190 Statutes, is amended to read:

191 944.611 Legislative intent.—The Legislature finds and
192 declares that:

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

194 (a) The secretary shall designate the place of each
195 inmate's confinement and shall, subject to bed availability and
196 the inmate's security designation, programmatic needs, and
197 mental and medical health needs, place each inmate in an
198 institution or facility as close as practicable to within 300
199 driving miles of the inmate's primary residence, unless the
200 safety of department employees or inmates requires other
201 placement. Subject to bed availability and the inmate's security
202 designation, the department shall transfer an inmate to an
203 institution or facility that is as close as practicable to

591-02648A-19

2019642c1

204 within 300 driving miles of the inmate's primary residence,
205 unless the inmate chooses to remain at his or her current
206 institution or facility.

207 (b)-(a) To the extent possible, an inmate be returned, upon
208 release, to the same area from which the inmate was committed.

209 (c)-(b) An inmate being released from a community work-
210 release program is not eligible for the provision of
211 transportation.

212 (d)-(e) Transportation provided for an eligible inmate upon
213 release shall be to one of the following points:

214 1. The county where parole placement has been approved and
215 supervision is to commence.

216 2. Another state.

217 3. The county of employment within the state.

218 4. The county of legal residence within the state.

219 5. The county of original commitment within the state.

220 (e)-(d) Each releasee who is eligible for the provision of
221 transportation shall be escorted to the site of embarkation by
222 an officer of the correctional facility, who shall remain until
223 the releasee has departed.

224 Section 5. Present subsections (3), (4), and (5) of section
225 944.705, Florida Statutes, are redesignated as subsections (4),
226 (5), and (6), respectively, present subsection (6) of that
227 section is amended, and new subsection (3) and subsections (7),
228 (8), (9), and (11) are added to that section, to read:

229 944.705 Release orientation program.—

230 (3) Before an inmate's release, the department shall
231 provide the inmate with a comprehensive community reentry
232 resource directory organized by county which includes the name,

591-02648A-19

2019642c1

233 address, and telephone number of each provider and a description
234 of the services offered by each provider. The directory must
235 also include the name, address, and telephone number of existing
236 starting points for using such resources.

237 (7) A nonprofit faith-based or professional business, or a
238 civic or community organization, may apply for registration with
239 the department to provide inmate reentry services. Reentry
240 services include, but are not limited to, counseling; providing
241 information on housing and job placement; money management
242 assistance; and programs that address substance abuse, mental
243 health, or co-occurring conditions.

244 (8) The department shall adopt policies and procedures for
245 screening, approving, and registering an organization that
246 applies under subsection (7). The department may deny approval
247 and registration of the organization or a representative of the
248 organization if it determines that the organization or
249 representative does not meet the department's policies or
250 procedures.

251 (9) The department may contract with a public or private
252 educational institution's Veterans Advocacy Clinic or Veterans
253 Legal Clinic to assist qualified veteran inmates in applying for
254 veteran's benefits upon release.

255 (10)(6)(a) The department shall notify every inmate, ~~in no~~
256 ~~less than 18-point type~~ in the inmate's release documents:⁷

257 (a) Of all outstanding terms of the inmate's sentence at
258 the time of release, including, but not limited to, a term of
259 supervision and any conditions required upon release from
260 imprisonment or unpaid restitution, court costs, fees, or fines.
261 This paragraph does not apply to inmates who are being released

591-02648A-19

2019642c1

262 from the custody of the department to any type of supervision
263 monitored by the department.

264 (b)1. In no less than 18-point type, that the inmate may be
265 sentenced pursuant to s. 775.082(9) if the inmate commits any
266 felony offense described in s. 775.082(9) within 3 years after
267 the inmate's release. This notice must be prefaced by the word
268 "WARNING" in boldfaced type.

269 2.(b) Nothing in This section does not preclude ~~precludes~~
270 the sentencing of a person pursuant to s. 775.082(9), and ~~nor~~
271 ~~shall~~ evidence that the department failed to provide this notice
272 does not prohibit a person from being sentenced pursuant to s.
273 775.082(9). The state is ~~shall~~ not ~~be~~ required to demonstrate
274 that a person received any notice from the department in order
275 for the court to impose a sentence pursuant to s. 775.082(9).

276 (11) The department shall adopt rules to implement this
277 section.

278 Section 6. Present subsections (4), (5), and (6) of section
279 944.801, Florida Statutes, are redesignated as subsections (5),
280 (6), and (7), respectively, and a new subsection (4) is added to
281 that section, to read:

282 944.801 Education for state prisoners.-

283 (4) The Correctional Education Program may establish a
284 Prison Entrepreneurship Program and adopt procedures for
285 admitting student inmates. If the department elects to develop
286 the program, it must include at least 180 days of in-prison
287 education. The program curriculum must include a component on
288 developing a business plan, procedures for graduation and
289 certification of successful student inmates, and at least 90
290 days of transitional and postrelease continuing educational

591-02648A-19

2019642c1

291 services. Transitional and postrelease continuing educational
292 services may be offered to graduate student inmates on a
293 voluntary basis and are not a requirement for completion of the
294 program. The department shall enter into agreements with public
295 or private colleges or universities or other nonprofit entities
296 to implement the program. The program must be funded with
297 existing resources.

298 Section 7. Subsection (1) of section 948.001, Florida
299 Statutes, is amended to read:

300 948.001 Definitions.—As used in this chapter, the term:

301 (1) "Administrative probation" means a form of no contact,
302 nonreporting supervision that may be imposed by order of the
303 court or transfer by the Department of Corrections as provided
304 in s. 948.013 in which an offender who presents a low risk of
305 harm to the community may, upon satisfactory completion of half
306 the term of probation, be transferred by the Department of
307 Corrections to this type of reduced level of supervision, as
308 provided in s. 948.013.

309 Section 8. Subsection (1) of section 948.013, Florida
310 Statutes, is amended to read:

311 948.013 Administrative probation.—

312 (1) The Department of Corrections may transfer an offender
313 to administrative probation if he or she presents a low risk of
314 harm to the community and has satisfactorily completed at least
315 half of his or her probation term. The department ~~of~~ Corrections
316 may establish procedures for transferring an offender to
317 administrative probation. The department may collect an initial
318 processing fee of up to \$50 for each probationer transferred to
319 administrative probation. The offender is exempt from further

591-02648A-19

2019642c1

320 payment for the cost of supervision as required in s. 948.09.

321 Section 9. Subsection (3) is added to section 948.03,
322 Florida Statutes, to read:

323 948.03 Terms and conditions of probation.—

324 (3) The Department of Corrections shall include in the
325 Florida Crime Information Center system all conditions of
326 probation as determined by the court for each probationer.

327 Section 10. Section 948.041, Florida Statutes, is created
328 to read:

329 948.041 Notification of outstanding terms of sentence upon
330 termination of probation or community control.—Upon the
331 termination of an offender's term of probation or community
332 control, the department shall notify the offender in writing of
333 all outstanding terms of the offender's sentence at the time of
334 termination, including, but not limited to, uncompleted
335 conditions, unpaid restitution, court costs, fees, or fines.

336 Section 11. Present paragraphs (c) through (g) of
337 subsection (1) of section 948.06, Florida Statutes, are
338 redesignated as paragraphs (d) through (h), respectively,
339 present paragraph (h) of that subsection is amended, a new
340 paragraph (c) is added to that subsection, and subsection (9) is
341 added to that section, to read:

342 948.06 Violation of probation or community control;
343 revocation; modification; continuance; failure to pay
344 restitution or cost of supervision.—

345 (1)

346 (c) If a probationer or offender on community control
347 commits a technical violation, the probation officer shall
348 determine whether the probationer or offender on community

591-02648A-19

2019642c1

349 control is eligible for the alternative sanctioning program
350 under subsection (9). If the probation officer determines that
351 the probationer or offender on community control is eligible,
352 the probation officer may submit recommended sanctions to the
353 court for its approval in lieu of filing an affidavit of
354 violation with the court. For purposes of this section, the term
355 "technical violation" means an alleged violation of supervision
356 that is not a new felony offense, misdemeanor offense, or
357 criminal traffic offense.

358 ~~(h)1. The chief judge of each judicial circuit, in~~
359 ~~consultation with the state attorney, the public defender, and~~
360 ~~the department, may establish an alternative sanctioning program~~
361 ~~in which the department, after receiving court approval, may~~
362 ~~enforce specified sanctions for certain technical violations of~~
363 ~~supervision. For purposes of this paragraph, the term "technical~~
364 ~~violation" means any alleged violation of supervision that is~~
365 ~~not a new felony offense, misdemeanor offense, or criminal~~
366 ~~traffic offense.~~

367 ~~2. To establish an alternative sanctioning program, the~~
368 ~~chief judge must issue an administrative order specifying:~~

369 ~~a. Eligibility criteria.~~

370 ~~b. The technical violations that are eligible for the~~
371 ~~program.~~

372 ~~c. The sanctions that may be recommended by a probation~~
373 ~~officer for each technical violation.~~

374 ~~d. The process for reporting technical violations through~~
375 ~~the alternative sanctioning program, including approved forms.~~

376 ~~3. If an offender is alleged to have committed a technical~~
377 ~~violation of supervision that is eligible for the program, the~~

591-02648A-19

2019642c1

378 ~~offender may:~~

379 ~~a. Waive participation in the alternative sanctioning~~
380 ~~program, in which case the probation officer may submit a~~
381 ~~violation report, affidavit, and warrant to the court in~~
382 ~~accordance with this section; or~~

383 ~~b. Elect to participate in the alternative sanctioning~~
384 ~~program after receiving written notice of an alleged technical~~
385 ~~violation and a disclosure of the evidence against the offender,~~
386 ~~admit to the technical violation, agree to comply with the~~
387 ~~probation officer's recommended sanction if subsequently ordered~~
388 ~~by the court, and agree to waive the right to:~~

389 ~~(I) Be represented by legal counsel.~~

390 ~~(II) Require the state to prove his or her guilt before a~~
391 ~~neutral and detached hearing body.~~

392 ~~(III) Subpoena witnesses and present to a judge evidence in~~
393 ~~his or her defense.~~

394 ~~(IV) Confront and cross-examine adverse witnesses.~~

395 ~~(V) Receive a written statement from a factfinder as to the~~
396 ~~evidence relied on and the reasons for the sanction imposed.~~

397 ~~4. If the offender admits to committing the technical~~
398 ~~violation and agrees with the probation officer's recommended~~
399 ~~sanction, the probation officer must, before imposing the~~
400 ~~sanction, submit the recommended sanction to the court as well~~
401 ~~as documentation reflecting the offender's admission to the~~
402 ~~technical violation and agreement with the recommended sanction.~~

403 ~~5. The court may impose the recommended sanction or may~~
404 ~~direct the department to submit a violation report, affidavit,~~
405 ~~and warrant to the court in accordance with this section.~~

406 ~~6. An offender's participation in an alternative~~

591-02648A-19

2019642c1

407 ~~sanctioning program is voluntary. The offender may elect to~~
408 ~~waive or discontinue participation in an alternative sanctioning~~
409 ~~program at any time before the issuance of a court order~~
410 ~~imposing the recommended sanction.~~

411 ~~7. If an offender waives or discontinues participation in~~
412 ~~an alternative sanctioning program, the probation officer may~~
413 ~~submit a violation report, affidavit, and warrant to the court~~
414 ~~in accordance with this section. The offender's prior admission~~
415 ~~to the technical violation may not be used as evidence in~~
416 ~~subsequent proceedings.~~

417 (9) (a) Each judicial circuit shall establish an alternative
418 sanctioning program as provided in this subsection. The chief
419 judge of each judicial circuit may, by administrative order,
420 define additional sanctions or eligibility criteria and specify
421 the process for reporting technical violations through the
422 alternative sanctioning program. Any sanctions recommended for
423 imposition through an alternative sanctions program must be
424 submitted to the court by the probation officer for approval
425 prior to imposing the sanction.

426 (b) When committed by a probationer, a "low-risk violation"
427 as used in this subsection means any of the following:

- 428 1. A positive drug or alcohol test result.
- 429 2. Failure to report to the probation office.
- 430 3. Failure to report a change in address or other required
431 information.
- 432 4. Failure to attend a required class, treatment or
433 counseling session, or meeting.
- 434 5. Failure to submit to a drug or alcohol test.
- 435 6. A violation of curfew.

591-02648A-19

2019642c1

436 7. Failure to meet a monthly quota on any required
437 probation condition, including, but not limited to, making
438 restitution payments, paying court costs, or completing
439 community service hours.

440 8. Leaving the county without permission.

441 9. Failure to report a change of employment.

442 10. Associating with a person engaged in criminal activity.

443 11. Any other violation as determined by administrative
444 order of the chief judge of the circuit.

445 (c) A "moderate-risk violation" as used in this subsection
446 means any of the following:

447 1. A violation listed in paragraph (b) when committed by an
448 offender on community control.

449 2. Failure to remain at an approved residence by an
450 offender on community control.

451 3. A third violation listed in paragraph (b) by a
452 probationer within the current term of supervision.

453 4. Any other violation as determined by administrative
454 order of the chief judge of the circuit.

455 (d) A probationer or offender on community control is not
456 eligible for an alternative sanction if:

457 1. He or she is a violent felony offender of special
458 concern as defined in paragraph (8) (b);

459 2. The violation is a felony, misdemeanor, or criminal
460 traffic offense;

461 3. The violation is absconding;

462 4. The violation is of a stay-away order or no-contact
463 order;

464 5. The violation is not identified as low-risk or moderate-

591-02648A-19

2019642c1

465 risk under this subsection or by administrative order;

466 6. He or she has a prior moderate-risk level violation
467 during the current term of supervision;

468 7. He or she has three prior low-risk level violations
469 during the same term of supervision;

470 8. The term of supervision is scheduled to terminate in
471 less than 90 days; or

472 9. The terms of the sentence prohibit alternative
473 sanctioning.

474 (e) For a first or second low-risk violation, as defined in
475 paragraph (b), within the current term of supervision, a
476 probation officer may offer an eligible probationer one or more
477 of the following as an alternative sanction:

478 1. Up to 5 days in the county jail.

479 2. Up to 50 additional community service hours.

480 3. Counseling or treatment.

481 4. Support group attendance.

482 5. Drug testing.

483 6. Loss of travel or other privileges.

484 7. Curfew for up to 30 days.

485 8. House arrest for up to 30 days.

486 9. Any other sanction as determined by administrative order
487 of the chief judge of the circuit.

488 (f) For a first moderate-risk violation, as defined in
489 paragraph (c), within the current term of supervision, a
490 probation officer, with a supervisor's approval, may offer an
491 eligible probationer or offender on community control one or
492 more of the following as an alternative sanction:

493 1. Up to 21 days in the county jail.

591-02648A-19

2019642c1

494 2. Curfew for up to 90 days.

495 3. House arrest for up to 90 days.

496 4. Electronic monitoring for up to 90 days.

497 5. Residential treatment for up to 90 days.

498 6. Any other sanction available for a low-risk violation.

499 7. Any other sanction as determined by administrative order
500 of the chief judge of the circuit.

501 (g) The participation of a probationer or an offender on
502 community control in the program is voluntary. The probationer
503 or offender on community control may waive or discontinue
504 participation in the program at any time before the court
505 imposes a recommended sanction.

506 (h)1. If a probationer or offender on community control is
507 eligible for the alternative sanctioning program under this
508 subsection, he or she may:

509 a. Waive participation in the program, in which case the
510 probation officer may submit a violation report, affidavit, and
511 warrant to the court; or

512 b. Elect to participate in the program after receiving
513 written notice of an alleged technical violation and disclosure
514 of the evidence against him or her, admitting to the technical
515 violation, agreeing to comply with the probation officer's
516 recommended sanction if subsequently ordered by the court, and
517 agreeing to waive the right to:

518 (I) Be represented by legal counsel.

519 (II) Require the state to prove his or her guilt before a
520 neutral and detached hearing body.

521 (III) Subpoena witnesses and present to a judge evidence in
522 his or her defense.

591-02648A-19

2019642c1

523 (IV) Confront and cross-examine adverse witnesses.

524 (V) Receive a written statement from a judge as to the
525 evidence relied on and the reasons for the sanction imposed.

526 2. If the probationer or offender on community control
527 admits to committing the technical violation and agrees with the
528 probation officer's recommended sanction, the probation officer
529 must, before imposing the sanction, submit the recommended
530 sanction to the court with documentation reflecting the
531 probationer's admission to the technical violation and agreement
532 with the recommended sanction.

533 (i) The court may impose the recommended sanction or direct
534 the department to submit a violation report, affidavit, and
535 warrant to the court.

536 (j) If a probationer or offender on community control
537 waives or discontinues participation in the program or fails to
538 successfully complete all alternative sanctions within 90 days
539 after imposition or within the timeframe specified in the agreed
540 upon sanction, the probation officer may submit a violation
541 report, affidavit, and warrant to the court. A prior admission
542 by the probationer or offender on community control to a
543 technical violation may not be used as evidence in subsequent
544 proceedings.

545 Section 12. Section 951.30, Florida Statutes, is created to
546 read:

547 951.30 Notification of outstanding terms of sentence upon
548 release.—

549 (1) A county detention facility shall notify a prisoner in
550 writing upon the discharge of such prisoner of all outstanding
551 terms of the prisoner's sentence at the time of release,

591-02648A-19

2019642c1

552 including, but not limited to, a term of supervision and any
553 conditions required upon release from imprisonment or unpaid
554 restitution, court costs, fees, or fines. Such notification
555 shall be included in the documentation provided to the prisoner
556 at release.

557 (2) This section does not apply to prisoners who are
558 discharged from a county detention facility to the custody or
559 control of the Department of Corrections.

560 Section 13. Paragraph (c) of subsection (3) of section
561 893.03, Florida Statutes, is amended to read:

562 893.03 Standards and schedules.—The substances enumerated
563 in this section are controlled by this chapter. The controlled
564 substances listed or to be listed in Schedules I, II, III, IV,
565 and V are included by whatever official, common, usual,
566 chemical, trade name, or class designated. The provisions of
567 this section shall not be construed to include within any of the
568 schedules contained in this section any excluded drugs listed
569 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded
570 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical
571 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted
572 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt
573 Anabolic Steroid Products."

574 (3) SCHEDULE III.—A substance in Schedule III has a
575 potential for abuse less than the substances contained in
576 Schedules I and II and has a currently accepted medical use in
577 treatment in the United States, and abuse of the substance may
578 lead to moderate or low physical dependence or high
579 psychological dependence or, in the case of anabolic steroids,
580 may lead to physical damage. The following substances are

591-02648A-19

2019642c1

581 controlled in Schedule III:

582 (c) Unless specifically excepted or unless listed in
583 another schedule, any material, compound, mixture, or
584 preparation containing limited quantities of any of the
585 following controlled substances or any salts thereof:

586 1. Not more than 1.8 grams of codeine per 100 milliliters
587 or not more than 90 milligrams per dosage unit, with an equal or
588 greater quantity of an isoquinoline alkaloid of opium.

589 2. Not more than 1.8 grams of codeine per 100 milliliters
590 or not more than 90 milligrams per dosage unit, with recognized
591 therapeutic amounts of one or more active ingredients which are
592 not controlled substances.

593 3. Not more than 300 milligrams of hydrocodone per 100
594 milliliters or not more than 15 milligrams per dosage unit, with
595 a fourfold or greater quantity of an isoquinoline alkaloid of
596 opium.

597 4. Not more than 300 milligrams of hydrocodone per 100
598 milliliters or not more than 15 milligrams per dosage unit, with
599 recognized therapeutic amounts of one or more active ingredients
600 that are not controlled substances.

601 5. Not more than 1.8 grams of dihydrocodeine per 100
602 milliliters or not more than 90 milligrams per dosage unit, with
603 recognized therapeutic amounts of one or more active ingredients
604 which are not controlled substances.

605 6. Not more than 300 milligrams of ethylmorphine per 100
606 milliliters or not more than 15 milligrams per dosage unit, with
607 one or more active, nonnarcotic ingredients in recognized
608 therapeutic amounts.

609 7. Not more than 50 milligrams of morphine per 100

591-02648A-19

2019642c1

610 milliliters or per 100 grams, with recognized therapeutic
611 amounts of one or more active ingredients which are not
612 controlled substances.

613
614 For purposes of charging a person with a violation of s. 893.135
615 involving any controlled substance described in subparagraph 3.
616 or subparagraph 4., the controlled substance is a Schedule III
617 controlled substance pursuant to this paragraph but the weight
618 of the controlled substance per milliliters or per dosage unit
619 is not relevant to the charging of a violation of s. 893.135.
620 The weight of the controlled substance shall be determined
621 pursuant to s. 893.135(7) ~~s. 893.135(6)~~.

622 Section 14. This act shall take effect July 1, 2019.

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 Appropriations Subcommittee on Criminal and Civil Justice

BILL: CS/SB 656

INTRODUCER: Judiciary Committee and Senator Baxley

SUBJECT: Background Screening

DATE: April 8, 2019

REVISED: 04/10/19

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Dale</u>	<u>Jameson</u>	<u>ACJ</u>	Recommend: Favorable
3.	<u></u>	<u></u>	<u>AP</u>	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 656 provides the Office of the State Courts Administrator (OSCA) with statutory authority to conduct national background screenings for court-appointed mediators and foreign language court interpreters. Conducting background screenings is an element of the OSCA's regulatory responsibility when determining the qualifications of applicants. This statutory change is needed to comply with requirements established by the U.S. Department of Justice and the Federal Bureau of Investigation.

Individuals who apply to become a certified interpreter or a certified mediator are required to go to a live scan provider to be fingerprinted at their own expense. The results of the live scan are transmitted to the FDLE and to the OSCA. Until 2017, the background screen for interpreters included both the state and national background checks. In 2017, the FDLE advised that the OSCA could no longer require the national checks, until such time as the legislature granted them statutory authority to do so. For mediators, the cessation of national background screens by the FDLE was in 2015. The fee for a state and national criminal history background check is not being increased and no new fee is authorized. See Sections IV and V.

The bill takes effect July 1, 2019.

II. Present Situation:

Mediators and Foreign Language Court Interpreters

In 1988, the Florida Supreme Court was tasked with the responsibility of establishing minimum standards for qualifications, professional conduct, and training for court mediators^{1,2} and arbitrators. Before a mediator could be appointed to serve in a circuit, he or she was required to be certified by the chief judge in accordance with the Supreme Court standards.³

Similarly, in 2006, the Florida Supreme Court was given the responsibility of establishing minimum standards and procedures to qualify, certify, discipline, and train foreign language interpreters who are appointed by a court.^{4,5}

The Authority of the Court Interpreter Certification and Regulation Program/Board and the Florida Dispute Resolution Center

The Supreme Court, with the assistance of the Office of the State Courts Administrator (OSCA), established two boards to oversee the responsibilities required of them by statute. The Florida Dispute Resolution Center (DRC) was established to assess the qualifications of mediators and the Court Interpreter Certification and Regulation Program/Board was established to determine the qualifications of foreign language interpreters. As part of its responsibilities, the OSCA conducted background checks to determine the suitability of applicants. According to the OSCA, as early as 2007, both groups conducted nationwide criminal history background checks, which required the submission of fingerprints through the Florida Department of Law Enforcement (FDLE) to the Federal Bureau of Investigation (FBI).⁶

In 2017, the FDLE conducted records compliance and technical audits to determine whether state entities possessed the appropriate authority to access national criminal justice information.⁷ Pursuant to s. 943.053(2), F.S., the FDLE is prohibited from disseminating criminal justice information that is not in compliance with federal and state laws, regulations, and rules. The FDLE determined that the OSCA did not have sufficient statutory authority to request national

¹ A mediator is a neutral and impartial person who tries to help opposing parties reach a solution to their conflict. BLACK'S LAW DICTIONARY (10th ed. 2014).

² Generally, in order to become a certified mediator, a person must be at least 21 years old, of good moral character, and earn a designated number of points for training, education, and mentorship. Training and education requirements vary depending on whether someone seeks to become a county court, family, circuit court, dependency, or appellate mediator. Fla. R. Cert. & Ct.-Apptd. Mediators 10.100(a).

³ Ch. 87-133, s. 6, Laws of Florida.

⁴ Ch. 2006-253, s. 1, Laws of Florida.

⁵ To become certified, a court interpreter must be of good moral character, pass a background check, complete courtroom observation requirements, and pass a written and oral exam demonstrating language proficiency. Florida Courts, *Court Interpreter Certification and Regulation Program, Application for Court Interpreter Registration Renewal* (Effective July, 18, 2018), <https://www.flcourts.org/content/download/402733/3454022/application-for-court-interpreter-registration-renewal.pdf>; Florida Courts, *Court Interpreter Certification and Regulation Program, Steps to Court Interpreter Certification* <https://www.flcourts.org/content/download/217092/1968498/FINAL-Certification-Process-Flow-Chart.pdf> (last visited April 2, 2019).

⁶ Office of the State Courts Administrator, *Judicial Branch 2019 Legislative Agenda*, 19-20, (Jan. 14, 2019) (on file with the Senate Committee on Judiciary).

⁷ *Id.*

criminal history checks for a regulatory purpose.⁸ The FDLE determined that the OSCA had the authority to perform background checks as a criminal justice agency on its employees, but it did not have the authority to perform criminal history background checks on people who were not employees, such as mediators and court interpreters. Because the OSCA lacked the authority to have the FDLE access the national criminal history background information in the FBI databases, it was determined that the OSCA was limited to accessing the results of Florida background information.

FBI Requirements for Conducting a Criminal Record Check for a Noncriminal Justice Licensing or Employment Purpose

The FBI derives its authority to conduct a *criminal* record check for a *noncriminal* justice licensing or employment purpose from Public Law 92-544. Under that law, the FBI is authorized to exchange identification records with state and local government officials for licensing and employment purposes when authorized by a state statute. The statute must be approved by the U.S. Attorney General.⁹ The standards that the FBI relies upon in approving state authorizations have been developed through a number of memoranda issued by the Office of Legal Counsel in the Department of Justice.¹⁰

An authorization consistent with the standards must:

- Be the result of a legislative enactment or its functional equivalent;
- Require fingerprinting of applicants for a license or employment;
- Expressly or by implication authorize the use of the FBI records for screening applicants;
- Not be against public policy; and
- Identify the specific category of applicants or licenses to prevent the authorization from being overly broad in scope.¹¹

Additionally, the state must designate a government agency that is authorized and will be responsible for receiving the results of the record check and screen those results to determine whether the applicant is suitable for employing or licensing.¹²

If the OSCA receives the requisite statutory authority to conduct criminal history checks for a regulatory purpose, it will be in compliance with federal law.

Level 1 and Level 2 Screening Standards

Chapter 435, F.S., establishes two levels of background screenings that employees must undergo as a condition of employment. Level 1 is the more basic screening and involves an in-state name-

⁸ *Id.* OSCA's position, as stated in the *Judicial Branch 2019 Legislative Agenda*, is that the Department of Justice changed its policy on what constituted the proper authority to conduct national background checks, and this change has necessitated this bill.

⁹ The Department of Justice has determined that Attorney General's authority to approve the state "statute is delegated to the FBI by Title 28, Code of Federal Regulations, Section 0.85(j)." U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, Identification Services, *Appendix B: Criminal Justice Information (CJIS) Information Letter 95-3, 5* (July 17, 1995), <https://www.ojjdp.gov/pubs/guidelines/appen-b2.html> (last visited April 2, 2019).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

based background check, employment history check, statewide criminal correspondence check through the FDLE, a sex offender registry check, local criminal records check, and a domestic violence check.¹³ Level 2 screenings are more thorough because they apply to persons in positions of responsibility or trust, often involving more vulnerable people, such as children, the elderly, or the disabled. Level 2 screenings require a security background investigation that includes fingerprint-based searches for statewide criminal history records through the FDLE and a national criminal history records check through the Federal Bureau of Investigation. It may also include local criminal records checks. A level 2 screening disqualifies a person from employment if the person has a conviction or unresolved arrest for any one of more than 50 criminal offenses.¹⁴

III. Effect of Proposed Changes:

The bill provides the statutory language for the OSCA to comply with the federal standards for conducting background screenings. The bill requires the submission of fingerprints and provides for the submission of the fingerprints to the FBI for national processing. The bill does not appear to violate public policy and specifically identifies the categories of applicants, foreign language court interpreters and mediators, to be screened. Because the bill amends the statute sections where the Florida Supreme Court is authorized to establish minimum standards for foreign language court interpreters and mediators, it designates the government agency authorized to receive the results of the background screenings.

Linked bill, SB 1764, requires applicants for certification as a foreign language court interpreter or certification as a mediator to pay the existing fees associated with fingerprint processing for the security background investigations required in this bill.

The bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, s. 19, of the State Constitution requires that a new state tax or fee, as well as an increased state tax or fee, must be approved by two-thirds of the membership of each

¹³ Section 435.03, F.S.

¹⁴ Section 435.04, F.S.

house of the Legislature and must be contained in a separate bill that contains no other subject. Article VII, s. 19(d)(1) of the State Constitution defines “fee” to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”

Section 25.386, F.S. requires the Supreme Court to set fees to be charged to applicants for certification and renewal of certification as a court interpreter, and s. 44.106 authorizes the Supreme Court to set fees to be charged to mediator applicants for certification and renewal of certification.

Individuals who apply to become a certified interpreter or a certified mediator are required to go to a live scan provider to be fingerprinted at their own expense. The results of the live scan are transmitted to the FDLE and to the OSCA. Until 2017, the background screen for interpreters included both the state and national background checks. In 2017, the FDLE advised that the OSCA could no longer require the national checks, until such time as the legislature granted them statutory authority to do so. For mediators, the cessation of national background screens by the FDLE was in 2015.

The bill requires the national background checks be done for new applicants to be court-appointed mediators and foreign language interpreters. The fee for a state and national criminal history background check is not being increased and no new fee is authorized. See V.B. Private Sector Impact.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The total cost of the Level 1 “state” background check is approximately \$50-\$75 per person, which includes the FDLE fee of \$24.00 and the cost charged by the Livescan provider to perform the fingerprinting.¹⁵ According to the fiscal analysis by the FDLE, the additional cost for a national criminal history record check is \$13.25.¹⁶ Those seeking certification as a foreign language court interpreter or as a mediator will bear the costs associated with security background investigations.

¹⁵ Court Interpreter Certification and Regulation Program (CICRP) Background Check Screening Process for Court Interpreters, <https://www.flcourts.org/content/download/402727/3453986/CICRP-background-check-announcement.pdf> (Last visited April 9, 2019.)

¹⁶ Florida Department of Law Enforcement, *Judicial Impact Statement for SB 656* (March 8, 2019).

C. Government Sector Impact:

According to the OSCA, court staff currently conduct state background screenings of mediators and interpreter applicants. The inclusion of the nationwide criminal background screening will not have a significant impact on the court or court administration's workload.¹⁷

According to the FDLE, the state portion of the background screening fee (\$24), is deposited into the FDLE's Operating Trust Fund. The cost to retain the information for the first year is included in the criminal history record check. The additional cost to retain a set of fingerprints is \$6 annually, which also is deposited in the FDLE's Operating Trust Fund. The FDLE states that when it begins to participate in the federal retention program, the FBI will not require a fee for federal fingerprint retention.¹⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill is linked to SB 1764, an act relating to fees.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 25.386 and 44.106.

IX. Additional Information:

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

CS by Judiciary on March 4, 2019:

The intent of this committee substitute does not differ significantly from the underlying bill; it primarily differs in form. The committee substitute differs by expressly stating the federal requirements for an entity to conduct national background screenings, which are: require fingerprinting of the applicant, authorize the use of FBI records for screening the applicant, not violate public policy, specifically identify the category of applicants or licensees to be checked so that the authorization is not too broad, and designate an authorized governmental agency for receiving and screening the results of the record check.

- B. **Amendments:**

None.

¹⁷ Office of the State Courts Administrator, Senate Bill 656 Analysis (February 28, 2017) (on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice).

¹⁸ *Supra* note 16.

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

By the Committee on Judiciary; and Senator Baxley

590-02663-19

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1 A bill to be entitled
2 An act relating to background screening; amending ss.
3 25.386 and 44.106, F.S.; requiring that applicants for
4 certification as a foreign language court interpreter
5 or as a mediator, respectively, undergo certain
6 background security investigations; providing an
7 effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Section 25.386, Florida Statutes, is amended to
12 read:

13 25.386 Foreign language court interpreters.—

14 (1) The Supreme Court shall establish minimum standards and
15 procedures for qualifications, certification, professional
16 conduct, discipline, and training of foreign language court
17 interpreters who are appointed by a court of competent
18 jurisdiction. The Supreme Court shall set fees to be charged to
19 applicants for certification and renewal of certification as a
20 foreign language court interpreter. The revenues generated from
21 such fees shall be used to offset the costs of administration of
22 the certification program and shall be deposited into the
23 Administrative Trust Fund within the state courts system. The
24 Supreme Court may appoint or employ such personnel as are
25 necessary to assist the court in administering this section.

26 (2) An applicant for certification as a foreign language
27 court interpreter shall undergo security background
28 investigations that include, but need not be limited to, the
29 submission of a full set of fingerprints to the Department of

590-02663-19

2019656c1

30 Law Enforcement or to a vendor, entity, or agency authorized
31 under s. 943.053(13). The vendor, entity, or agency shall
32 forward the applicant's fingerprints to the Department of Law
33 Enforcement for state processing, and the Department of Law
34 Enforcement shall forward the fingerprints to the Federal Bureau
35 of Investigation for national processing.

36 Section 2. Section 44.106, Florida Statutes, is amended to
37 read:

38 44.106 Standards and procedures for mediators and
39 arbitrators; fees.—

40 (1) The Supreme Court shall establish minimum standards and
41 procedures for qualifications, certification, professional
42 conduct, discipline, and training for mediators and arbitrators
43 who are appointed pursuant to this chapter. The Supreme Court is
44 authorized to set fees to be charged to applicants for
45 certification and renewal of certification. The revenues
46 generated from these fees shall be used to offset the costs of
47 administration of the certification process. The Supreme Court
48 may appoint or employ such personnel as are necessary to assist
49 the court in exercising its powers and performing its duties
50 under this chapter.

51 (2) An applicant for certification as a mediator shall
52 undergo security background investigations that include, but
53 need not be limited to, the submission of a full set of
54 fingerprints to the Department of Law Enforcement or to a
55 vendor, entity, or agency authorized under s. 943.053(13). The
56 vendor, entity, or agency shall forward the applicant's
57 fingerprints to the Department of Law Enforcement for state
58 processing, and the Department of Law Enforcement shall forward

590-02663-19

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59 the fingerprints to the Federal Bureau of Investigation for
60 national processing.

61 Section 3. This act shall take effect July 1, 2019.

Dale, Abram

From: Sarah Naf Biehl <nafs@flcourts.org>
Sent: Thursday, February 28, 2019 11:59 AM
To: Dale, Abram
Subject: Re: SB 656 - Background Screening

Follow Up Flag: Follow up
Flag Status: Completed

That is correct.

Sarah Naf Biehl
Chief of Legislative Affairs
Office of the State Courts Administrator
Florida Supreme Court
500 South Duval Street
Tallahassee, Florida 32399
850.922.5692
nafs@flcourts.org

On Feb 28, 2019, at 11:54 AM, Dale, Abram <Abram.Dale@LASPBS.STATE.FL.US> wrote:

That should do for this one at this point. Just to reiterate though, you don't expect a fiscal since the applicants would be required to pay for it, correct?

From: Sarah Naf Biehl <nafs@flcourts.org>
Sent: Thursday, February 28, 2019 11:02 AM
To: Dale, Abram <Abram.Dale@LASPBS.STATE.FL.US>
Subject: RE: SB 656 - Background Screening

Certainly! I now have the mediator number for you. We average 750 new mediator applications per year.

Is there anything else you need at this time?

Sarah Naf Biehl
Chief of Legislative Affairs
Office of the State Courts Administrator
(850) 922-5692
nafs@flcourts.org

From: Dale, Abram <Abram.Dale@LASPBS.STATE.FL.US>
Sent: Wednesday, February 27, 2019 5:41 PM
To: Sarah Naf Biehl <nafs@flcourts.org>
Subject: RE: SB 656 - Background Screening

Thank you.

From: Sarah Naf Biehl <nafs@flcourts.org>
Sent: Wednesday, February 27, 2019 5:39 PM
To: Dale, Abram <Abram.Dale@LASPBS.STATE.FL.US>
Subject: Re: SB 656 - Background Screening

As you may know, we are already conducting state criminal history background checks, so the bill would result only in more nationwide checks. At this time, we estimate approximately 100 new interpreter applicants annually, so that would be the yearly increase in nationwide checks on the interpreter side. We are working on getting an estimate for the number of new mediator applicants annually.

We anticipate that each interpreter or mediator applicant would bear the cost of his or her own nationwide background check. That is consistent with how other state-licensed or -regulated entities, such as insurance brokers, are governed.

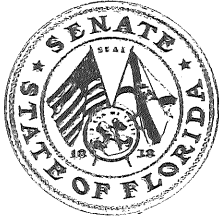
From: Dale, Abram <Abram.Dale@LASPBS.STATE.FL.US>
Sent: Wednesday, February 27, 2019 1:58 PM
To: Sarah Naf Biehl
Subject: SB 656 - Background Screening

Have the courts been able to determine the estimated amount of new criminal history background checks that could result from the passage of SB 656?

Abram Dale

Senior Legislative Analyst
Senate Appropriations Subcommittee on Criminal & Civil Justice
(850)487-5140

THE FLORIDA SENATE



SENATOR DENNIS BAXLEY
12th District

COMMITTEES:
Ethics and Elections, *Chair*
Appropriations Subcommittee on Education
Education
Finance and Tax
Health Policy
Judiciary

JOINT COMMITTEE:
Joint Legislative Auditing Committee

March 7, 2019

The Honorable Chair Jeff Brandes
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32309

Dear Chairman Brandes,

I would like to request that SB 656 Background Screening be heard in your next Criminal Justice Appropriations Sub-Committee meeting.

This bill CS/SB 656 provides the Office of the State Courts Administrator (OSCA) with statutory authority to conduct national background screenings for court-appointed mediators and foreign language court interpreters. Conducting background screenings is an element of OSCA's regulatory responsibility when determining the qualifications of applicants. This statutory change is needed to comply with requirements established by the U.S. Department of Justice and the Federal Bureau of Investigation.

I appreciate your favorable consideration.

Onward & Upward,

A handwritten signature in cursive script that reads "Dennis Baxley".

Senator Dennis Baxley
Senate District 12

DKB/dd

cc: PK Jameson, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012
Email: baxley.dennis@flsenate.gov

Bill Galvano
President of the Senate

David Simmons
President Pro Tempore

THE FLORIDA SENATE

COMMITTEES:

Ethics and Elections, *Chair*
Appropriations Subcommittee on Education
Education
Finance and Tax
Health Policy
Judiciary

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR DENNIS BAXLEY

12th District

April 2, 2019

The Honorable Chair Jeff Brandes
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32309

Dear Chairman Brandes,

I would like to request that SB 656 Background Screening and its companion bill SB 1764 Fees/Background Screening be heard in your next Criminal Justice Appropriations Subcommittee meeting.

This bill, CS/SB 656 provides the Office of the State Courts Administrator (OSCA) with statutory authority to conduct national background screenings for court-appointed mediators and foreign language court interpreters. Conducting background screenings is an element of OSCA's regulatory responsibility when determining the qualifications of applicants. This statutory change is needed to comply with requirements established by the U.S. Department of Justice and the Federal Bureau of Investigation.

SB 1764 is the Fees bill which requires applicants to pay the fee for the state and national criminal history checks and for the state and federal fingerprinting processing.

I appreciate your favorable consideration.

Onward & Upward,



Senator Dennis Baxley
Senate District 12

DKB/dd

cc: PK Jameson, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012
Email: baxley.dennis@flsenate.gov

Bill Galvano
President of the Senate

David Simmons
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/2/19

Meeting Date

656

Bill Number (if applicable)

Topic Background Screening

Amendment Barcode (if applicable)

Name Sarah Naf Biehl

Job Title Chief of Legislative Affairs

Address 500 S. Duval St.

Phone 850-922-5692

Tallahassee FL 32399

City

State

Zip

Email nafs@flcourts.org

Speaking: For Against Information

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

Representing State Courts System

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)

4.9.19

Meeting Date

656

Bill Number (if applicable)

Topic Background Screening

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

Email barney@barneybishop.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Smart Justice 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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/2019
Meeting Date

656
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email justice2jesus@yahoo.com

Speaking: For Against Information

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

Representing Justice2-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 Appropriations Subcommittee on Criminal and Civil Justice

BILL: CS/SB 1074

INTRODUCER: Criminal Justice Committee and Senator Brandes

SUBJECT: Sentencing

DATE: April 8, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones	CJ	Fav/CS
2.	Forbes	Jameson	ACJ	Pre-meeting
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1074 creates a conditional sentence for substance use and mental health offenders. An offender must be a nonviolent offender that is in need of substance use or mental health treatment and does not pose a danger to the community. The bill enumerates specified offenses that deem an offender ineligible for a conditional sentence for substance use and mental health.

The bill requires the following conditions to be part of a conditional sentence for substance use or mental health offenders:

- A term of imprisonment, which must include an in-prison treatment program for substance use, mental health or co-occurring disorders that is a minimum of 90-days of in-custody treatment and is administered by the Department of Corrections (DOC) at a DOC facility;
- A 24 month term of special offender probation that consists of:
 - Either drug offender or mental health probation, as determined by the court at sentencing;
 - Any special conditions of probation ordered by the sentencing court; and
 - Any recommendations made by the DOC in the postrelease treatment plan for substance use or mental health aftercare services.

The bill authorizes the DOC to refuse to place an offender in the in-prison treatment program for specified reasons. Following completion of the in-prison treatment program, the bill provides that an offender must be immediately transitioned into the community on drug offender or mental health probation for the last 24 months of his or her sentence.

A conditional sentence imposed by a court under the bill does not confer any right to an inmate for release from incarceration and placement on drug offender or mental health offender probation, unless such offender complies with all sentence requirements.

The DOC must develop a computerized system to track data on the recidivism and recommitment of offenders who have received such a sentence and report the findings to the Governor, President of the Senate, and Speaker of the House of Representatives.

According to the DOC, the bill will have a negative fiscal impact of \$9,749,100 on the department. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2019.

II. Present Situation:

The Criminal Punishment Code¹ (Code) applies to sentencing for felony offenses committed on or after October 1, 1998.² The permissible sentence (absent a downward departure) for an offense ranges from the calculated lowest permissible sentence as determined by the Code to the statutory maximum for the primary offense. The statutory maximum sentence for a first-degree felony is 30 years not to exceed life, for a second-degree felony is 15 years, and for a third degree felony is five years.³

The sentence imposed by the sentencing judge reflects the length of actual time to be served, lessened only by the application of gain-time,⁴ and may not be reduced in an amount that results in the defendant serving less than 85 percent of his or her term of imprisonment.⁵

Sentencing Options

The Florida Supreme Court has identified six statutory sentencing options in Florida, including a:

- Term of imprisonment, which may be served in jail or prison;
- True split sentence, which consists of a total period of confinement with a portion of the confinement period suspended and the defendant placed on probation for that suspended portion;
- Probationary split sentence, which consists of a period of confinement, none of which is suspended, followed by a period of probation;⁶
- *Villery* sentence, which consists of a period of probation preceded by a period of confinement imposed as a special condition;⁷
- Sentence of supervision, which consists of probation or community control; and

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

² Section 921.0022, F.S.

³ Section 775.082, F.S.

⁴ Section 944.275, F.S., provides for various types of incentive and meritorious gain-time.

⁵ Section 921.002(1)(e), F.S.

⁶ Section 948.012, F.S., provides the authority for this type of split sentence.

⁷ *Villery v. Florida Parole & Probation Com'n*, 396 So.2d 1107 (Fla. 1980).

- Reverse split sentence, which consists of a period of probation followed by a period of incarceration.⁸

There are also existing statutes that allow a court to modify a sentence to probation terms for a youthful offender⁹ upon completion of specified in-prison programming.¹⁰

Substance Abuse Services for Inmates

Chapter 397, F.S., provides comprehensive laws for the provision of substance abuse services to citizens throughout Florida, including licensure of substance abuse service providers and inmate substance abuse programs.

Substance use programming within the DOC institutions seeks to treat participants with histories of dependency by focusing on changing the behaviors that led to the addiction.¹¹ The DOC has developed Correctional Substance Abuse Programs at its institutions and community-based sites throughout the state. The programs' principle objectives are to identify substance users, assess the severity of their drug problems, and provide the appropriate services.¹² The Department of Children and Families licenses all in-prison substance abuse programs.¹³ The Bureau of Readiness and Community Transitions within the DOC is responsible for the coordination and delivery of substance abuse program services for individuals incarcerated in a state correction facility.¹⁴

Determining the Appropriate Services for Inmates

All inmates are screened at reception and assessed and placed into programs using the Correctional Integrated Needs Assessment System (CINAS).¹⁵ The CINAS is based on the Risk-Needs-Responsivity Principle (RNR). The RNR principle refers to predicting which inmates have a higher probability of recidivating, and treating the criminogenic needs of those higher risk inmates with appropriate programming and services based on their level of need.¹⁶

⁸ Section 948.012(2), F.S., *Gibson v. Florida Department of Corrections*, 885 So.2d 376, 381 (Fla. 2004).

⁹ Section 958.04(1), F.S., describes who qualifies to be sentenced as a youthful offender. A youthful is a person who is younger than 21 at the time of sentencing, who has not been found guilty or plead to a capital or life felony and has not previously been sentenced as a youthful offender. The court can sentence a person as a youthful offender or the DOC can classify a person as a youthful offender.

¹⁰ See ss. 958.04(2)(d) and 958.045(6), F.S.

¹¹ The DOC, *Bureau of Readiness and Community Transition*, available at <http://www.dc.state.fl.us/development/readiness.html> (last visited April 2, 2019).

¹² DOC, Bureau of Readiness and Community Transition, Inmate Programs, *Substance Use Treatment, Annual Report, Fiscal Year 2016-2017*, p. 1 (hereinafter cited as "Substance Abuse Annual Report")(on file with the Senate Criminal Justice Committee).

¹³ Licensure is conducted in accordance with ch. 397, F.S., and Fla. Admin. Code R. 65D-30.003.

¹⁴ Substance Abuse Annual Report at p. 6.

¹⁵ DOC, *Agency Analysis for SB 1074 (2019)*, p. 2, April 2, 2019 (on file with the Senate Criminal and Civil Justice Approps. Subcommittee) (hereinafter cited as "DOC SB 1074 Analysis").

¹⁶ DOC reports that criminogenic needs are those factors that are associated with recidivism that can be changed (e.g. lack of education, substance abuse, criminal thinking, lack of marketable job skills, etc.). Offenders are not higher risk because they have a particular risk factor, but, rather, because they have multiple risk factors. Accordingly, a range of services and interventions are provided that target the specific crime producing needs of offenders who are higher risk. *Id.*

The CINAS is administered to inmates again at 42 months from release. Additionally, the DOC conducts updates every six months thereafter to evaluate the inmate's progress and ensure enrollment in needed programs. The DOC's use of the CINAS allows for development and implementation of programs that increase the likelihood of successful transition. The DOC matches factors that influence an inmate's responsiveness to different types of services with programs that are proven to be effective within an inmate population. This involves selecting services that are matched to the offender's learning characteristics and then to the offender's stage of change readiness.¹⁷

Additionally, the CINAS allows for a flow of information between the DOC's Office of Community Corrections and Office of Institutions. For instance, when an inmate is received at a Reception Center, the staff has access to detailed information about prior supervision history. Likewise, if an inmate is released to community supervision, probation officers will have access to an offender's incarceration history and relevant release information. The DOC reports that this information is to be used to better serve the offender and prepare them for successful transition back into the community.¹⁸

Drug Offender and Mental Health Probation

Probation is a form of community supervision requiring specified contacts with probation officers and other conditions a court may impose.¹⁹ Specifically, drug offender probation is a form of intensive supervision that emphasizes treatment of drug offenders in accordance with individualized treatment plans administered by probation officers with reduced caseloads.²⁰ Mental health probation means a form of specialized supervision that emphasizes mental health treatment and working with treatment providers to focus on underlying mental health disorders and compliance with a prescribed psychotropic medication regimen in accordance with individualized treatment plans. Mental health probation is supervised by officers with reduced caseloads who are sensitive to the unique needs of individuals with mental health disorders, and who will work in tandem with community mental health case managers assigned to the defendant.²¹

Gain-time

Gain-time awards, which result in deductions to the court-ordered sentences of specified eligible inmates, are used to encourage satisfactory prisoner behavior or to provide incentives for prisoners to participate in productive activities while incarcerated.²² An inmate is not eligible to

¹⁷ DOC SB 1074 Analysis, p. 2.

¹⁸ *Id.*

¹⁹ Section 948.001(8), F.S.

²⁰ Section 948.001(4), F.S.

²¹ Section 948.001(5), F.S.

²² Section 944.275(1), F.S. Section 944.275(4)(f), F.S., further provides that an inmate serving a life sentence is not able to earn gain-time. Additionally, an inmate serving the portion of his or her sentence that is included in an imposed mandatory minimum sentence or whose tentative release date is the same date as he or she achieves service of 85 percent of the sentence are not eligible to earn gain-time. Section 944.275(4)(e), F.S., also prohibits inmates committed to the DOC for specified sexual offenses committed on or after October 1, 2014, from earning incentive gain-time.

earn or receive gain-time in an amount that results in his or her release prior to serving a minimum of 85 percent of the sentence imposed.²³

III. Effect of Proposed Changes:

The bill creates a conditional sentence for substance use or mental health offenders.

Eligibility

An offender must be a nonviolent offender that is in need of substance use or mental health treatment and does not pose a danger to the community. The bill defines a “nonviolent offender” to mean an offender that has never been convicted of, or plead guilty or no contest to, the commission of, an attempt to commit, or a conspiracy to commit any of the following:

- Any capital, life, or first degree felony;
- Any second degree or third degree felony offense listed in s. 775.084(1)(c)1., F.S.;²⁴
- Aggravated assault as described in s. 784.021, F.S.;
- Assault or battery of a law enforcement officer and other specified persons as described in s. 784.07, F.S.;
- Abuse, aggravated abuse, and neglect of a child as described in s. 827.03, F.S.;
- Resisting an officer with violence as described in s. 843.01, F.S.;
- Any offense that requires a person to register as a sex offender under s. 943.0435, F.S.;²⁵
 - Any offense for which the sentence was enhanced under s. 775.087, F.S.;²⁶ or
 - Any offense committed in another jurisdiction which would be an offense described above or would have been enhanced as described above, if committed in this state.

²³ Section 944.275(4)(f), F.S.

²⁴ The offenses enumerated in s. 775.084(1)(c)1., F.S., include: arson; sexual battery; robbery; kidnapping; aggravated child abuse; aggravated abuse of an elderly person or disabled adult; aggravated assault with a deadly weapon; murder; manslaughter; aggravated manslaughter of an elderly person or disabled adult; aggravated manslaughter of a child; unlawful throwing, placing, or discharging of a destructive device or bomb; armed burglary; aggravated battery; aggravated stalking; home invasion/robbery; carjacking; or an offense which is in violation of a law of any other jurisdiction if the elements of the offense are substantially similar to the elements of any felony offense enumerated in s. 775.084(1)(c)1., F.S., or an attempt to commit any such felony offense.

²⁵ Section 943.0435, F.S., includes the following offenses: sexual misconduct by a covered person (s. 393.135(2), F.S.); sexual misconduct by an employee; kidnapping, false imprisonment, or luring or enticing a child, where the victim is a minor; human trafficking; sexual battery, excluding s. 794.011(10), F.S.; unlawful sexual activity with certain minors; former procuring person under age of 18 for prostitution; former selling or buying of minors into prostitution; lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age; video voyeurism; lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person; sexual performance by a child; prohibition of certain acts in connection with obscenity; computer pornography, excluding s. 847.0135(6), F.S.; transmission of pornography by electronic device or equipment prohibited; transmission of material harmful to minors to a minor by electronic device or equipment prohibited; selling or buying of minors; prohibited activities/RICO, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in s. 943.0435(1)(h)1.a.(I), F.S., or at least one offense listed in s. 943.0435(1)(h)1.a.(I), F.S., with sexual intent or motive); sexual misconduct prohibited; or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in s. 943.0435(1)(h)1.a.(I), F.S.

²⁶ Section 775.087, F.S., provides for the reclassification of an offense based on the possession or use of a weapon when such use or possession is not an element of the underlying offense.

Sentencing Requirements

The bill requires the following conditions to be part of a conditional sentence for substance use or mental health offenders:

- A term of imprisonment, which must include an in-prison treatment program for substance use, mental health or co-occurring disorders that is a minimum of 90-days of in-custody treatment and is administered by the DOC at a DOC facility;
- A 24 month term of special offender probation that consists of:
 - Either drug offender or mental health probation, as determined by the court at sentencing;
 - Any special conditions of probation ordered by the sentencing court; and
 - Any recommendations made by the DOC in the postrelease treatment plan for substance use or mental health aftercare services.

The court must also specify that if the DOC finds that the offender is ineligible or not appropriate for placement in an in-prison treatment program for one of the enumerated reasons, or any other reason the DOC deems as good cause, the offender must serve the remainder of his or her imprisonment at a DOC facility. At sentencing, the court must determine the appropriate type of special offender probation based upon the departments' recommendation contained in the presentence investigation report.

The court may order a presentencing investigation report for any offender that the court believes may be sentenced to a conditional sentence for substance use or mental health. The presentencing report will provide the court with the appropriate information to make a determination at sentencing of whether the offender is better suited for drug offender or mental health probation.

The bill provides that a conditional sentence imposed by a court does not confer any right to an inmate for release from incarceration and placement on drug offender or mental health offender probation, unless such offender complies with all sentence requirements. However, the bill also provides some flexibility to the DOC with regard to determining placement of inmates based on availability and appropriateness of the inmate for the program, which are discussed below.

Department of Corrections Duties

The DOC is required to administer the in-prison treatment program and provide a special training program for staff members selected to implement the in-prison treatment program. The DOC is authorized to enter into performance-based contracts with qualified individuals, agencies, or corporations to supply any or all services provided through the in-prison treatment program. The bill prohibits the DOC from entering into a contract or renewing a contract for the purpose of providing services required under the act unless the contract offers a substantial savings to the DOC. Additionally, the DOC may establish a system of incentives within the in-prison treatment program to promote participation in rehabilitative programs and the orderly operation of institutions and facilities.

The DOC must give written notification of the offender's admission into the in-prison treatment program to the sentencing court, the state attorney, defense counsel, and any victim of the crime committed by the offender. Before an offender completes the in-prison treatment program, the

DOC must evaluate the offender's needs and develop a postrelease treatment plan that includes substance or mental health aftercare services.

The bill provides rulemaking authority to the DOC to implement the in-prison treatment program. The DOC can refuse to place an offender in the in-prison treatment program if, after evaluating the offender for custody and classification status, the DOC determines that the offender does not meet the criteria for the in-prison treatment program as proscribed by rule. The DOC must notify the sentencing court, the state attorney, and the defense counsel of the inability to place the offender in the program and that the rest of the offender's sentence will be served in a DOC facility.

If, after placement in the in-prison treatment program, the offender appears to be unable to participate due to medical or other reasons, he or she must be examined by qualified medical personnel or qualified nonmedical personnel appropriate for the offender's situation. After consultation with the qualified personnel that evaluated the offender, the director of the in-prison treatment program must determine if the offender will continue with treatment or if the offender will be discharged from the program. If the offender is discharged from the in-prison treatment program the remaining portion of his or her sentence will be served in a DOC facility and the DOC must immediately notify the court, the state attorney, and the defense counsel that this portion of the sentence is unsuccessfully served.

If an offender, after placement in the in-prison treatment program, appears to be unable to participate due to disruptive behavior or violations of any of the rules promulgated by the DOC, the director must determine if the offender will continue in treatment or be discharged from the program. If the offender is discharged from the in-prison treatment program, the remaining portion of his or her sentence will be served in a DOC facility and the DOC must immediately notify the court, the state attorney, and the defense counsel that this portion of the sentence is unsuccessfully served.

If an offender violates any rules, the DOC may impose sanctions including the loss of privileges, imposition of restrictions or disciplinary confinement, forfeiture of gain-time or the right to earn gain-time in the future, alteration of release plans, termination from the in-prison treatment program, or other program modifications dependent upon the severity of the violation. Additionally, the bill authorizes the DOC to place a participating offender in administrative or protective confinement, as it deems necessary.

Drug Offender or Mental Health Probation Portion of Sentence

Upon completion of the in-prison treatment program, an offender must be transitioned into the community on drug offender or mental health probation for the last 24 months of his or her sentence. An offender on probation is subject to:

- All standard terms of drug offender or mental health probation; and
- Any special condition of supervision ordered by the sentencing court, which may include:
 - Participation in an aftercare substance abuse or mental health program;
 - Residence in a postrelease transitional residential halfway house; or
 - Any other appropriate form of supervision or treatment.

Additionally, an offender placed on drug offender probation who resides in a county that has established a drug court or a postadjudicatory drug court, the offender is required to be monitored by such court as a condition of drug offender probation. Similarly, an offender placed on mental health offender probation who resides in a county that has established a mental health court must be monitored by the court as a condition of mental health offender probation.

The bill requires the DOC to collect the cost of supervision, as appropriate, from the offender. An offender who is determined to be financially able must also pay all costs of substance abuse or mental health treatment. The court may impose on the offender additional conditions such as requiring payment of restitution, court costs, and fines; community service; or compliance with other special conditions.

If an offender violates any condition of probation or order, the court may revoke the offender's probation and impose any sentence authorized by law.

The DOC must develop a computerized system to track data on the recidivism and recommitment of offenders who have been sentenced to a conditional sentence for substance use or mental health.

The bill also requires the department to, on October 1 of every year, beginning on October 1, 2020, submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives of the results of the recidivism and recommitment data collected by the DOC pursuant to the act.

The bill is effective on October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill authorizes the DOC to contract with qualified individuals, agencies, or corporations to supply any or all services provided for the in-prison treatment program. To the extent that this increases revenues of for-profit companies that offer these services, the bill will likely have a positive fiscal impact on such entities.

C. Government Sector Impact:

According to the DOC, the estimated fiscal impact is based on 2,760 inmates who would meet the eligibility criteria in the bill for in-prison treatment program and the technological impacts for creating/adjusting the codes for the new split sentence are as follows²⁷:

Staffing for the mental health and substance abuse, to include co-occurring disorders portion of the treatment is based on the following contracted personnel²⁸:

- One (1) Licensed Psychiatrist for every 500 individuals.
- One (1) Licensed Psychologist for every four (4) Master’s Levels Practitioners.
- One (1) Master’s Level Practitioner for every 15-50 individuals (depending on level of service).
- One (1) Clinical Support for every two (2) Master’s Level Practitioners.

Staffing for Co-occurring Disorders Treatment

Class Title	Contractor Compensation	FTE	Total
Licensed Psychiatrist	\$358,500	6	\$2,151,000
Licensed Psychologist	\$142,600	14	\$1,996,400
Master’s level Practitioner	\$81,250	55	\$4,468,750
Clinical Support	\$38,200	28	\$1,069,600
Sub-total Co-occurring Disorders		103	\$9,685,750

²⁷ DOC SB 1074 Analysis, p. 6-8.

²⁸ *Id.*

Division of Bureau of Admission and Release Increased Workload

Class Title	Salaries and Benefits	FTE	Total
Correctional Program Administrator	\$63,832	1	\$63,832
Correctional Services Consultant	\$57,930	2	\$115,860
Sub-total Salaries & Benefits		3	\$179,692

Expenses – Recurring	\$3,378	\$10,134
Expenses – Nonrecurring	\$4,429	\$13,287
Human Resource Services	\$329	\$987
Technology		\$21,750
Grand Total		\$9,911,600

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 948.0121 of the Florida Statutes.

IX. Additional Information:

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

CS by Criminal Justice on March 18, 2019:

The Committee Substitute:

- Changes the type of sentence from a “split probationary sentence” to a “conditional sentence”;
- Creates a conditional sentencing option for substance use or mental health offenders which includes a period of incarceration, an in-prison treatment program, and either drug offender or mental health probation;

- Specifies eligibility criteria for an offender to be sentenced under this conditional sentencing option;
- Requires an offender sentenced under this provision to be supervised by drug court if he or she is released on drug offender probation in a county that has an established drug court, or by mental health court if he or she is released on mental health offender probation in a county that has an established mental health court;
- Requires the DOC to develop a computerized system to track recidivism data for these offenders and provide an annual report to the Governor and the Legislature; and
- Corrects the reporting requirement from October 1, 2019 to October 1, 2020.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator Brandes

591-03159-19

20191074c1

1 A bill to be entitled
2 An act relating to sentencing; creating s. 948.0121,
3 F.S.; defining terms; creating a conditional sentence
4 for substance use and mental health offenders in
5 accordance with s. 948.012, F.S.; authorizing a court
6 to sentence an offender to a conditional sentence;
7 specifying requirements an offender must meet to be
8 eligible to receive a conditional sentence; requiring
9 that an eligible offender be a nonviolent offender;
10 defining the term "nonviolent offender"; providing
11 minimum sentencing requirements for a conditional
12 sentence; providing an exception to the court's order
13 of a conditional sentence; authorizing the sentencing
14 court to have the Department of Corrections provide a
15 presentence investigation report in accordance with s.
16 921.231, F.S., to provide the court with certain
17 information to determine the type of probation most
18 appropriate for the offender; requiring the department
19 to perform specified duties; authorizing the
20 department to enter into certain contracts; requiring
21 the department to provide written notification to
22 specified parties upon the offender's admission into
23 an in-prison treatment program; providing that the
24 department may find that an offender is not eligible
25 to participate in an in-prison treatment program under
26 certain circumstances; requiring written notification
27 from the department to certain parties if an offender
28 is terminated from or prevented from entering an in-
29 prison treatment program; requiring that an offender

591-03159-19

20191074c1

30 be transitioned to probation upon the completion of
31 his or her in-prison treatment program; requiring an
32 offender to comply with specified terms of drug
33 offender or mental health probation; requiring the
34 offender to pay specified costs associated with his or
35 her probation; providing that certain violations may
36 result in revocation of probation by the court and
37 imposition of any sentence authorized by law;
38 requiring the department to develop a computerized
39 system to track certain data; requiring the
40 department, on a certain date and annually thereafter,
41 to submit an annual report to the Governor and the
42 Legislature; requiring the department to adopt certain
43 rules; providing an effective date.

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. Section 948.0121, Florida Statutes, is created
48 to read:

49 948.0121 Conditional sentences for substance use or mental
50 health offenders.-

51 (1) DEFINITIONS.-As used in this section, the term:

52 (a) "Department" means the Department of Corrections.

53 (b) "Offender" means a person found guilty of a felony
54 offense and who receives a conditional sentence for substance
55 use or mental health offenders as prescribed in this section.

56 (2) CREATION.-A conditional sentence for substance use or
57 mental health offenders is established in accordance with s.
58 948.012. A court may sentence an offender to a conditional

591-03159-19

20191074c1

59 sentence in accordance with this section. A conditional sentence
60 imposed by a court pursuant to this section does not confer to
61 the offender any right to release from incarceration and
62 placement on drug offender or mental health offender probation
63 unless such offender complies with all sentence requirements in
64 accordance with this section.

65 (3) ELIGIBILITY.—For an offender to receive a conditional
66 sentence under this section, he or she must be a nonviolent
67 offender who is in need of substance use or mental health
68 treatment and who does not pose a danger to the community. As
69 used in this subsection, the term “nonviolent offender” means an
70 offender who has never been convicted of, or pled guilty or no
71 contest to, the commission of, an attempt to commit, or a
72 conspiracy to commit, any of the following:

73 (a) A capital, life, or first degree felony.

74 (b) A second degree felony or third degree felony listed in
75 s. 775.084(1)(c)1.

76 (c) A violation of s. 784.021, s. 784.07, s. 827.03, or s.
77 843.01, or any offense that requires a person to register as a
78 sex offender in accordance with s. 943.0435.

79 (d) An offense for which the sentence was enhanced under s.
80 775.087.

81 (e) An offense in another jurisdiction which would be an
82 offense described in this subsection, or which would have been
83 enhanced under s. 775.087, if that offense had been committed in
84 this state.

85 (4) SENTENCING REQUIREMENTS.—

86 (a) A court must order the offender as a part of a
87 conditional sentence for substance use or mental health

591-03159-19

20191074c1

88 offenders, at a minimum, to:

89 1. Serve a term of imprisonment which must include an in-
90 prison treatment program for substance use, mental health, or
91 co-occurring disorders which is a minimum of 90 days in-custody
92 treatment and is administered by the department at a department
93 facility; and

94 2. Upon successful completion of such in-custody treatment
95 program, comply with a term of special offender probation for 24
96 months, which shall serve as a modification of the remainder of
97 his or her term of imprisonment, and must consist of:

98 a. Either drug offender or mental health probation, to be
99 determined by the court at the time of sentencing;

100 b. Any special conditions of probation ordered by the
101 sentencing court; and

102 c. Any recommendations made by the department in a
103 postrelease treatment plan for substance use or mental health
104 aftercare services.

105 (b) If the department finds that the offender is ineligible
106 or not appropriate for placement in an in-custody treatment
107 program for the reasons prescribed in subsection (7), or for any
108 other reason the department deems as good cause then the
109 offender shall serve the remainder of his or her term of
110 imprisonment in the custody of the department.

111 (c) The appropriate type of special offender probation
112 shall be determined by the court at the time of sentencing based
113 upon the recommendation by the department in a presentence
114 investigation report.

115 (5) PRESENTENCE INVESTIGATION REPORT.—The court may order
116 the department to conduct a presentence investigation report in

591-03159-19

20191074c1

117 accordance with s. 921.231 for any offender who the court
118 believes may be sentenced under this section to provide the
119 court with appropriate information to make a determination at
120 the time of sentencing of whether drug offender or mental health
121 probation is most appropriate for the offender.

122 (6) DEPARTMENT DUTIES.—The department:

123 (a) Shall administer treatment programs that comply with
124 the type of treatment required in this section.

125 (b) May develop and enter into performance-based contracts
126 with qualified individuals, agencies, or corporations to provide
127 any or all services necessary for the in-custody treatment
128 program. Such contracts may not be entered into or renewed
129 unless they offer a substantial savings to the department. The
130 department may establish a system of incentives in an in-custody
131 treatment program to promote offender participation in
132 rehabilitative programs and the orderly operation of
133 institutions and facilities.

134 (c) Shall provide a special training program for staff
135 members selected to administer or implement an in-custody
136 treatment program.

137 (d) Shall evaluate the offender's needs and develop a
138 postrelease treatment plan that includes substance use or mental
139 health aftercare services.

140 (7) IN-PRISON TREATMENT.—

141 (a) The department shall give written notification of the
142 offender's admission into an in-prison treatment program portion
143 of the conditional sentence to the sentencing court, the state
144 attorney, the defense counsel for the offender, and any victim
145 of the offense committed by the offender.

591-03159-19

20191074c1

146 (b) If, after evaluating an offender for custody and
147 classification status, the department determines at any point
148 during the term of imprisonment that an offender sentenced under
149 this section does not meet the criteria for placement in an in-
150 prison treatment program portion of the conditional sentence, as
151 determined in rule by the department, or that space is not
152 available for the offender's placement in an in-prison treatment
153 program, the department must immediately notify the court, the
154 state attorney, and the defense counsel that this portion of the
155 sentence is unsuccessfully served in accordance with paragraph
156 (4) (b) .

157 (c) If, after placement in an in-prison treatment program,
158 an offender is unable to participate due to medical concerns or
159 other reasons, he or she must be examined by qualified medical
160 personnel or qualified nonmedical personnel appropriate for the
161 offender's situation, as determined by the department. The
162 qualified personnel shall consult with the director of the in-
163 prison treatment program, and the director shall determine
164 whether the offender will continue with treatment or be
165 discharged from the program. If the director discharges the
166 offender from the treatment program, the department must
167 immediately notify the court, the state attorney, and the
168 defense counsel that this portion of the sentence is
169 unsuccessfully served in accordance with paragraph (4) (b) .

170 (d) If, after placement in an in-prison treatment program,
171 an offender is unable to participate due to disruptive behavior
172 or violations of any of the rules the department adopts to
173 implement this section, the director shall determine whether the
174 offender will continue with treatment or be discharged from the

591-03159-19

20191074c1

175 program. If the director discharges the offender from the
176 treatment program, the department must immediately notify the
177 court, the state attorney, and the defense counsel that this
178 portion of the sentence is unsuccessfully served in accordance
179 with paragraph (4) (b).

180 (e) An offender participating in an in-prison treatment
181 program portion of his or her imprisonment must comply with any
182 additional requirements placed on the participants by the
183 department in rule. If an offender violates any of the rules, he
184 or she may have sanctions imposed, including loss of privileges,
185 restrictions, disciplinary confinement, forfeiture of gain-time
186 or the right to earn gain-time in the future, alteration of
187 release plans, termination from the in-prison treatment program,
188 or other program modifications in keeping with the nature and
189 gravity of the program violation. The department may place an
190 inmate participating in an in-prison treatment program in
191 administrative or protective confinement, as necessary.

192 (8) DRUG OFFENDER OR MENTAL HEALTH PROBATION.—

193 (a) Upon completion of the in-prison treatment program
194 ordered by the court, the offender shall be transitioned into
195 the community to begin his or her drug offender or mental health
196 probation for a term of 24 months, as ordered by the court at
197 the time of sentencing in accordance with subsection (4).

198 (b) An offender on drug offender or mental health probation
199 following a conditional sentence imposed pursuant to this
200 section must comply with all standard conditions of drug
201 offender or mental health probation and any special condition of
202 probation ordered by the sentencing court, including
203 participation in an aftercare substance abuse or mental health

591-03159-19

20191074c1

204 program, residence in a postrelease transitional residential
205 halfway house, or any other appropriate form of supervision or
206 treatment.

207 (c)1. If an offender placed on drug offender probation
208 resides in a county that has established a drug court or a
209 postadjudicatory drug court, the offender shall be monitored by
210 the court as a condition of drug offender probation.

211 2. If an offender placed on mental health offender
212 probation resides in a county that has established a mental
213 health court, the offender shall be monitored by the court as a
214 condition of mental health offender probation.

215 (d) While on probation pursuant to this subsection, the
216 offender shall pay all appropriate costs of probation to the
217 department. An offender who is determined to be financially able
218 shall also pay all costs of substance abuse or mental health
219 treatment. The court may impose on the offender additional
220 conditions requiring payment of restitution, court costs, fines,
221 community service, or compliance with other special conditions.

222 (e) An offender's violation of any condition or order may
223 result in revocation of probation by the court and imposition of
224 any sentence authorized under the law, with credit given for the
225 time already served in prison.

226 (9) REPORTING.—The department shall develop a computerized
227 system to track data on the recidivism and recommitment of
228 offenders who have been sentenced to a conditional sentence for
229 substance use or mental health offenders. On October 1, 2020,
230 and on each October 1 thereafter, the department shall submit an
231 annual report of the results of the collected data to the
232 Governor, the President of the Senate, and the Speaker of the

591-03159-19

20191074c1

233 House of Representatives.

234 (10) RULEMAKING.—The department shall adopt rules pursuant
235 to ss. 120.536(1) and 120.54 to administer this section.

236 Section 2. This act shall take effect October 1, 2019.

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 Appropriations Subcommittee on Criminal and Civil Justice

BILL: PCS/SB 7072 (872670)

INTRODUCER: Appropriations Subcommittee on Criminal and Civil Justice; Appropriations Committee and Senator Bradley

SUBJECT: Justice System

DATE: April 11, 2019 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	_____	Kynoch	_____	AP Submitted as Committee Bill
1.	Dale	Jameson	ACJ	Recommend: Fav/CS
2.	_____	_____	AP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 7072 creates section 25.025, Florida Statutes, which provides that the Chief Justice of the Florida Supreme Court shall, at the request of a justice:

- Coordinate and designate a courthouse or other appropriate facility in the justice’s district as his or her official headquarters and private chambers; and
- Reimburse the justice for travel and subsistence while in Tallahassee to the extent funding is available.

The bill increases the number of circuit judges, adding one circuit court judgeship in the Ninth Judicial Circuit Court, which includes Orange and Osceola Counties, and one circuit court judgeship in the Twelfth Judicial Circuit Court, which includes Manatee, DeSoto and Sarasota Counties.

The bill amends section 394.47891, Florida Statutes, to require the chief judge of each judicial circuit to establish at least one Military Veterans and Servicemembers Court Program (veterans’ court). Currently, 16 of the 20 judicial circuits have one or more veterans’ courts. These problem-solving courts serve specified veterans who are charged or convicted of a criminal offense and who suffer from a military-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, in a manner that appropriately addresses the severity of the illness, injury, disorder or psychological problem.

The bill requires the Office of the State Courts Administrator to annually report to the President of the Senate and Speaker of the House of Representatives certain specified information on each problem-solving court.

The bill also amends various provisions of sections 812.014 and 812.015, Florida Statutes, related to retail and grand theft offenses to:

- Increase the threshold amount for third degree felony theft offenses from \$300 to \$750.
- Specify when the dollar value of prior instances of retail theft under section 812.015, Florida Statutes, must be aggregated, during any 90-day period, for purposes of determining the classification of the offense as a second or third degree felony, provide that the aggregation applies to retail theft in more than one county, and provide that the aggregated offenses shall be prosecuted by the Office of the Statewide Prosecutor.
- Authorize a fine of up to \$10,000 be imposed for the theft of commercially farmed animals rather than a specified fine of \$10,000.

The bill creates section 812.019(10), Florida Statutes to provide that a person who receives, possesses, or purchases merchandise or stored-value cards from a fraudulent return with knowledge the items were stolen commits a third degree felony.

The bill makes conforming changes to the Criminal Punishment Code severity ranking chart to reflect the changes made by the bill.

Adding two new circuit judges has a fiscal impact on state expenditures. The cost of veterans' courts in the four judicial circuits that do not presently have them would be determined by the Trial Courts Budget Commission (TCBC) from within existing appropriations. The Criminal Justice Impact Conference (CJIC) has not reviewed this bill. In a similar bill increasing the threshold for retail and grand theft the CJIC projected a negative impact on prison beds. *See Section V.*

Section 1. of the bill related to supreme court justices' travel is effective July 1, 2019. The remaining sections of the bill are effective October 1, 2019.

II. Present Situation:

Supreme Court Headquarters

Article II, section 2 of the Florida Constitution designates Tallahassee as the seat of state government "where the *offices* of the governor, lieutenant governor, cabinet members and the supreme court shall be maintained and the sessions of the legislature shall be held[.]"¹ Article V, section 3 of the Florida Constitution provides that the Supreme Court will consist of seven justices, and that each of the five appellate districts "shall have at least one justice elected or appointed from the district at the time of the original appointment or election." The chambers of

¹ FLA. CONST. art. II, s. 2.

all seven justices are in the Florida Supreme Court building,² and all official Supreme Court business is conducted in Tallahassee.³

Headquarters for Purposes of Travel Reimbursement

Section 112.061, F.S., governs the reimbursement of travel expenses to public employees and officers. To that end, s. 112.061(4), F.S. provides that while “[t]he official headquarters of an officer or employee assigned to an office shall be the city or town in which the office is located,” there are exceptions:

- The official headquarters of a person located in the field is in the city or town nearest to the area where the majority of the person’s work is performed, or such other city, town, or area designated by the agency head provided that the designation is in the best interests of the agency and not for the convenience of the employee.
- When any state employee is stationed in a city or town for a period of over 30 continuous workdays, that city or town is the employee’s official headquarters, and he or she is not allowed per diem or subsistence, after the 30 continuous workdays have elapsed, unless that time period is extended by the agency head or his or her designee.
- An employee may leave his or her assigned post to return home overnight, over a weekend, or during a holiday, but time lost from work must be taken as annual leave and. The employee cannot be reimbursed for travel expenses other than per diem allowable had he or she remained at the temporary post. However, when an employee is temporarily assigned away from his or her official headquarters for more than 30 days, he or she can receive reimbursement for travel expenses for one round trip for each 30-day period actually taken to his or her home.⁴

Additionally, s. 112.061(1)(b)1., F.S., establishes a legislative policy that exceptions to the restrictions on reimbursements of travel and subsistence expenses should be standardized and exceptions or exemptions must explicitly reference s. 112.061, F.S.

² Florida Supreme Court, Manual of Internal Operating Procedures, *Section 1. Court Structure*, p. 1 (Rev. Sept. 21, 2016), http://www.floridasupremecourt.org/pub_info/documents/IOPs.pdf (last visited Jan. 31, 2019). *But see In re: Designation of Official Headquarters*, AOSC18-37 (Fla. July 2, 2018) (administrative order issued by Florida Supreme Court designating remote headquarters pursuant to Ch. 18-10, s. 46, Laws of Fla., the 2018 appropriations law), available at <https://www.floridasupremecourt.org/content/download/421872/4557988/AOSC18-37.pdf> (last visited April 1, 2019)..

³ “[T]he Florida Supreme Court, comprised of its Justices, has only one “office” — the Supreme Court Building, located in the Northern District.” *Castro v. Labarga*, 16-22297-CIV, 2016 WL 6565946, at *5 (S.D. Fla. Nov. 3, 2016) (citing FLA. CONST. art. II, s. 2). “In my view, the mere fact that a Florida Supreme Court justice may periodically travel outside of the Northern District of Florida to attend bar functions or educational seminars and obtains travel reimbursements does not translate the trip into an ‘official duty’ trip sufficient to generate venue in the other districts.” *Id.* “If the Florida Supreme Court maintained major offices, courtrooms or staff in other districts, then the result about venue and venue discovery might be different. But those significant facts, which Castro relies on when citing other cases, are absent here.” *Id.* (holding the proper venue of a disgruntled bar candidate suing the Florida Supreme Court is the northern district of Florida). *See also Uberoi v. Labarga*, 8:16-CV-1821-T-33JSS, 2016 WL 5914922, at *2 (M.D. Fla. Oct. 11, 2016) (transferring another disgruntled bar candidate’s case to the Northern District based a motion to dismiss filed by Justice Labarga noting that official acts by the Florida Supreme Court concerning the candidate’s admission to the bar are done in Tallahassee; citing FLA. CONST. art. II, s. 2, noting that Tallahassee “is where the offices of the Florida Supreme Court shall be maintained.”).

⁴ Section 112.061(4)(a)-(c), F.S.

Section 112.061, F.S. applies to the court system. Each district court of appeal—the headquarters for which is defined by the Legislature, not the Constitution⁵—now is authorized to “designate other locations within its district as branch headquarters for the conduct of the business of the court and as the official headquarters of its officers or employees pursuant to s. 112.061.”⁶

Prior to district courts of appeal being authorized to establish branch headquarters, the Attorney General opined for travel and reimbursement purposes that a district court of appeal judge could *not* designate the city of his or her residence as his or her official headquarters for purposes of travel expenses.⁷ Notably, the opinion relied on the fact that, at that time, s. 35.05, F.S., designated the official headquarters of each district court of appeal in specific cities.⁸ Subsequently, the law was amended to permit a district court of appeal to “designate branch headquarters within its district for purposes of s. 112.061,”⁹

In 2018, the Implementing Bill authorized the funding of travel and subsistence expenses for justices residing outside Leon County who elected to designate a remote “headquarters” to use as their private chambers.¹⁰ An appropriation of \$209,930 recurring general revenue was made to the Supreme Court for this purpose in the Fiscal Year 2018-19 General Appropriations Act.

Certification of Need for Additional Judges

Article V, section 9 of the Florida Constitution requires the Florida Supreme Court to submit recommendations to the Legislature when there is a need to increase or decrease the number of judges.¹¹ The constitutional provision further directs the Court to base its recommendations on uniform criteria adopted by court rule.

⁵ Section 35.05(1), F.S. (designating the city in which the headquarters for each appellate district must be located).

⁶ Section 35.05(2), F.S.

⁷ Op. Att’y Gen. Fla. 74-132 (1974).

⁸ *Id.* (“Section 112.061, F.S., has been uniformly interpreted by this office as authorizing reimbursement for travel expense only from the official headquarters of the public officer or employee; and, as defined in subsection 112.061(4), the official headquarters “of an officer or employee assigned to an office shall be the city or town in which the office is located” (The provisions of paragraphs (4)(a), (b), and (c), relating to public officers or employees “located in the field” or “stationed” in another city or town, are not applicable her for obvious reasons.) The official headquarters of each district court of appeal is designated by statute, s. 35.05, F.S., and that is where the majority of the work of the court is performed.”).

⁹ Section 35.05(2), F.S. Currently, it appears that only the Second District Court of Appeal has designated a second branch office, in Tampa on the Stetson University campus. However, the Second District’s clerk’s office is at the official headquarters in Lakeland. *See* Florida Second District Court of Appeal, <http://www.2dca.org/Directions/tampa.shtml> (last visited Jan. 31, 2019).

¹⁰ *See* Ch. 18-10, s. 46, Laws of Fla.; *In re: Designation of Official Headquarters*, Fla. Admin. Order. No. AOSC18-37 (July 2, 2018) (administrative order issued by Florida Supreme Court designating remote headquarters), available at <https://www.floridasupremecourt.org/content/download/421872/4557988/AOSC18-37.pdf>.

¹¹ Article V, section 9 of the Florida Constitution states:

Determination of number of judges.—The supreme court shall establish by rule uniform criteria for the determination of the need for additional judges except supreme court justices, the necessity for decreasing the number of judges and for increasing, decreasing or redefining appellate districts and judicial circuits. If the supreme court finds that a need exists for increasing or decreasing the number of judges or increasing, decreasing or redefining appellate districts and judicial circuits, it shall, prior to the next regular session of the legislature, certify to the legislature its findings and recommendations concerning such need. Upon receipt of such certificate, the legislature, at the next regular session, shall consider the findings and recommendations and may reject the recommendations or by law implement the recommendations in whole or in part; provided the legislature may create more judicial offices than are recommended by the supreme court or may decrease the number of judicial offices by a greater number than recommended by the court only upon a finding of two-thirds of the membership of both houses of the legislature, that such a need exists. A decrease in the number of judges shall be effective

The Court's rule setting forth criteria for assessing judicial need at the trial court level is based primarily upon the application of case weights to circuit and county court caseload statistics.¹² These weights are a quantified measure of judicial time spent on case-related activity. The judicial workload is then based on judicial caseloads adjusted in the relative complexity of various case types.

In addition to the statistical information, the Court, in weighing the need for trial court judges, will also consider the factors below which primarily relate to the resources available to a judicial circuit:

- (i) The availability and use of county court judges in circuit court.
- (ii) The availability and use of senior judges to serve on a particular court.
- (iii) The availability and use of magistrates and hearing officers.
- (iv) The extent of use of alternative dispute resolution.
- (v) The number of jury trials.
- (vi) Foreign language interpretations.
- (vii) The geographic size of a circuit, including travel times between courthouses in a particular jurisdiction.
- (viii) Law enforcement activities in the court's jurisdiction, including any substantial commitment of additional resources for state attorneys, public defenders, and local law enforcement.
- (ix) The availability and use of case-related support staff and case management policies and practices.
- (x) Caseload trends.¹³

In addition to the weighted caseload statistics, the Court will also consider the time to perform other judicial activities, such as reviewing appellate decisions, reviewing petitions and motions for post-conviction relief, hearing and disposing motions, and participating in meetings with those involved in the justice system.¹⁴ Finally, the Court will consider any request for an increase or decrease in the number of judges that the chief judge of the circuit "feels are required."¹⁵ Following its criteria for determining the need for judges, the Florida Supreme Court recently issued an order certifying the need for additional judges for the 2019-2020 fiscal year.¹⁶

Problem-Solving Courts

In 1989, Florida started problem-solving court initiatives by creating the first drug court in the

only after the expiration of a term. If the supreme court fails to make findings as provided above when need exists, the legislature may by concurrent resolution request the court to certify its findings and recommendations and upon the failure of the court to certify its findings for nine consecutive months, the legislature may, upon a finding of two-thirds of the membership of both houses of the legislature that a need exists, increase or decrease the number of judges or increase, decrease or redefine appellate districts and judicial circuits.

¹² Fla. R. Jud. Adm. 2.240(b)(1)(A).

¹³ Fla. R. Jud. Admin. 2.240(b)(1)(B).

¹⁴ Fla. R. Jud. Admin. 2.240(c).

¹⁵ Fla. R. Jud. Admin. 2.240(d).

¹⁶ *In Re: Certification of Need for Additional Judges*, S.Ct. No. SC18-1970.

<https://www.floridasupremecourt.org/content/download/425472/4585604/file/sc18-1970.pdf>.

United States in Miami-Dade County. Other types of problem-solving court dockets subsequently followed using the drug court model and were implemented to assist individuals with a range of problems such as drug addiction, mental illness, domestic violence, and child abuse and neglect.¹⁷

Florida's problem-solving courts address the root causes of an individual's involvement with the justice system through specialized dockets, multidisciplinary teams, and a nonadversarial approach. Offering evidence-based treatment, judicial supervision, and accountability, problem-solving courts provide individualized interventions for participants, thereby reducing recidivism and promoting confidence and satisfaction with the justice system process.¹⁸

Veterans' Courts for Criminal Offenders

Veterans' courts are problem-solving courts, modeled after drug courts, which are aimed at addressing the root causes of criminal behavior.¹⁹ The purpose of veterans' courts is to divert eligible defendants who are veterans or servicemembers into treatment programs for military-related conditions or war-related trauma, either before trial or at sentencing. Veterans' courts consider whether an individual's military-related condition, such as post-traumatic stress disorder, mental illness, traumatic brain injury, or substance abuse, can be addressed through a program specifically designed to serve the individual's needs.²⁰

Veterans' courts implement the 10 key components required of drug courts²¹ in Florida:

- Integration of alcohol, drug treatment, and mental health services into justice system case processing;
- Nonadversarial approach;
- Early identification of eligible participants;
- Continuum of services;
- Alcohol and drug testing for abstinence;
- Coordinated strategy for responses to participants' compliance;
- Ongoing judicial interaction;
- Monitoring and evaluation for program effectiveness;
- Interdisciplinary education; and
- Partnerships with stakeholders.²²

¹⁷ The most common problem-solving courts in Florida are drug courts, mental health courts, veterans courts and early childhood courts. Florida Courts, Office of Court Improvement, Problem-Solving Courts, available at <https://www.flcourts.org/Resources-Services/Court-Improvement/Problem-Solving-Courts> (last visited April 1, 2019).

¹⁸ *Id.*

¹⁹ Florida Courts, *Problem-Solving Courts*, available at <http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/> (last visited April 1, 2019).

²⁰ Section 394.47891, F.S.

²¹ Section 397.334(4), F.S.

²² See n. 3, *supra*, noting that “[t]he components of veterans courts, from The Ten Key Components of Veterans Treatment Court, Justice for Vets (a division of the National Association of Drug Court Professionals)[.]” See also Justice for Vets, *The Ten Key Components of Veterans Treatment Courts*, available at <https://justiceforvets.org/wp-content/uploads/2017/02/The-Ten-Key-Components-of-Veterans-Treatment-Courts.pdf> (last visited April 1, 2019).

Significantly, veterans' courts involve not only nonadversarial cooperation among "traditional partners found in drug courts, such as the judge, state attorney, public defender, case manager, treatment provider, probation, and law enforcement[.]" but also cooperation with "representatives of the Veterans Health Administration (VHA) and the Veterans Benefit Administration as well as State Department of Veterans Affairs, Vet Centers, Veterans Service Organizations, Department of Labor, volunteer veteran mentors, and other veterans support groups."²³ Veterans' courts are also able to "leverage resources available from the U.S. Department of Veterans Affairs" to provide treatment and other services to veterans and servicemembers.²⁴

Florida's Veterans' Courts

In 2012, the Florida Legislature passed the "T. Patt Maney Veterans' Treatment Intervention Act."²⁵ The Act created the military veterans and servicemembers court program,²⁶ better known as veterans' courts.²⁷ Specifically, the Act authorizes the chief judge of each judicial circuit to establish a veterans' court program to serve the special needs of eligible veterans²⁸ and active duty servicemembers²⁹ who are:

- Suffering a military-related condition, such as mental illness, traumatic brain injury, or substance abuse; and
- Charged with or convicted of a criminal offense.³⁰

The 2012 Act also amended chapter 948, F.S., to provide when veterans and servicemembers may be eligible to participate in the veterans' court program for treatment and services. Eligible individuals may participate after being:

- Charged with a criminal misdemeanor³¹ or certain felony offenses but before being convicted (pretrial intervention);³² or
- Convicted and sentenced, as a condition of probation or community control.³³

Pretrial Intervention Participation

Prior to placement in a program, a veterans' treatment intervention team must develop an individualized coordinated strategy for the veteran. The team must present the coordinated

²³ See n. 3, *supra*.

²⁴ *Id.*

²⁵ CS/CS/SB 922 (ch. 2012-159, Laws of Fla.).

²⁶ Section 394.47891, F.S.

²⁷ Florida Courts, *Veterans' Courts*, available at <http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/veterans-court.stml> (last visited April 1, 2019).

²⁸ Section 1.01(14), F.S., defines a veteran as a person who served in active military, naval, or air service who was discharged or released under honorable conditions or who later received an upgraded discharge under honorable conditions.

²⁹ A servicemember is defined as a person serving as a member of the United States Armed Forces on active duty or state active duty and members of the Florida National Guard and United States Reserve Forces. Section 250.01(19), F.S.

³⁰ See n. 2, *supra*.

³¹ Section 948.16(2)(a), F.S., establishes the misdemeanor pretrial veterans' treatment intervention program.

³² Section 948.08(7)(a), F.S., authorizes courts to consider veterans charged with non-disqualifying felonies for pretrial veterans' treatment intervention programs. Section 948.08(7), F.S., references the disqualifying felony offenses listed in s. 948.06(8)(c), F.S.; i.e., Section 948.06(8)(c), F.S., lists 19 disqualifying felony offenses of a serious nature, such as kidnapping, murder, sexual battery, treason, etc.

³³ Section 948.21, F.S.

strategy to the veteran in writing before he or she agrees to enter the program. The strategy is modeled after the ten therapeutic jurisprudence principles and key components for treatment-based drug court programs.³⁴

During the time that the defendant is allotted participation in the treatment program, the court retains jurisdiction in the case. At the end of the program, the court considers recommendations for disposition by the state attorney and the program administrator. If the veteran successfully completes the treatment program, the court must dismiss the criminal charges. If the court finds that the veteran did not successfully complete the program, the court can either order the veteran to continue in education and treatment or authorize the state attorney to proceed with prosecution.³⁵

Eligible veterans who successfully complete the diversion program may petition the court to order the expunction of the arrest record and the plea.³⁶

Participation in Treatment Program while on Probation or Community Control

Veterans and servicemembers on probation or community control who committed a crime on or after July 1, 2012, and suffer from a military-related mental illness, a traumatic brain injury, or a substance abuse disorder may also qualify for treatment programs. A court may impose, as a condition of probation or community control, successful completion of a mental health or substance abuse treatment program.³⁷

Current Court Statistics

According to the State Court Administrator's Office of Court Improvement, as of February 2019, there are 30 veterans' courts in Florida.³⁸ Additionally, the Office of Court Improvement reports that in 2017, "Florida's veterans' courts admitted 1,051 participants and graduated 593."³⁹

Retail Theft

Approximately 3,000 people are currently incarcerated in the Department of Corrections (DOC) for felony theft convictions and just over 24,000 people are on state community supervision for a felony theft crime in Florida.⁴⁰ Since 2000, 37 states have increased the threshold dollar amounts

³⁴ Section 948.08(7)(b), F.S., requires a coordinated strategy for veterans charged with felonies who are participating in pretrial intervention programs. Section 948.16(2)(b), F.S., requires a coordinated strategy for veterans charged with misdemeanors. Section 397.334(4), F.S., requires treatment based court programs to include therapeutic jurisprudence principles and components recognized by the United States Department of Justice and adopted by the Florida Supreme Court Treatment-based Drug Court Steering Committee.

³⁵ Section 948.08(7)(b)-(c), F.S.

³⁶ See n. 14, *supra*.

³⁷ Section 948.21, F.S.

³⁸ Email from the Office of the State Courts Administrator, March 1, 2019 (on file with Senate Criminal and Civil Justice Appropriations Committee).

³⁹ *Id.*

⁴⁰ Email from Scotti Vaughan, Department of Corrections, Deputy Legislative Affairs Director, February 6, 2019 (on file with Senate Criminal Justice Committee).

for felony theft crimes.⁴¹ Such increases ensure that associated “criminal sentences don’t become more severe over time simply because of natural increases in the prices of consumer goods.”⁴²

The majority of states (30 states) and the District of Columbia set a \$1,000-or-greater property value threshold for felony grand theft. Fifteen states have thresholds between \$500 and \$950, and five states, including Florida, have thresholds below \$500. Between 2003 and 2015, nine states, including Alabama, Mississippi, and Louisiana, raised their felony thresholds twice.⁴³

Property Theft

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

- Deprive the other person of a right to the property or a benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.⁴⁴

Second degree petit theft, a second degree misdemeanor, is theft of property valued at less than \$100.⁴⁵ First degree petit theft, a first degree misdemeanor, is theft of property valued at \$100 or more but less than \$300.⁴⁶ Second degree petit theft incurs greater penalties if there is a prior theft conviction: it is a first degree misdemeanor if there is one prior conviction,⁴⁷ and a third degree felony if there are two or more prior convictions.⁴⁸

Third degree grand theft, a third degree felony,⁴⁹ is theft of:

- Property valued at \$300 or more, but less than \$20,000.
- Specified property including, but not limited to:
 - A will, codicil, or testamentary instrument;
 - A firearm;
 - Any commercially farmed animal,⁵⁰ a bee colony of a registered beekeeper, or aquaculture species raised at a certified aquaculture facility;

⁴¹ Pew Charitable Trusts, *The Effects of Changing State Theft Penalties*, (February 2016), available at http://www.pewtrusts.org/~media/assets/2016/02/the_effects_of_changing_state_theft_penalties.pdf?la=en (last visited April 1, 2019); See also Alison Lawrence, *Making Sense of Sentencing: State Systems and Policies*, National Conference of State Legislatures, (June 2015), available at <http://www.ncsl.org/documents/cj/sentencing.pdf> (last visited April 1, 2019).

⁴² John Gramlich and Katie Zafft, *Updating State Theft Laws Can Bring Less Incarceration – and Less*, Stateline, Pew Charitable Trusts, (March 1, 2016), available at <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2016/03/31/updating-state-theft-laws-can-bring-less-incarceration-and-less-crime> (last visited April 1, 2019).

⁴³ *Id.*

⁴⁴ Section 812.014(1), F.S.

⁴⁵ Section 812.014(3)(a), F.S. A second degree misdemeanor is punishable by up to 60 days in jail and a fine of up to \$500. Sections 775.082 and 775.083, F.S.

⁴⁶ Section 812.014(2)(e), F.S. A first degree misdemeanor is punishable by up to one year in jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

⁴⁷ Section 812.014(3)(b), F.S.

⁴⁸ Section 812.014(3)(c), F.S.

⁴⁹ A third degree felony is punishable by up to 5 years’ incarceration and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

⁵⁰ This includes any animal of the equine, avian, bovine, or swine class or other grazing animal.

- Any fire extinguisher;
- Citrus fruit of 2,000 or more individual pieces;
- Any stop sign;
- Property taken from a designated, posted construction site;⁵¹ and
- Property from a dwelling or its unenclosed curtilage if the property is valued at \$100 or more, but less than \$300.⁵²

The last time the Legislature increased the minimum threshold property value for third degree grand theft was in 1986.⁵³ The third degree grand theft provisions related to property taken from a dwelling or its unenclosed curtilage were added in 1996. The petit theft provisions were also amended, including the thresholds, in 1996.⁵⁴ Using the U.S. Department of Labor, Bureau of Labor Statistics' Consumer Price Index Inflation Calculator, the inflation-adjusted value of the \$300 felony retail threshold that became effective July 1, 1986, is \$692.54, as of February 2019. The February 2019 inflation-adjusted value of \$300 since October 1, 1996 (the date the grand theft provisions relating to a dwelling and its enclosed curtilage became effective), is \$479.04.⁵⁵

Retail Theft

Section 812.015(1)(d), F.S., defines retail theft as:

- The taking possession of or carrying away of merchandise, property, money, or negotiable documents;
- Altering or removing a label, universal product code, or price tag;
- Transferring merchandise from one container to another; or
- Removing a shopping cart, with intent to deprive the merchant of possession, use, benefit, or full retail value.

Retail theft is a third degree felony if the theft involves property valued at \$300 or more and the person:

- Individually, or in concert with one or more other persons, coordinates the activities of one or more individuals in committing the offense;
- Commits theft from more than one location within a 48-hour period;⁵⁶
- Acts in concert with one or more other individuals within one or more establishments to distract the merchant, merchant's employee, or law enforcement officer in order to carry out the offense, or acts in other ways to coordinate efforts to carry out the offense; or
- Commits the offense through the purchase of merchandise in a package or box that contains merchandise other than, or in addition to, the merchandise purported to be contained in the package or box.⁵⁷

⁵¹ Section 812.014(2)(c), F.S.

⁵² Section 812.014(2)(d), F.S.

⁵³ Chapter 86-161, s. 1, L.O.F., which became effective on July 1, 1986.

⁵⁴ Chapter 96-388, s. 49, L.O.F., which became effective on October 1, 1996.

⁵⁵ Consumer Price Index Inflation Calculator of the U.S. Department of Labor's Bureau of Labor Statistics available at https://www.bls.gov/data/inflation_calculator.htm (last visited April 1, 2019).

⁵⁶ In the first two instances, the amount of each individual theft is aggregated to determine the value of the property stolen. Section 812.015(8)(a) and (b), F.S.

⁵⁷ Section 812.015(8), F.S.

Retail theft is a second degree felony if the person has previously been convicted of third degree felony retail theft or individually, or in concert with one or more other persons, coordinates the activities of one or more persons in committing the offense of retail theft where the stolen property has a value in excess of \$3,000.⁵⁸ The statute also requires a fine of not less than \$50 and no more than \$1,000 for a second or subsequent conviction for petit theft from a merchant, farmer, or transit agency.⁵⁹

The threshold for a third degree felony retail theft was created and set by the Legislature in 2001.⁶⁰

Reclassification of Theft Offenses – Property and Retail Theft

Certain theft offenses are reclassified to the next higher degree offense if the person committing the offense has previous theft convictions. A petit theft offense is reclassified to a third degree felony, if the person has two previous convictions of any theft.⁶¹ A third degree felony retail theft offense is reclassified to a second degree felony if the person has a previous retail theft in violation of s. 812.015(8), F.S.⁶²

There are no time limits between theft convictions related to theft crime level and penalty enhancements.

Juvenile offenders who are adjudicated delinquent for theft offenses are considered to have been “convicted” of theft and are treated the same as adult offenders for purposes of these penalty enhancements.⁶³

Dealing in Stolen Property

A person who traffics in, or attempts to traffic in stolen property, is guilty of a second degree felony.⁶⁴ A person who initiates, organizes, plans, finances, directs, manages, or supervises the theft of property and traffics in the stolen property is guilty of a first degree felony.⁶⁵

III. Effect of Proposed Changes:

Headquarters of Supreme Court Justices

Section 1 of the bill creates s. 25.025, F.S., requiring that, upon the request of any justice residing outside of Leon County, the Chief Justice of the Florida Supreme Court shall:

- Coordinate and designate a district court of appeal courthouse, a county courthouse, or other appropriate facility in the justice’s district as his or her official headquarters to serve as the justice’s private chambers; and

⁵⁸ Section 812.015(9), F.S.

⁵⁹ Section 812.015(2), F.S. In July 2001, \$300 dollars had the same buying power as \$427.23 dollars did in February 2019.

⁶⁰ Chapter 01-115, s. 3, L.O.F.

⁶¹ Section 812.014(3)(c), F.S.

⁶² Section 812.015(9)(a), F.S.

⁶³ *T.S.W. v. State*, 489 So. 2d 1146 (Fla. 2d DCA 1986); *R.D.D. v. State*, 493 So. 2d 534 (Fla. 5th DCA 1986).

⁶⁴ Section 812.019(1), F.S.

⁶⁵ Section 812.019(2), F.S.

- Reimburse the justice for travel and subsistence while in Tallahassee on court business, to the extent funding is available.

The Supreme Court and a county may enter into an agreement to establish private chambers at the county courthouse for a justice, but a county is not required to provide space for a justice. Additionally, the Supreme Court may *not* use state funds to lease space in a district court of appeal courthouse, county courthouse, or other facility for use as private chambers.

Certification of Need for Additional Judges

The bill amends s. 26.031, F.S., to add one circuit court judgeship to the Ninth Judicial Circuit Court, which includes Orange and Osceola Counties, and one circuit court judgeship to the Twelfth Judicial Circuit Court, which includes Manatee and Sarasota Counties. The newly created judgeships will be filled by the Governor from among nominees by the appropriate judicial nominating commission.

Problem-Solving Courts

The bill creates s. 43.51, F.S., requiring the Office of the State Courts Administrator to provide an annual report to the President of the Senate and the Speaker of the House of Representatives detailing the number of participants in each problem-solving court for each fiscal year the court has been operating. The report must also include the types of services provided, the source of funding for each court, and provide performance outcomes.

The bill amends s. 394.47891, F.S., to require the chief judge of each judicial circuit to establish a Veterans' court. Currently, the statute permits the establishment of veterans' courts and 16 of the 20 judicial circuits have done so.

Property Theft

The bill amends s. 812.014(2)(c), F.S., increasing the minimum threshold amounts for a third degree felony grand theft from \$300 to \$750. For property taken from a dwelling or enclosed curtilage, the theft threshold amounts specified in s. 812.014(2)(d), F.S., are modified from \$100 or more, but less than \$300, to \$750 or more, but less than \$5,000. The first degree misdemeanor petit theft threshold amount specified in s. 812.012(2)(c), F.S., is modified from \$100 or more, but less than \$300, to less than \$750.

The bill also amends s. 812.014(2)(c), F.S., authorizing a fine of up to \$10,000 for the theft of commercially farmed animals rather than a mandatory fine of \$10,000.

Retail Theft

The bill amends s. 812.015(8), F.S., to increase the property value of third degree felony retail theft from \$300 or more, to \$750 or more. Section 812.015(a) provides for the aggregation of the value of property stolen by a person who acts in concert with, or who coordinates with others. The bill requires that multiple acts of retail theft that occur within a 90-day period by an individual or in concert with one or multiple persons must be aggregated to determine the value of property stolen. The bill increases the 48-hour time period that that theft must have occurred in to aggregate the property value stolen within 90 days.

The bill amends s. 812.015(9), F.S., to specify that the value of the stolen property may be aggregated over a 90-day period. However, the amount aggregated must be in excess of \$3,000, as required in current law.

The bill also provides that a person who conspires with another to commit retail theft with the intent to sell stolen property or for other gain, and who subsequently places the control of the property with another person in exchange for consideration commits a third degree felony. If the conspiracy to commit retail theft is in excess of \$3,000, aggregated over a 90-day period, then the offense is a second degree felony.

The bill provides for the amount of multiple instances of retail theft within a 90-day period to be aggregated. If multiple instances of retail theft are committed in more than one county within a 90-day period they may be aggregated and must be prosecuted by the Office of the Statewide Prosecutor.

Dealing in Stolen Property - Fraudulent Returns

The bill creates s. 812.019(3), F.S. to provide that a person who receives, possesses, or purchases merchandise or stored-value cards from a fraudulent return with knowledge the items were stolen commits a third degree felony.

Conforming Changes to the Criminal Punishment Code

The bill amends s. 921.0022, F.S., to conform the Criminal Punishment Code offense severity ranking chart to changes made by the bill. The bill reenacts ss. 95.18, 373.6055, 400.9935, 409.910, 489.126, 538.09, 538.23, 550.6305, 627.743, 634.319, 634.421, 636.238, 642.038, 705.102, 718.111, 812.0155, 812.14, 893.138, and 985.11 incorporating changes made by the act.

Section 1 (supreme court justices' travel) is effective July 1, 2019; the remaining sections of the bill are effective October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:**Travel and Subsistence Costs**

The cost of travel reimbursement for justices who have private chambers outside Leon County in his or her district of residence may be paid only to the extent appropriated funds are available. An appropriation of \$209,930 recurring general revenue was made to the Supreme Court specifically for this purpose in the Fiscal Year 2018-19 General Appropriations Act. SB 2500, First Engrossed, the Senate's proposed 2019-20 General Appropriations Bill, continues the funding for this purpose.⁶⁶

New Circuit Court Judgeships

When circuit court judgeships are created, other costs are necessary in addition to the salary and benefits for each new judge. The recurring costs include the salary and benefits of a judicial assistant and a law clerk. The courts use a methodology of one law clerk for every three circuit judges to determine their need for law clerks.

The cost to fund two circuit court judgeships, two judicial assistants, and two law clerks is:

	\$794,782 in salaries and benefits (recurring)
	\$ 30,666 in expense (non-recurring)
	<u>\$ 1,218</u> for Human Resource Services (recurring)
	\$826,666

Article V, s. 14(c) of the Florida Constitution and s. 29.008, F.S., require counties to provide the court system, including the state attorney and the public defender, with facilities, security, and communication services, including information technology. Under the bill, the counties would incur an indeterminate amount of costs associated with

⁶⁶ SB 2500, First Engrossed, Specific Appropriation 3210, p. 389,
<https://www.flsenate.gov/Session/Bill/2019/2500/BillText/e1/PDF> (last visited on April 4, 2019).

providing those services to the new judges and judicial staff. SB 2500, First Engrossed, the Senate's proposed 2019-20 General Appropriations Bill, includes funding for these positions.⁶⁷

Veterans' Courts

The expansion of veterans' courts in the four judicial circuits that do not have a veterans' court alone will not create a fiscal impact on state funds. Recurring appropriations for problem-solving courts are allocated by the TCBC.

SB 2500, First Engrossed, the Senate's proposed 2019-20 General Appropriations Bill, funds problem-solving courts through a special category appropriation in the total amount of \$11,289,840.⁶⁸ Pursuant to a proviso associated with the appropriation for problem-solving courts, the TCBC must determine the allocation of funds to the circuits. Funds from this specific appropriation must be matched by local government, federal government, or private funds. The matching ratio for veterans' courts is 20 percent non-state funding and 80 percent state funding. No match is required for a fiscally constrained county, as defined in s. 218.67, F.S.⁶⁹ While the TCBC determines the allocation for other problem-solving courts that the TCBC approves, the TCBC must fund the following veterans' courts in the following amounts:

- Alachua \$150,000
- Clay \$150,000
- Duval \$200,000
- Escambia \$150,000
- Leon \$125,000
- Okaloosa \$150,000
- Orange \$200,000
- Pasco \$150,000
- Pinellas \$150,000.⁷⁰

Through the TCBC, additional veterans' courts beyond those specifically listed above are funded. This bill does not mandate or provide additional funding for veterans' courts, but would require the TCBC to fund at least one Veterans' court in each judicial circuit, requiring a minimum of four new veterans' courts.

Increasing the Threshold for Theft Offenses

The bill also increases the threshold for retail and grand theft offenses. The Criminal Justice Impact Conference (CJIC) has not reviewed this bill. However, on January 8,

⁶⁷ SB 2500, First Engrossed, Specific Appropriations 3243, 3245, 3257, pp. 393, 393, and 395 respectively <https://www.flsenate.gov/Session/Bill/2019/2500/BillText/e1/PDF> (last visited on April 4, 2019).

⁶⁸ SB 2500, First Engrossed, Specific Appropriation 3247, p. 393, <https://www.flsenate.gov/Session/Bill/2019/2500/BillText/e1/PDF> (last visited on April 4, 2019).

⁶⁹ Id.

⁷⁰ SB 2500, First Engrossed, Specific Appropriation 3247, p. 394, <https://www.flsenate.gov/Session/Bill/2019/2500/BillText/e1/PDF> (last visited on April 4, 2019).

2018, the CJIC reviewed SB 928/HB 713 (2018), which were similar to the current bill, and estimated that the bill would have a “negative significant” prison bed impact (i.e., a decrease of more than 25 prison beds).⁷¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 26.031, 394.47891, 812.014, 812.015, 812.019, and 921.0022.

This bill creates the following sections of the Florida Statutes: 25.025 and 43.51

This bill reenacts the following sections of the Florida Statutes: 95.18, 373.6055, 400.9935, 409.910, 489.126, 538.09, 538.23, 550.6305, 627.743, 634.319, 634.421, 636.238, 642.038, 705.102, 718.111, 812.0155, 812.14, 893.138, 985.11, and 1012.315.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS by Appropriations Subcommittee on Criminal and Civil Justice on April 9, 2019:

The committee substitute authorizes a fine of up to \$10,000 for the theft of commercially farmed animals rather than a mandatory \$10,000 fine.

B. Amendments:

None.

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

⁷¹ 2018 Conference Results (through February 12, 2018), CJIC, available at <http://edr.state.fl.us/Content/conferences/criminaljustice/archives/index.cfm> (last visited on April 1, 2019).



473234

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2019	.	
	.	
	.	
	.	

Appropriations Subcommittee on Criminal and Civil Justice
(Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete line 194
and insert:
a fine of up to \$10,000 may ~~fine shall~~ be imposed.

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

And the title is amended as follows:

Delete line 32
and insert:



473234

11 theft offenses; authorizing the imposition of a fine up to a
12 certain amount, rather than requiring a specified amount, for
13 the theft of certain animals; amending s. 812.015, F.S.;
14 revising

By the Committee on Appropriations

576-03017-19

20197072__

1 A bill to be entitled
2 An act relating to the justice system; creating s.
3 25.025, F.S.; authorizing certain Supreme Court
4 justices to have an appropriate facility in their
5 district of residence designated as their official
6 headquarters; providing that an official headquarters
7 may serve only as a justice's private chambers;
8 providing that such justices are eligible for a
9 certain subsistence allowance and reimbursement for
10 certain transportation expenses; requiring that such
11 allowance and reimbursement be made to the extent
12 appropriated funds are available, as determined by the
13 Chief Justice; requiring the Chief Justice to
14 coordinate with certain persons in designating
15 official headquarters; providing that a county is not
16 required to provide space for a justice in a county
17 courthouse; authorizing counties to enter into
18 agreements with the Supreme Court for the use of
19 county courthouse space; prohibiting the Supreme Court
20 from using state funds to lease space in specified
21 facilities to allow a justice to establish an official
22 headquarters; amending s. 26.031, F.S.; increasing the
23 number of circuit judges in certain judicial circuits;
24 creating s. 43.51, F.S.; requiring the Office of the
25 State Courts Administrator to provide an annual report
26 containing certain information to the Legislature;
27 defining the term "problem-solving court"; amending s.
28 394.47891, F.S.; requiring the chief judge of each
29 judicial circuit to establish a Military Veterans and

576-03017-19

20197072__

30 Servicemembers Court Program; amending s. 812.014,
31 F.S.; increasing the threshold amount for certain
32 theft offenses; amending s. 812.015, F.S.; revising
33 the circumstances under which an offense of retail
34 theft constitutes a felony of the second or third
35 degree; authorizing the aggregation of retail thefts
36 that occur in more than one judicial circuit within a
37 90-day period into one total value and requiring
38 prosecution of such thefts by the Office of the
39 Statewide Prosecutor in accordance with s. 16.56,
40 F.S.; amending s. 812.019, F.S.; prohibiting specified
41 acts involving merchandise or a stored-value card
42 obtained from a fraudulent return; amending s.
43 921.0022, F.S.; revising the ranking of offenses on
44 the offense severity ranking chart of the Criminal
45 Punishment Code; reenacting ss. 95.18(10),
46 373.6055(3)(c), 400.9935(3), 409.910(17)(g),
47 489.126(4), 550.6305(10), 627.743(2), 634.319(2),
48 634.421(2), 636.238(3), 642.038(2), 705.102(4),
49 718.111(1)(d), 812.14(4), (7), and (8), and
50 985.11(1)(b), F.S., relating to adverse possession
51 without color of title, criminal history checks for
52 certain water management district employees and
53 others, clinic responsibilities, responsibility for
54 payments on behalf of Medicaid-eligible persons when
55 other parties are liable, moneys received by
56 contractors, intertrack wagering, payment of third-
57 party claims, diversion or appropriation of certain
58 funds received by sales representatives, diversion or

576-03017-19

20197072__

59 appropriation of certain funds received by sales
60 representatives, penalties for certain violations,
61 diversion or appropriation of certain funds received
62 by sales representatives, reporting lost or abandoned
63 property, condominium associations, trespass and
64 larceny with relation to utility fixtures and theft of
65 utility services, and fingerprinting and photographing
66 of certain children, respectively, to incorporate the
67 amendment made to s. 812.014, F.S., in references
68 thereto; reenacting ss. 538.09(5)(f) and 538.23(2),
69 F.S., relating to registration with the Department of
70 Revenue and violations and penalties for secondary
71 metals recyclers, respectively, to incorporate the
72 amendment made to s. 812.015, F.S., in references
73 thereto; reenacting s. 1012.315(1)(bb), F.S., relating
74 to disqualification from employment, to incorporate
75 the amendments made to s. 812.019, F.S.; reenacting s.
76 812.0155(1) and (2), F.S., relating to suspension of
77 driver licenses, to incorporate the amendments made to
78 ss. 812.014 and 812.015, F.S., in references thereto;
79 reenacting s. 893.138(3), F.S., relating to pain-
80 management clinics, to incorporate the amendments made
81 to s. 812.014, F.S., in references thereto; providing
82 effective dates.

83

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

85

86 Section 1. Effective July 1, 2019, section 25.025, Florida
87 Statutes, is created to read:

576-03017-19

20197072__

88 25.025 Headquarters.-

89 (1) (a) A Supreme Court justice who permanently resides
90 outside Leon County shall, if he or she so requests, have a
91 district court of appeal courthouse, a county courthouse, or
92 another appropriate facility in his or her district of residence
93 designated as his or her official headquarters pursuant to s.
94 112.061. This official headquarters may serve only as the
95 justice's private chambers.

96 (b) A justice for whom an official headquarters is
97 designated in his or her district of residence under this
98 subsection is eligible for subsistence at a rate to be
99 established by the Chief Justice for each day or partial day
100 that the justice is at the Supreme Court Building for the
101 conduct of the business of the court. In addition to the
102 subsistence allowance, a justice is eligible for reimbursement
103 for transportation expenses as provided in s. 112.061(7) for
104 travel between the justice's official headquarters and the
105 Supreme Court Building for the conduct of the business of the
106 court.

107 (c) Payment of subsistence and reimbursement for
108 transportation expenses relating to travel between a justice's
109 official headquarters and the Supreme Court Building must be
110 made to the extent that appropriated funds are available, as
111 determined by the Chief Justice.

112 (2) The Chief Justice shall coordinate with each affected
113 justice and other state and local officials as necessary to
114 implement paragraph (1) (a).

115 (3) (a) This section does not require a county to provide
116 space in a county courthouse for a justice. A county may enter

576-03017-19

20197072__

117 into an agreement with the Supreme Court governing the use of
118 space in a county courthouse.

119 (b) The Supreme Court may not use state funds to lease
120 space in a district court of appeal courthouse, county
121 courthouse, or other facility to allow a justice to establish an
122 official headquarters pursuant to subsection (1).

123 Section 2. Subsections (9) and (12) of section 26.031,
124 Florida Statutes, are amended to read:

125 26.031 Judicial circuits; number of judges.—The number of
126 circuit judges in each circuit shall be as follows:

JUDICIAL CIRCUIT	TOTAL
(9) Ninth.....	<u>44</u> 43
(12) Twelfth.....	<u>22</u> 21

131 Section 3. Section 43.51, Florida Statutes, is created to
132 read:

133 43.51 Problem-solving court reports.—

134 (1) The Office of the State Courts Administrator shall
135 provide an annual report to the President of the Senate and the
136 Speaker of the House of Representatives which details the number
137 of participants in each problem-solving court for each fiscal
138 year the court has been operating and the types of services
139 provided, identifies each source of funding for each court
140 during each fiscal year, and provides information on the
141 performance of each court based upon outcome measures
142 established by the courts.

143 (2) For purposes of this section, the term "problem-solving
144 court" includes, but is not limited to, a drug court pursuant to
145 s. 948.01, s. 948.06, s. 948.08, s. 948.16, or s. 948.20; a

576-03017-19

20197072__

146 military veterans' and servicemembers' court pursuant to s.
147 394.47891, s. 948.08, s. 948.16, or s. 948.21; a mental health
148 court program pursuant to s. 394.47892, s. 948.01, s. 948.06, s.
149 948.08, or s. 948.16; or a delinquency pretrial intervention
150 court program pursuant to s. 985.345.

151 Section 4. Section 394.47891, Florida Statutes, is amended
152 to read:

153 394.47891 Military veterans and servicemembers court
154 programs.—The chief judge of each judicial circuit shall ~~may~~
155 establish a Military Veterans and Servicemembers Court Program
156 under which veterans, as defined in s. 1.01, including veterans
157 who were discharged or released under a general discharge, and
158 servicemembers, as defined in s. 250.01, who are charged or
159 convicted of a criminal offense and who suffer from a military-
160 related mental illness, traumatic brain injury, substance abuse
161 disorder, or psychological problem can be sentenced in
162 accordance with chapter 921 in a manner that appropriately
163 addresses the severity of the mental illness, traumatic brain
164 injury, substance abuse disorder, or psychological problem
165 through services tailored to the individual needs of the
166 participant. Entry into any Military Veterans and Servicemembers
167 Court Program must be based upon the sentencing court's
168 assessment of the defendant's criminal history, military
169 service, substance abuse treatment needs, mental health
170 treatment needs, amenability to the services of the program, the
171 recommendation of the state attorney and the victim, if any, and
172 the defendant's agreement to enter the program.

173 Section 5. Paragraphs (c), (d), and (e) of subsection (2)
174 of section 812.014, Florida Statutes, are amended to read:

576-03017-19

20197072__

- 175 812.014 Theft.—
- 176 (2)
- 177 (c) It is grand theft of the third degree and a felony of
- 178 the third degree, punishable as provided in s. 775.082, s.
- 179 775.083, or s. 775.084, if the property stolen is:
- 180 1. Valued at \$750 ~~\$300~~ or more, but less than \$5,000.
- 181 2. Valued at \$5,000 or more, but less than \$10,000.
- 182 3. Valued at \$10,000 or more, but less than \$20,000.
- 183 4. A will, codicil, or other testamentary instrument.
- 184 5. A firearm.
- 185 6. A motor vehicle, except as provided in paragraph (a).
- 186 7. Any commercially farmed animal, including any animal of
- 187 the equine, avian, bovine, or swine class or other grazing
- 188 animal; a bee colony of a registered beekeeper; and aquaculture
- 189 species raised at a certified aquaculture facility. If the
- 190 property stolen is a commercially farmed animal, including an
- 191 animal of the equine, avian, bovine, or swine class or other
- 192 grazing animal; a bee colony of a registered beekeeper; or an
- 193 aquaculture species raised at a certified aquaculture facility,
- 194 a \$10,000 fine shall be imposed.
- 195 8. Any fire extinguisher.
- 196 9. Any amount of citrus fruit consisting of 2,000 or more
- 197 individual pieces of fruit.
- 198 10. Taken from a designated construction site identified by
- 199 the posting of a sign as provided for in s. 810.09(2)(d).
- 200 11. Any stop sign.
- 201 12. Anhydrous ammonia.
- 202 13. Any amount of a controlled substance as defined in s.
- 203 893.02. Notwithstanding any other law, separate judgments and

576-03017-19

20197072__

204 sentences for theft of a controlled substance under this
205 subparagraph and for any applicable possession of controlled
206 substance offense under s. 893.13 or trafficking in controlled
207 substance offense under s. 893.135 may be imposed when all such
208 offenses involve the same amount or amounts of a controlled
209 substance.

210

211 However, if the property is stolen within a county that is
212 subject to a state of emergency declared by the Governor under
213 chapter 252, the property is stolen after the declaration of
214 emergency is made, and the perpetration of the theft is
215 facilitated by conditions arising from the emergency, the
216 offender commits a felony of the second degree, punishable as
217 provided in s. 775.082, s. 775.083, or s. 775.084, if the
218 property is valued at \$5,000 or more, but less than \$10,000, as
219 provided under subparagraph 2., or if the property is valued at
220 \$10,000 or more, but less than \$20,000, as provided under
221 subparagraph 3. As used in this paragraph, the term "conditions
222 arising from the emergency" means civil unrest, power outages,
223 curfews, voluntary or mandatory evacuations, or a reduction in
224 the presence of or the response time for first responders or
225 homeland security personnel. For purposes of sentencing under
226 chapter 921, a felony offense that is reclassified under this
227 paragraph is ranked one level above the ranking under s.
228 921.0022 or s. 921.0023 of the offense committed.

229 (d) It is grand theft of the third degree and a felony of
230 the third degree, punishable as provided in s. 775.082, s.
231 775.083, or s. 775.084, if the property stolen is valued at \$100
232 or more, but less than \$750 ~~\$300~~, and is taken from a dwelling

576-03017-19

20197072__

233 as defined in s. 810.011(2) or from the unenclosed curtilage of
234 a dwelling pursuant to s. 810.09(1).

235 (e) Except as provided in paragraph (d), if the property
236 stolen is valued at \$100 or more, but less than \$750 ~~\$300~~, the
237 offender commits petit theft of the first degree, punishable as
238 a misdemeanor of the first degree, as provided in s. 775.082 or
239 s. 775.083.

240 Section 6. Subsections (8) and (9) of section 812.015,
241 Florida Statutes, are amended, and subsection (10) is added to
242 that section, to read:

243 812.015 Retail and farm theft; transit fare evasion;
244 mandatory fine; alternative punishment; detention and arrest;
245 exemption from liability for false arrest; resisting arrest;
246 penalties.—

247 (8) Except as provided in subsection (9), a person who
248 commits retail theft commits a felony of the third degree,
249 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
250 if the property stolen is valued at \$750 ~~\$300~~ or more, and the
251 person:

252 (a) Individually commits retail theft, or in concert with
253 one or more other persons, coordinates the activities of one or
254 more individuals in committing the offense, which may occur
255 through multiple acts of retail theft, in which ~~case~~ the amount
256 of each individual theft is aggregated within a 90-day period to
257 determine the value of the property stolen;

258 (b) Conspires with another person to commit retail theft
259 with the intent to sell the stolen property for monetary or
260 other gain, and subsequently takes or causes such property to be
261 placed in the control of another person in exchange for

576-03017-19

20197072__

262 consideration, in which the stolen property taken or placed
263 within a 90-day period is aggregated to determine the value of
264 the stolen property;

265 (c)~~(b)~~ Individually, or in concert with one or more other
266 persons, commits theft from more than one location within a 90-
267 day ~~48-hour~~ period, in which ~~each~~ the amount of each individual
268 theft is aggregated to determine the value of the property
269 stolen;

270 (d)~~(e)~~ Acts in concert with one or more other individuals
271 within one or more establishments to distract the merchant,
272 merchant's employee, or law enforcement officer in order to
273 carry out the offense, or acts in other ways to coordinate
274 efforts to carry out the offense; or

275 (e)~~(d)~~ Commits the offense through the purchase of
276 merchandise in a package or box that contains merchandise other
277 than, or in addition to, the merchandise purported to be
278 contained in the package or box.

279 (9) A person commits a felony of the second degree,
280 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
281 if the person:

282 (a) Violates subsection (8) and has previously been
283 convicted of a violation of subsection (8); ~~or~~

284 (b) Individually, or in concert with one or more other
285 persons, coordinates the activities of one or more persons in
286 committing the offense of retail theft, in which the amount of
287 each individual theft within a 90-day period is aggregated to
288 determine the value of the stolen property and such ~~where the~~
289 ~~stolen property has a value~~ is in excess of \$3,000; or

290 (c) Conspires with another person to commit retail theft

576-03017-19

20197072__

291 with the intent to sell the stolen property for monetary or
 292 other gain, and subsequently takes or causes such property to be
 293 placed in control of another person in exchange for
 294 consideration, in which the stolen property taken or placed
 295 within a 90-day period is aggregated to have a value in excess
 296 of \$3,000.

297 (10) If a person commits retail theft in more than one
 298 judicial circuit within a 90-day period, the value of the stolen
 299 property resulting from the thefts in each judicial circuit may
 300 be aggregated and must be prosecuted by the Office of the
 301 Statewide Prosecutor in accordance with s. 16.56.

302 Section 7. Subsection (3) is added to section 812.019,
 303 Florida Statutes, to read:

304 812.019 Dealing in stolen property.—

305 (3) Any person who receives, possesses, or purchases any
 306 merchandise or stored-value card obtained from a fraudulent
 307 return with the knowledge that the merchandise or stored-value
 308 card was obtained in violation of s. 812.015 commits a felony of
 309 the third degree, punishable as provided in s. 775.082, s.
 310 775.083, or s. 775.084.

311 Section 8. Paragraphs (b), (c), (e), and (f) of subsection
 312 (3) of section 921.0022, Florida Statutes, are amended to read:

313 921.0022 Criminal Punishment Code; offense severity ranking
 314 chart.—

315 (3) OFFENSE SEVERITY RANKING CHART

316 (b) LEVEL 2

317

Florida	Felony	
Statute	Degree	Description

576-03017-19

20197072__

reach of minor who uses
it to inflict injury or
death.

324

787.04 (1)

3rd

In violation of court
order, take, entice,
etc., minor beyond state
limits.

325

806.13 (1) (b) 3.

3rd

Criminal mischief;
damage \$1,000 or more to
public communication or
any other public
service.

326

810.061 (2)

3rd

Impairing or impeding
telephone or power to a
dwelling; facilitating
or furthering burglary.

327

810.09 (2) (e)

3rd

Trespassing on posted
commercial horticulture
property.

328

812.014 (2) (c) 1.

3rd

Grand theft, 3rd degree;
\$750 ~~\$300~~ or more but
less than \$5,000.

329

812.014 (2) (d)

3rd

Grand theft, 3rd degree;

576-03017-19

20197072__

\$100 or more but less than \$750 ~~\$300~~, taken from unenclosed curtilage of dwelling.

330

812.015 (7)

3rd

Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.

331

817.234 (1) (a) 2.

3rd

False statement in support of insurance claim.

332

817.481 (3) (a)

3rd

Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.

333

817.52 (3)

3rd

Failure to redeliver hired vehicle.

334

817.54

3rd

With intent to defraud, obtain mortgage note, etc., by false representation.

335

576-03017-19

20197072__

336

817.60 (5) 3rd Dealing in credit cards of another.

337

817.60 (6) (a) 3rd Forgery; purchase goods, services with false card.

338

817.61 3rd Fraudulent use of credit cards over \$100 or more within 6 months.

339

826.04 3rd Knowingly marries or has sexual intercourse with person to whom related.

340

831.01 3rd Forgery.

341

831.02 3rd Uttering forged instrument; utters or publishes alteration with intent to defraud.

342

831.07 3rd Forging bank bills, checks, drafts, or promissory notes.

831.08 3rd Possessing 10 or more forged notes, bills, checks, or drafts.

576-03017-19

20197072__

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831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
832.05 (3) (a)	3rd	Cashing or depositing item with intent to defraud.
843.08	3rd	False personation.
893.13 (2) (a) 2.	3rd	Purchase of any s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs other than cannabis.
893.147 (2)	3rd	Manufacture or delivery of drug paraphernalia.
(c) LEVEL 3		

576-03017-19

20197072__

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357

Florida Statute	Felony Degree	Description
119.10 (2) (b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
316.1935 (2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30 (4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33 (1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.

576-03017-19

20197072__

358

319.33 (1) (c) 3rd Procure or pass title on
stolen vehicle.

359

319.33 (4) 3rd With intent to defraud,
possess, sell, etc., a
blank, forged, or
unlawfully obtained title
or registration.

360

327.35 (2) (b) 3rd Felony BUI.

361

328.05 (2) 3rd Possess, sell, or
counterfeit fictitious,
stolen, or fraudulent
titles or bills of sale of
vessels.

362

328.07 (4) 3rd Manufacture, exchange, or
possess vessel with
counterfeit or wrong ID
number.

363

376.302 (5) 3rd Fraud related to
reimbursement for cleanup
expenses under the Inland
Protection Trust Fund.

364

379.2431 3rd Taking, disturbing,

576-03017-19

20197072__

(1) (e) 5.

mutilating, destroying,
causing to be destroyed,
transferring, selling,
offering to sell,
molesting, or harassing
marine turtles, marine
turtle eggs, or marine
turtle nests in violation
of the Marine Turtle
Protection Act.

365

379.2431

3rd

(1) (e) 6.

Possessing any marine
turtle species or
hatchling, or parts
thereof, or the nest of any
marine turtle species
described in the Marine
Turtle Protection Act.

366

379.2431

3rd

(1) (e) 7.

Soliciting to commit or
conspiring to commit a
violation of the Marine
Turtle Protection Act.

367

400.9935 (4) (a)

3rd

or (b)

Operating a clinic, or
offering services requiring
licensure, without a
license.

368

576-03017-19

20197072__

369	400.9935 (4) (e)	3rd	Filing a false license application or other required information or failing to report information.
370	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
371	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
372	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
373	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.

576-03017-19

20197072__

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697.08	3rd	Equity skimming.
790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.

576-03017-19 20197072__

382	<u>812.015 (8) (b)</u>	<u>3rd</u>	<u>Retail theft with intent to sell; coordination with others.</u>
383	815.04 (5) (b)	2nd	Computer offense devised to defraud or obtain property.
384	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
385	817.233	3rd	Burning to defraud insurer.
386	817.234 (8) (b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
387	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
388	817.236	3rd	Filing a false motor vehicle insurance application.
388	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle

576-03017-19

20197072__

			insurance card.
389	817.413 (2)	3rd	Sale of used goods as new.
390	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
391	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
392	838.021 (3) (b)	3rd	Threatens unlawful harm to public servant.
393	843.19	3rd	Injure, disable, or kill police dog or horse.
394	860.15 (3)	3rd	Overcharging for repairs and parts.
395	870.01 (2)	3rd	Riot; inciting or encouraging.
396	893.13 (1) (a) 2.	3rd	Sell, manufacture, or deliver cannabis (or other

576-03017-19

20197072__

s. 893.03(1)(c), (2)(c)1.,
 (2)(c)2., (2)(c)3.,
 (2)(c)6., (2)(c)7.,
 (2)(c)8., (2)(c)9.,
 (2)(c)10., (3), or (4)
 drugs).

397

893.13(1)(d)2.

2nd

Sell, manufacture, or
 deliver s. 893.03(1)(c),
 (2)(c)1., (2)(c)2.,
 (2)(c)3., (2)(c)6.,
 (2)(c)7., (2)(c)8.,
 (2)(c)9., (2)(c)10., (3),
 or (4) drugs within 1,000
 feet of university.

398

893.13(1)(f)2.

2nd

Sell, manufacture, or
 deliver s. 893.03(1)(c),
 (2)(c)1., (2)(c)2.,
 (2)(c)3., (2)(c)6.,
 (2)(c)7., (2)(c)8.,
 (2)(c)9., (2)(c)10., (3),
 or (4) drugs within 1,000
 feet of public housing
 facility.

399

893.13(4)(c)

3rd

Use or hire of minor;
 deliver to minor other
 controlled substances.

576-03017-19

20197072__

400

893.13 (6) (a) 3rd Possession of any controlled substance other than felony possession of cannabis.

401

893.13 (7) (a) 8. 3rd Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.

402

893.13 (7) (a) 9. 3rd Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.

403

893.13 (7) (a) 10. 3rd Affix false or forged label to package of controlled substance.

404

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

405

893.13 (8) (a) 1. 3rd Knowingly assist a patient, other person, or owner of an animal in obtaining a

576-03017-19

20197072__

controlled substance
 through deceptive, untrue,
 or fraudulent
 representations in or
 related to the
 practitioner's practice.

406

893.13(8)(a)2.

3rd

Employ a trick or scheme in
 the practitioner's practice
 to assist a patient, other
 person, or owner of an
 animal in obtaining a
 controlled substance.

407

893.13(8)(a)3.

3rd

Knowingly write a
 prescription for a
 controlled substance for a
 fictitious person.

408

893.13(8)(a)4.

3rd

Write a prescription for a
 controlled substance for a
 patient, other person, or
 an animal if the sole
 purpose of writing the
 prescription is a monetary
 benefit for the
 practitioner.

409

918.13(1)(a)

3rd

Alter, destroy, or conceal

576-03017-19

20197072__

investigation evidence.

410

944.47
(1) (a) 1. & 2.

3rd Introduce contraband to
correctional facility.

411

944.47 (1) (c)

2nd Possess contraband while
upon the grounds of a
correctional institution.

412

985.721

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

413

414 (e) LEVEL 5

415

Florida
Statute

Felony
Degree

Description

416

316.027 (2) (a)

3rd Accidents involving
personal injuries other
than serious bodily
injury, failure to stop;
leaving scene.

417

316.1935 (4) (a)

2nd Aggravated fleeing or
eluding.

418

316.80 (2)

2nd Unlawful conveyance of

576-03017-19

20197072__

fuel; obtaining fuel
fraudulently.

419

322.34(6)

3rd

Careless operation of
motor vehicle with
suspended license,
resulting in death or
serious bodily injury.

420

327.30(5)

3rd

Vessel accidents
involving personal
injury; leaving scene.

421

379.365(2)(c)1.

3rd

Violation of rules
relating to: willful
molestation of stone
crab traps, lines, or
buoys; illegal
bartering, trading, or
sale, conspiring or
aiding in such barter,
trade, or sale, or
supplying, agreeing to
supply, aiding in
supplying, or giving
away stone crab trap
tags or certificates;
making, altering,
forging, counterfeiting,

576-03017-19

20197072__

or reproducing stone
 crab trap tags;
 possession of forged,
 counterfeit, or
 imitation stone crab
 trap tags; and engaging
 in the commercial
 harvest of stone crabs
 while license is
 suspended or revoked.

422

379.367 (4)

3rd

Willful molestation of a
 commercial harvester's
 spiny lobster trap,
 line, or buoy.

423

379.407 (5) (b) 3.

3rd

Possession of 100 or
 more undersized spiny
 lobsters.

424

381.0041 (11) (b)

3rd

Donate blood, plasma, or
 organs knowing HIV
 positive.

425

440.10 (1) (g)

2nd

Failure to obtain
 workers' compensation
 coverage.

426

440.105 (5)

2nd

Unlawful solicitation

576-03017-19

20197072__

for the purpose of
making workers'
compensation claims.

427

440.381 (2)

2nd

Submission of false,
misleading, or
incomplete information
with the purpose of
avoiding or reducing
workers' compensation
premiums.

428

624.401 (4) (b) 2.

2nd

Transacting insurance
without a certificate or
authority; premium
collected \$20,000 or
more but less than
\$100,000.

429

626.902 (1) (c)

2nd

Representing an
unauthorized insurer;
repeat offender.

430

790.01 (2)

3rd

Carrying a concealed
firearm.

431

790.162

2nd

Threat to throw or
discharge destructive
device.

576-03017-19

20197072__

432

790.163 (1) 2nd False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.

433

790.221 (1) 2nd Possession of short-barreled shotgun or machine gun.

434

790.23 2nd Felons in possession of firearms, ammunition, or electronic weapons or devices.

435

796.05 (1) 2nd Live on earnings of a prostitute; 1st offense.

436

800.04 (6) (c) 3rd Lewd or lascivious conduct; offender less than 18 years of age.

437

800.04 (7) (b) 2nd Lewd or lascivious exhibition; offender 18 years of age or older.

438

806.111 (1) 3rd Possess, manufacture, or dispense fire bomb with

576-03017-19

20197072__

intent to damage any structure or property.

439

812.0145 (2) (b)

2nd

Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.

440

812.015 (8) (a), (c), (d), & (e)

3rd

Retail theft; property stolen is valued at \$750 ~~\$300~~ or more and one or more specified acts.

441

812.019 (1)

2nd

Stolen property; dealing in or trafficking in.

442

812.019 (3)

3rd

Specified acts involving merchandise or a stored-value card obtained from a fraudulent return.

443

812.131 (2) (b)

3rd

Robbery by sudden snatching.

444

812.16 (2)

3rd

Owning, operating, or conducting a chop shop.

445

817.034 (4) (a) 2.

2nd

Communications fraud, value \$20,000 to

576-03017-19

20197072__

\$50,000.

446

817.234 (11) (b)

2nd

Insurance fraud;
property value \$20,000
or more but less than
\$100,000.

447

817.2341 (1),
(2) (a) & (3) (a)

3rd

Filing false financial
statements, making false
entries of material fact
or false statements
regarding property
values relating to the
solvency of an insuring
entity.

448

817.568 (2) (b)

2nd

Fraudulent use of
personal identification
information; value of
benefit, services
received, payment
avoided, or amount of
injury or fraud, \$5,000
or more or use of
personal identification
information of 10 or
more persons.

449

817.611 (2) (a)

2nd

Traffic in or possess 5

576-03017-19

20197072__

to 14 counterfeit credit
cards or related
documents.

450

817.625 (2) (b)

2nd

Second or subsequent
fraudulent use of
scanning device,
skimming device, or
reencoder.

451

825.1025 (4)

3rd

Lewd or lascivious
exhibition in the
presence of an elderly
person or disabled
adult.

452

827.071 (4)

2nd

Possess with intent to
promote any photographic
material, motion
picture, etc., which
includes sexual conduct
by a child.

453

827.071 (5)

3rd

Possess, control, or
intentionally view any
photographic material,
motion picture, etc.,
which includes sexual
conduct by a child.

576-03017-19

20197072__

454

828.12 (2) 3rd Tortures any animal with intent to inflict intense pain, serious physical injury, or death.

455

839.13 (2) (b) 2nd Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.

456

843.01 3rd Resist officer with violence to person; resist arrest with violence.

457

847.0135 (5) (b) 2nd Lewd or lascivious exhibition using computer; offender 18 years or older.

458

847.0137 3rd Transmission of
(2) & (3) pornography by electronic device or equipment.

459

847.0138 3rd Transmission of material

576-03017-19

20197072__

(2) & (3)

harmful to minors to a
minor by electronic
device or equipment.

460

874.05 (1) (b)

2nd

Encouraging or
recruiting another to
join a criminal gang;
second or subsequent
offense.

461

874.05 (2) (a)

2nd

Encouraging or
recruiting person under
13 years of age to join
a criminal gang.

462

893.13 (1) (a) 1.

2nd

Sell, manufacture, or
deliver cocaine (or
other s. 893.03(1) (a),
(1) (b), (1) (d), (2) (a),
(2) (b), or (2) (c) 5.
drugs).

463

893.13 (1) (c) 2.

2nd

Sell, manufacture, or
deliver cannabis (or
other s. 893.03(1) (c),
(2) (c) 1., (2) (c) 2.,
(2) (c) 3., (2) (c) 6.,
(2) (c) 7., (2) (c) 8.,
(2) (c) 9., (2) (c) 10.,

576-03017-19

20197072__

(3), or (4) drugs)
 within 1,000 feet of a
 child care facility,
 school, or state,
 county, or municipal
 park or publicly owned
 recreational facility or
 community center.

464

893.13(1)(d)1.

1st

Sell, manufacture, or
 deliver cocaine (or
 other s. 893.03(1)(a),
 (1)(b), (1)(d), (2)(a),
 (2)(b), or (2)(c)5.
 drugs) within 1,000 feet
 of university.

465

893.13(1)(e)2.

2nd

Sell, manufacture, or
 deliver cannabis or
 other drug prohibited
 under s. 893.03(1)(c),
 (2)(c)1., (2)(c)2.,
 (2)(c)3., (2)(c)6.,
 (2)(c)7., (2)(c)8.,
 (2)(c)9., (2)(c)10.,
 (3), or (4) within 1,000
 feet of property used
 for religious services
 or a specified business

576-03017-19

20197072__

site.

466

893.13(1)(f)1.

1st

Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of public housing facility.

467

893.13(4)(b)

2nd

Use or hire of minor; deliver to minor other controlled substance.

468

893.1351(1)

3rd

Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

469

470

(f) LEVEL 6

471

Florida

Felony

Statute

Degree

Description

472

316.027(2)(b)

2nd

Leaving the scene of a crash involving serious bodily injury.

473

576-03017-19 20197072__

474	316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.
475	400.9935 (4) (c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
476	499.0051 (2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
477	499.0051 (3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
478	499.0051 (4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
479	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.

576-03017-19

20197072__

480

784.021 (1) (b) 3rd Aggravated assault;
intent to commit felony.

481

784.041 3rd Felony battery; domestic
battery by
strangulation.

482

784.048 (3) 3rd Aggravated stalking;
credible threat.

483

784.048 (5) 3rd Aggravated stalking of
person under 16.

484

784.07 (2) (c) 2nd Aggravated assault on
law enforcement officer.

485

784.074 (1) (b) 2nd Aggravated assault on
sexually violent
predators facility
staff.

486

784.08 (2) (b) 2nd Aggravated assault on a
person 65 years of age
or older.

487

784.081 (2) 2nd Aggravated assault on
specified official or
employee.

576-03017-19

20197072__

488

784.082 (2) 2nd Aggravated assault by
detained person on
visitor or other
detainee.

489

784.083 (2) 2nd Aggravated assault on
code inspector.

490

787.02 (2) 3rd False imprisonment;
restraining with purpose
other than those in s.
787.01.

491

790.115 (2) (d) 2nd Discharging firearm or
weapon on school
property.

492

790.161 (2) 2nd Make, possess, or throw
destructive device with
intent to do bodily harm
or damage property.

493

790.164 (1) 2nd False report concerning
bomb, explosive, weapon
of mass destruction, act
of arson or violence to
state property, or use
of firearms in violent

576-03017-19

20197072__

manner.

494

790.19

2nd

Shooting or throwing
deadly missiles into
dwellings, vessels, or
vehicles.

495

794.011 (8) (a)

3rd

Solicitation of minor to
participate in sexual
activity by custodial
adult.

496

794.05 (1)

2nd

Unlawful sexual activity
with specified minor.

497

800.04 (5) (d)

3rd

Lewd or lascivious
molestation; victim 12
years of age or older
but less than 16 years
of age; offender less
than 18 years.

498

800.04 (6) (b)

2nd

Lewd or lascivious
conduct; offender 18
years of age or older.

499

806.031 (2)

2nd

Arson resulting in great
bodily harm to
firefighter or any other

576-03017-19

20197072__

person.

500

810.02 (3) (c)

2nd

Burglary of occupied structure; unarmed; no assault or battery.

501

810.145 (8) (b)

2nd

Video voyeurism; certain minor victims; 2nd or subsequent offense.

502

812.014 (2) (b) 1.

2nd

Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.

503

812.014 (6)

2nd

Theft; property stolen \$3,000 or more; coordination of others.

504

812.015 (9) (a)

2nd

Retail theft; property stolen \$750 ~~\$300~~ or more; second or subsequent conviction.

505

812.015 (9) (b)

2nd

Retail theft; property stolen \$3,000 or more; coordination of others.

506

812.13 (2) (c)

2nd

Robbery, no firearm or

576-03017-19

20197072__

other weapon (strong-arm robbery).

507
508
509
510
511
512
513

817.4821 (5)

2nd

Possess cloning paraphernalia with intent to create cloned cellular telephones.

817.505 (4) (b)

2nd

Patient brokering; 10 or more patients.

825.102 (1)

3rd

Abuse of an elderly person or disabled adult.

825.102 (3) (c)

3rd

Neglect of an elderly person or disabled adult.

825.1025 (3)

3rd

Lewd or lascivious molestation of an elderly person or disabled adult.

825.103 (3) (c)

3rd

Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.

576-03017-19 20197072__

514	827.03 (2) (c)	3rd	Abuse of a child.
515	827.03 (2) (d)	3rd	Neglect of a child.
516	827.071 (2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
517	836.05	2nd	Threats; extortion.
518	836.10	2nd	Written threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.
519	843.12	3rd	Aids or assists person to escape.
520	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
	847.012	3rd	Knowingly using a minor in the production of materials harmful to

576-03017-19

20197072__

minors.

521

847.0135 (2)

3rd

Facilitates sexual
conduct of or with a
minor or the visual
depiction of such
conduct.

522

914.23

2nd

Retaliation against a
witness, victim, or
informant, with bodily
injury.

523

944.35 (3) (a) 2.

3rd

Committing malicious
battery upon or
inflicting cruel or
inhuman treatment on an
inmate or offender on
community supervision,
resulting in great
bodily harm.

524

944.40

2nd

Escapes.

525

944.46

3rd

Harboring, concealing,
aiding escaped
prisoners.

526

944.47 (1) (a) 5.

2nd

Introduction of

576-03017-19

20197072__

contraband (firearm,
weapon, or explosive)
into correctional
facility.

527

951.22 (1)

3rd

Intoxicating drug,
firearm, or weapon
introduced into county
facility.

528

529

530 Section 9. For the purpose of incorporating the amendment
531 made by this act to section 812.014, Florida Statutes, in a
532 reference thereto, subsection (10) of section 95.18, Florida
533 Statutes, is reenacted to read:

534 95.18 Real property actions; adverse possession without
535 color of title.-

536 (10) A person who occupies or attempts to occupy a
537 residential structure solely by claim of adverse possession
538 under this section and offers the property for lease to another
539 commits theft under s. 812.014.

540 Section 10. For the purpose of incorporating the amendment
541 made by this act to section 812.014, Florida Statutes, in a
542 reference thereto, paragraph (c) of subsection (3) of section
543 373.6055, Florida Statutes, is reenacted to read:

544 373.6055 Criminal history checks for certain water
545 management district employees and others.-

546 (3)

547 (c) In addition to other requirements for employment or

576-03017-19

20197072__

548 access established by any water management district pursuant to
549 its water management district's security plan for buildings,
550 facilities, and structures, each water management district's
551 security plan shall provide that:

552 1. Any person who has within the past 7 years been
553 convicted, regardless of whether adjudication was withheld, for
554 a forcible felony as defined in s. 776.08; an act of terrorism
555 as defined in s. 775.30; planting of a hoax bomb as provided in
556 s. 790.165; any violation involving the manufacture, possession,
557 sale, delivery, display, use, or attempted or threatened use of
558 a weapon of mass destruction or hoax weapon of mass destruction
559 as provided in s. 790.166; dealing in stolen property; any
560 violation of s. 893.135; any violation involving the sale,
561 manufacturing, delivery, or possession with intent to sell,
562 manufacture, or deliver a controlled substance; burglary;
563 robbery; any felony violation of s. 812.014; any violation of s.
564 790.07; any crime an element of which includes use or possession
565 of a firearm; any conviction for any similar offenses under the
566 laws of another jurisdiction; or conviction for conspiracy to
567 commit any of the listed offenses may not be qualified for
568 initial employment within or authorized regular access to
569 buildings, facilities, or structures defined in the water
570 management district's security plan as restricted access areas.

571 2. Any person who has at any time been convicted of any of
572 the offenses listed in subparagraph 1. may not be qualified for
573 initial employment within or authorized regular access to
574 buildings, facilities, or structures defined in the water
575 management district's security plan as restricted access areas
576 unless, after release from incarceration and any supervision

576-03017-19

20197072__

577 imposed as a sentence, the person remained free from a
578 subsequent conviction, regardless of whether adjudication was
579 withheld, for any of the listed offenses for a period of at
580 least 7 years prior to the employment or access date under
581 consideration.

582 Section 11. For the purpose of incorporating the amendment
583 made by this act to section 812.014, Florida Statutes, in a
584 reference thereto, subsection (3) of section 400.9935, Florida
585 Statutes, is reenacted to read:

586 400.9935 Clinic responsibilities.—

587 (3) A charge or reimbursement claim made by or on behalf of
588 a clinic that is required to be licensed under this part but
589 that is not so licensed, or that is otherwise operating in
590 violation of this part, regardless of whether a service is
591 rendered or whether the charge or reimbursement claim is paid,
592 is an unlawful charge and is noncompensable and unenforceable. A
593 person who knowingly makes or causes to be made an unlawful
594 charge commits theft within the meaning of and punishable as
595 provided in s. 812.014.

596 Section 12. For the purpose of incorporating the amendment
597 made by this act to section 812.014, Florida Statutes, in a
598 reference thereto, paragraph (g) of subsection (17) of section
599 409.910, Florida Statutes, is reenacted to read:

600 409.910 Responsibility for payments on behalf of Medicaid-
601 eligible persons when other parties are liable.—

602 (17)

603 (g) The agency may investigate and request appropriate
604 officers or agencies of the state to investigate suspected
605 criminal violations or fraudulent activity related to third-

576-03017-19

20197072__

606 party benefits, including, without limitation, ss. 414.39 and
607 812.014. Such requests may be directed, without limitation, to
608 the Medicaid Fraud Control Unit of the Office of the Attorney
609 General or to any state attorney. Pursuant to s. 409.913, the
610 Attorney General has primary responsibility to investigate and
611 control Medicaid fraud.

612 Section 13. For the purpose of incorporating the amendment
613 made by this act to section 812.014, Florida Statutes, in a
614 reference thereto, subsection (4) of section 489.126, Florida
615 Statutes, is reenacted to read:

616 489.126 Moneys received by contractors.—

617 (4) Any person who violates any provision of this section
618 is guilty of theft and shall be prosecuted and punished under s.
619 812.014.

620 Section 14. For the purpose of incorporating the amendment
621 made by this act to section 812.014, Florida Statutes, in a
622 reference thereto, subsection (10) of section 550.6305, Florida
623 Statutes, is reenacted to read:

624 550.6305 Intertrack wagering; guest track payments;
625 accounting rules.—

626 (10) All races or games conducted at a permitholder's
627 facility, all broadcasts of such races or games, and all
628 broadcast rights relating thereto are owned by the permitholder
629 at whose facility such races or games are conducted and
630 constitute the permitholder's property as defined in s.
631 812.012(4). Transmission, reception of a transmission,
632 exhibition, use, or other appropriation of such races or games,
633 broadcasts of such races or games, or broadcast rights relating
634 thereto without the written consent of the permitholder

576-03017-19

20197072__

635 constitutes a theft of such property under s. 812.014; and in
636 addition to the penal sanctions contained in s. 812.014, the
637 permitholder has the right to avail itself of the civil remedies
638 specified in ss. 772.104, 772.11, and 812.035 in addition to any
639 other remedies available under applicable state or federal law.

640 Section 15. For the purpose of incorporating the amendment
641 made by this act to section 812.014, Florida Statutes, in a
642 reference thereto, subsection (2) of section 627.743, Florida
643 Statutes, is reenacted to read:

644 627.743 Payment of third-party claims.—

645 (2) When making any payment on a third party claim for
646 damage to an automobile for a partial loss, the insurer shall
647 have printed on the loss estimate, if prepared by the insurer,
648 the following: "Failure to use the insurance proceeds in
649 accordance with the security agreement, if any, could be a
650 violation of s. 812.014, Florida Statutes. If you have any
651 questions, contact your lending institution." However, this
652 subsection does not apply if the insurer does not prepare the
653 loss estimate.

654 Section 16. For the purpose of incorporating the amendment
655 made by this act to section 812.014, Florida Statutes, in a
656 reference thereto, subsection (2) of section 634.319, Florida
657 Statutes, is reenacted to read:

658 634.319 Reporting and accounting for funds.—

659 (2) Any sales representative who, not being entitled
660 thereto, diverts or appropriates such funds or any portion
661 thereof to her or his own use is, upon conviction, guilty of
662 theft, punishable as provided in s. 812.014.

663 Section 17. For the purpose of incorporating the amendment

576-03017-19

20197072__

664 made by this act to section 812.014, Florida Statutes, in a
665 reference thereto, subsection (2) of section 634.421, Florida
666 Statutes, is reenacted to read:

667 634.421 Reporting and accounting for funds.—

668 (2) Any sales representative who, not being entitled
669 thereto, diverts or appropriates funds or any portion thereof to
670 her or his own use commits theft as provided in s. 812.014.

671 Section 18. For the purpose of incorporating the amendment
672 made by this act to section 812.014, Florida Statutes, in a
673 reference thereto, subsection (3) of section 636.238, Florida
674 Statutes, is reenacted to read:

675 636.238 Penalties for violation of this part.—

676 (3) A person who collects fees for purported membership in
677 a discount plan but purposefully fails to provide the promised
678 benefits commits a theft, punishable as provided in s. 812.014.

679 Section 19. For the purpose of incorporating the amendment
680 made by this act to section 812.014, Florida Statutes, in a
681 reference thereto, subsection (2) of section 642.038, Florida
682 Statutes, is reenacted to read:

683 642.038 Reporting and accounting for funds.—

684 (2) Any sales representative who, not being entitled
685 thereto, diverts or appropriates such funds or any portion
686 thereof to his or her own use commits theft as provided in s.
687 812.014.

688 Section 20. For the purpose of incorporating the amendment
689 made by this act to section 812.014, Florida Statutes, in a
690 reference thereto, subsection (4) of section 705.102, Florida
691 Statutes, is reenacted to read:

692 705.102 Reporting lost or abandoned property.—

576-03017-19

20197072__

693 (4) Any person who unlawfully appropriates such lost or
694 abandoned property to his or her own use or refuses to deliver
695 such property when required commits theft as defined in s.
696 812.014, punishable as provided in s. 775.082, s. 775.083, or s.
697 775.084.

698 Section 21. For the purpose of incorporating the amendment
699 made by this act to section 812.014, Florida Statutes, in a
700 reference thereto, paragraph (d) of subsection (1) of section
701 718.111, Florida Statutes, is reenacted to read:

702 718.111 The association.—

703 (1) CORPORATE ENTITY.—

704 (d) As required by s. 617.0830, an officer, director, or
705 agent shall discharge his or her duties in good faith, with the
706 care an ordinarily prudent person in a like position would
707 exercise under similar circumstances, and in a manner he or she
708 reasonably believes to be in the interests of the association.
709 An officer, director, or agent shall be liable for monetary
710 damages as provided in s. 617.0834 if such officer, director, or
711 agent breached or failed to perform his or her duties and the
712 breach of, or failure to perform, his or her duties constitutes
713 a violation of criminal law as provided in s. 617.0834;
714 constitutes a transaction from which the officer or director
715 derived an improper personal benefit, either directly or
716 indirectly; or constitutes recklessness or an act or omission
717 that was in bad faith, with malicious purpose, or in a manner
718 exhibiting wanton and willful disregard of human rights, safety,
719 or property. Forgery of a ballot envelope or voting certificate
720 used in a condominium association election is punishable as
721 provided in s. 831.01, the theft or embezzlement of funds of a

576-03017-19

20197072__

722 condominium association is punishable as provided in s. 812.014,
723 and the destruction of or the refusal to allow inspection or
724 copying of an official record of a condominium association that
725 is accessible to unit owners within the time periods required by
726 general law in furtherance of any crime is punishable as
727 tampering with physical evidence as provided in s. 918.13 or as
728 obstruction of justice as provided in chapter 843. An officer or
729 director charged by information or indictment with a crime
730 referenced in this paragraph must be removed from office, and
731 the vacancy shall be filled as provided in s. 718.112(2)(d)2.
732 until the end of the officer's or director's period of
733 suspension or the end of his or her term of office, whichever
734 occurs first. If a criminal charge is pending against the
735 officer or director, he or she may not be appointed or elected
736 to a position as an officer or a director of any association and
737 may not have access to the official records of any association,
738 except pursuant to a court order. However, if the charges are
739 resolved without a finding of guilt, the officer or director
740 must be reinstated for the remainder of his or her term of
741 office, if any.

742 Section 22. For the purpose of incorporating the amendment
743 made by this act to section 812.014, Florida Statutes, in
744 references thereto, subsections (4), (7), and (8) of section
745 812.14, Florida Statutes, are reenacted to read:

746 812.14 Trespass and larceny with relation to utility
747 fixtures; theft of utility services.—

748 (4) A person who willfully violates subsection (2) commits
749 theft, punishable as provided in s. 812.014.

750 (7) An owner, lessor, or sublessor who willfully violates

576-03017-19

20197072__

751 subsection (5) commits a misdemeanor of the first degree,
752 punishable as provided in s. 775.082 or s. 775.083. Prosecution
753 for a violation of subsection (5) does not preclude prosecution
754 for theft pursuant to subsection (8) or s. 812.014.

755 (8) Theft of utility services for the purpose of
756 facilitating the manufacture of a controlled substance is theft,
757 punishable as provided in s. 812.014.

758 Section 23. For the purpose of incorporating the amendment
759 made by this act to section 812.014, Florida Statutes, in a
760 reference thereto, paragraph (b) of subsection (1) of section
761 985.11, Florida Statutes, is reenacted to read:

762 985.11 Fingerprinting and photographing.—

763 (1)

764 (b) Unless the child is issued a civil citation or is
765 participating in a similar diversion program pursuant to s.
766 985.12, a child who is charged with or found to have committed
767 one of the following offenses shall be fingerprinted, and the
768 fingerprints shall be submitted to the Department of Law
769 Enforcement as provided in s. 943.051(3)(b):

770 1. Assault, as defined in s. 784.011.

771 2. Battery, as defined in s. 784.03.

772 3. Carrying a concealed weapon, as defined in s. 790.01(1).

773 4. Unlawful use of destructive devices or bombs, as defined
774 in s. 790.1615(1).

775 5. Neglect of a child, as defined in s. 827.03(1)(e).

776 6. Assault on a law enforcement officer, a firefighter, or
777 other specified officers, as defined in s. 784.07(2)(a).

778 7. Open carrying of a weapon, as defined in s. 790.053.

779 8. Exposure of sexual organs, as defined in s. 800.03.

576-03017-19

20197072__

- 780 9. Unlawful possession of a firearm, as defined in s.
781 790.22(5).
- 782 10. Petit theft, as defined in s. 812.014.
- 783 11. Cruelty to animals, as defined in s. 828.12(1).
- 784 12. Arson, resulting in bodily harm to a firefighter, as
785 defined in s. 806.031(1).
- 786 13. Unlawful possession or discharge of a weapon or firearm
787 at a school-sponsored event or on school property as defined in
788 s. 790.115.

789

790 A law enforcement agency may fingerprint and photograph a child
791 taken into custody upon probable cause that such child has
792 committed any other violation of law, as the agency deems
793 appropriate. Such fingerprint records and photographs shall be
794 retained by the law enforcement agency in a separate file, and
795 these records and all copies thereof must be marked "Juvenile
796 Confidential." These records are not available for public
797 disclosure and inspection under s. 119.07(1) except as provided
798 in ss. 943.053 and 985.04(2), but shall be available to other
799 law enforcement agencies, criminal justice agencies, state
800 attorneys, the courts, the child, the parents or legal
801 custodians of the child, their attorneys, and any other person
802 authorized by the court to have access to such records. In
803 addition, such records may be submitted to the Department of Law
804 Enforcement for inclusion in the state criminal history records
805 and used by criminal justice agencies for criminal justice
806 purposes. These records may, in the discretion of the court, be
807 open to inspection by anyone upon a showing of cause. The
808 fingerprint and photograph records shall be produced in the

576-03017-19

20197072__

809 court whenever directed by the court. Any photograph taken
810 pursuant to this section may be shown by a law enforcement
811 officer to any victim or witness of a crime for the purpose of
812 identifying the person who committed such crime.

813 Section 24. For the purpose of incorporating the amendment
814 made by this act to section 812.015, Florida Statutes, in a
815 reference thereto, paragraph (f) of subsection (5) of section
816 538.09, Florida Statutes, is reenacted to read:

817 538.09 Registration.—

818 (5) In addition to the fine provided in subsection (4),
819 registration under this section may be denied or any
820 registration granted may be revoked, restricted, or suspended by
821 the department if the department determines that the applicant
822 or registrant:

823 (f) Has, within the preceding 10-year period for new
824 registrants who apply for registration on or after October 1,
825 2006, been convicted of, or has entered a plea of guilty or nolo
826 contendere to, or had adjudication withheld for, a crime against
827 the laws of this state or any other state or of the United
828 States which relates to registration as a secondhand dealer or
829 which involves theft, larceny, dealing in stolen property,
830 receiving stolen property, burglary, embezzlement, obtaining
831 property by false pretenses, possession of altered property, any
832 felony drug offense, any violation of s. 812.015, or any
833 fraudulent dealing;

834
835 In the event the department determines to deny an application or
836 revoke a registration, it shall enter a final order with its
837 findings on the register of secondhand dealers and their

576-03017-19

20197072__

838 business associates, if any; and denial, suspension, or
839 revocation of the registration of a secondhand dealer shall also
840 deny, suspend, or revoke the registration of such secondhand
841 dealer's business associates.

842 Section 25. For the purpose of incorporating the amendment
843 made by this act to section 812.015, Florida Statutes, in a
844 reference thereto, subsection (2) of section 538.23, Florida
845 Statutes, is reenacted to read:

846 538.23 Violations and penalties.—

847 (2) A secondary metals recycler is presumed to know upon
848 receipt of stolen regulated metals property in a purchase
849 transaction that the regulated metals property has been stolen
850 from another if the secondary metals recycler knowingly and
851 intentionally fails to maintain the information required in s.
852 538.19 and shall, upon conviction of a violation of s. 812.015,
853 be punished as provided in s. 812.014(2) or (3).

854 Section 26. For the purpose of incorporating the amendment
855 made by this act to section 812.019, Florida Statutes, in a
856 reference thereto, paragraph (bb) of subsection (1) of section
857 1012.315, Florida Statutes, is reenacted to read:

858 1012.315 Disqualification from employment.—A person is
859 ineligible for educator certification or employment in any
860 position that requires direct contact with students in a
861 district school system, charter school, or private school that
862 accepts scholarship students who participate in a state
863 scholarship program under chapter 1002 if the person has been
864 convicted of:

865 (1) Any felony offense prohibited under any of the
866 following statutes:

576-03017-19

20197072__

867 (bb) Section 812.019, relating to dealing in stolen
868 property.

869 Section 27. For the purpose of incorporating the amendments
870 made by this act to sections 812.014 and 812.015, Florida
871 Statutes, in references thereto, subsections (1) and (2) of
872 section 812.0155, Florida Statutes, are reenacted to read:

873 812.0155 Suspension of driver license following an
874 adjudication of guilt for theft.—

875 (1) Except as provided in subsections (2) and (3), the
876 court may order the suspension of the driver license of each
877 person adjudicated guilty of any misdemeanor violation of s.
878 812.014 or s. 812.015, regardless of the value of the property
879 stolen. Upon ordering the suspension of the driver license of
880 the person adjudicated guilty, the court shall forward the
881 driver license of the person adjudicated guilty to the
882 Department of Highway Safety and Motor Vehicles in accordance
883 with s. 322.25.

884 (a) The first suspension of a driver license under this
885 subsection shall be for a period of up to 6 months.

886 (b) A second or subsequent suspension of a driver license
887 under this subsection shall be for 1 year.

888 (2) The court may revoke, suspend, or withhold issuance of
889 a driver license of a person less than 18 years of age who
890 violates s. 812.014 or s. 812.015 as an alternative to
891 sentencing the person to:

892 (a) Probation as defined in s. 985.03 or commitment to the
893 Department of Juvenile Justice, if the person is adjudicated
894 delinquent for such violation and has not previously been
895 convicted of or adjudicated delinquent for any criminal offense,

576-03017-19

20197072__

896 regardless of whether adjudication was withheld.

897 (b) Probation as defined in s. 985.03, commitment to the
898 Department of Juvenile Justice, probation as defined in chapter
899 948, community control, or incarceration, if the person is
900 convicted as an adult of such violation and has not previously
901 been convicted of or adjudicated delinquent for any criminal
902 offense, regardless of whether adjudication was withheld.

903 Section 28. For the purpose of incorporating the amendments
904 made by this act to section 812.014, Florida Statutes, in a
905 reference thereto, subsection (3) of section 893.138, Florida
906 Statutes, is reenacted to read:

907 893.138 Local administrative action to abate drug-related,
908 prostitution-related, or stolen-property-related public
909 nuisances and criminal gang activity.-

910 (3) Any pain-management clinic, as described in s. 458.3265
911 or s. 459.0137, which has been used on more than two occasions
912 within a 6-month period as the site of a violation of:

913 (a) Section 784.011, s. 784.021, s. 784.03, or s. 784.045,
914 relating to assault and battery;

915 (b) Section 810.02, relating to burglary;

916 (c) Section 812.014, relating to theft;

917 (d) Section 812.131, relating to robbery by sudden
918 snatching; or

919 (e) Section 893.13, relating to the unlawful distribution
920 of controlled substances,

921
922 may be declared to be a public nuisance, and such nuisance may
923 be abated pursuant to the procedures provided in this section.

924 Section 29. Except as otherwise expressly provided in this

576-03017-19

20197072__

925 act, this act shall take effect October 1, 2019.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations, *Chair*
Finance and Tax
Innovation, Industry, and Technology
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission,
Alternating Chair

SENATOR ROB BRADLEY
5th District

March 27, 2019

Senator Jeff Brandes, Chairman
Subcommittee on Criminal and Civil Justice
201 The Capitol
404 South Monroe Street
Tallahassee, Florida 32399-1100

Dear Mr. Chairman:

I respectfully request that Senate Bill 7072 be placed on the committee's agenda at your earliest convenience. The bill contains several provisions related to the courts.

Thank you for your consideration.

Sincerely,

Rob Bradley

SENATE APPROPRIATIONS
RECEIVED
19 MAR 28 AM 8:47
SENT TO CHAIRMAN
STAFF DIR. STAFF

REPLY TO:

- 1279 Kingsley Avenue, Suite 107, Orange Park, Florida 32073 (904) 278-2085
- 414 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 9, 2019

Meeting Date

7072

Bill Number (if applicable)

Topic Justice System

Amendment Barcode (if applicable)

Name Gary Hester

Job Title Chief - Government Affairs

Address P.O. Box 14038

Phone 850-219-3631

Street

Tallahassee

FL

32317

Email ghester@fpca.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Police Chiefs 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)

4/9/19

Meeting Date

SB 7072

Bill Number (if applicable)

473234

Amendment Barcode (if applicable)

Topic JUSTICE SYSTEM

Name NANCY STEPHENS

Job Title EXECUTIVE VICE PRESIDENT

Address 1625 SUMMIT LAKE DRIVE

Phone 850 445-1607

Street

TALLAHASSEE

FL

32317

~~32309~~

City

State

Zip

Email nancy@nstephens.com

Speaking: For Against Information

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

Representing FLORIDA POULTRY FEDERATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/2019

SB 7072

*Meeting Date**Bill Number (if applicable)*Topic Justice System*Amendment Barcode (if applicable)*Name Stacy ScottJob Title Hon. Stacy Scott Public Defender 8th CircuitAddress 151 SW 2nd AvenuePhone 352-338-7370*Street*GainesvilleFL32601Email scotts@pd*City**State**Zip*Speaking: For Against InformationWaive Speaking: In Support Against
*(The Chair will read this information into the record.)*Representing Florida Public Defender AssociationAppearing at request of Chair: Yes NoLobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4.9.19

Meeting Date

7072

Bill Number (if applicable)

Topic Justice System

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

Email barney@barneybishop.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Smart Justice 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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/2019

Meeting Date

7072

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title Trustee

Address 1119 Newton Ave S.

Phone 727/897-9291

Street

St. Petersburg FL

33705

Email justice2jesus@yahoo.com

City

State

Zip

Speaking: For Against Information

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

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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/9/19.
Meeting Date

7072.
Bill Number (if applicable)

CS
Topic

Amendment Barcode (if applicable)

Chelsea Murphy
Name

State Director
Job Title

605 Middlebrook Cr.
Address Street

Phone

TCH
City State Zip

Email

Speaking: For Against Information

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

Representing Right on Crime

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4-9-19

Meeting Date

7072

Bill Number (if applicable)

Topic Theft

Amendment Barcode (if applicable)

Name Greg Newburn

Job Title State Policy Director

Address PO Box 142933

Phone 352.682.2542

Gainesville FL 32614

City

State

Zip

Email gnewb-sn@famm.org

Speaking: For Against Information

Waive Speaking: In Support Against

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

Representing FAMM

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Finance and Tax, *Chair*
Agriculture, *Vice Chair*
Appropriations
Appropriations Subcommittee on Criminal
and Civil Justice
Military and Veterans Affairs and Space

SENATOR GEORGE B. GAINER
2nd District

April 9, 2019

President Galvano,

Please excuse me from today's Appropriations Subcommittee on Criminal and Civil Justice. I will be unable to attend due to medical reasons.

Sincerely,

A handwritten signature in cursive script, appearing to read "George B. Gainer".

Senator George Gainer

REPLY TO:

- 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
- 302 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002
- Northwest Florida State College, 100 East College Boulevard, Building 330, Rooms 105 and 112, Niceville, Florida 32578 (850) 747-5454

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Appropriations Subcommittee on Criminal and Civil Justice

Judge:

Started: 4/9/2019 1:32:34 PM

Ends: 4/9/2019 1:56:35 PM Length: 00:24:02

1:32:42 PM Sen. Brandes (Chair)
1:32:49 PM Roll Call
1:33:00 PM Quorum present
1:33:20 PM SB 642 - Temporarily Postponed
1:33:27 PM SB 1074 - Temporarily Postponed
1:33:57 PM Tab 2 - SB 656
1:34:01 PM Sen. Baxley
1:34:27 PM Sen. Brandes
1:34:45 PM Sarah Naf Biehl, Chief of Legislative Affairs, State Court Systems (waive in support)
1:34:52 PM Barney Bishop, President & CEO, Florida Smart Justice Alliance (waive in support)
1:34:56 PM Brian Pitts, Trustee, Justice2Jesus
1:37:02 PM Sen. Baxley
1:37:18 PM Roll Call SB 656
1:37:40 PM SB 656 - Voted favorable
1:37:46 PM Sen. Baxley
1:37:54 PM Tab 4 -SB 7072
1:38:06 PM Sen. Bracy (Chair)
1:38:22 PM Sen. Bradley
1:41:32 PM Sen. Rouson
1:42:05 PM Sen. Bradley
1:42:14 PM Sen. Bracy
1:42:38 PM Sen. Brandes
1:43:16 PM Sen. Bradley
1:43:28 PM Sen. Brandes
1:43:44 PM Sen. Bracy
1:43:47 PM AM. 473234
1:43:57 PM Sen. Brandes
1:44:44 PM Sen. Bracy
1:44:55 PM Nancy Stevens, Executive Vice President, Florida Poultry Federation
1:45:58 PM Sen. Brandes
1:46:36 PM Sen. Bracy
1:46:42 PM Sen. Brandes
1:47:20 PM Sen. Bracy
1:47:22 PM AM. 473234 - Voted favorable
1:47:32 PM SB 7072 cont.
1:47:39 PM Gary Hester, Cheif, Florida Police Chiefs Association (waive in support)
1:47:55 PM Stacy Scott, Public Defender, 8th Circuit (waive in support)
1:47:59 PM Barney Bishop, President & CEO, Florida Smart Justice Alliance (waive in support)
1:48:05 PM Brain Pitts, Trustee, Justice2Jesus
1:54:37 PM Chelsea Murphy, State Director, Right on Crime (waive in support)
1:54:43 PM Greg Newburn, State Policy Director, FAMM (waive in support)
1:54:48 PM Sen. Taddeo
1:55:24 PM Sen. Bradley
1:55:30 PM Roll Call - SB 7072
1:55:51 PM SB 7072 - Voted favorable
1:55:57 PM Sen. Brandes (Chair)
1:56:09 PM Sen. Gruters
1:56:21 PM Sen. Gruters moves to adjourn