

Tab 1	CS/SB 228 by CJ, Bean ; (Compare to H 0135) Mandatory Minimum Sentences
Tab 2	CS/SB 218 by CJ, Hutson (CO-INTRODUCERS) Gaetz ; (Similar to H 0105) Offenses Involving Electronic Benefits Transfer Cards

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON CRIMINAL AND
CIVIL JUSTICE
Senator Negrón, Chair
Senator Joyner, Vice Chair

MEETING DATE: Tuesday, November 3, 2015
TIME: 1:00—4:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Negrón, Chair; Senator Joyner, Vice Chair; Senators Bradley, Evers, Flores, Hutson, and Soto

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 228 Criminal Justice / Bean (Compare H 135)	Mandatory Minimum Sentences; Deleting aggravated assault from the list of convictions which carry a minimum term of imprisonment if during the commission of the offense the convicted person possessed a firearm or destructive device; deleting aggravated assault from the list of convictions which carry a minimum term of imprisonment if during the commission of the offense the convicted person possessed a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun, etc. CJ 10/05/2015 Fav/CS ACJ 11/03/2015 Favorable FP	Favorable Yeas 7 Nays 0
2	CS/SB 218 Criminal Justice / Hutson (Similar H 105)	Offenses Involving Electronic Benefits Transfer Cards; Specifying acts that constitute trafficking in food assistance benefits cards and are subject to criminal penalties; providing criminal penalties, etc. CJ 10/05/2015 Fav/CS ACJ 11/03/2015 Favorable AP	Favorable Yeas 7 Nays 0
3	Discussion Related to Processing of Sexual Assault Kits		Discussed
4	Review Local Funding Initiative Process		Not Considered
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 228

INTRODUCER: Criminal Justice Committee and Senator Bean

SUBJECT: Mandatory Minimum Sentences

DATE: November 2, 2015 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Fav/CS
2.	Harkness	Sadberry	ACJ	Recommend: Favorable
3.			FP	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 228 eliminates the minimum mandatory sentences for aggravated assault in the 10-20-Life statute by deleting aggravated assault from the list of crimes to which the law applies.¹

Under the 10-20-Life law, a person convicted of one of the specified crimes or the attempt to commit the crime must be sentenced to the following mandatory prison penalties:

- Possession of a firearm – 10 years
- Possession of a semi-automatic/machine gun – 15 years
- Discharge of a firearm (any type) – 20 years
- Discharge with great bodily injury or death – 25 years to life

Under the bill, persons who are convicted of only an aggravated assault offense will no longer qualify for the 10-20-Life penalties.

The bill deletes subsection (6) from s. 775.087, F.S. This provision was added to the 10-20-Life statute in 2014 to allow the sentencing court to deviate from the minimum mandatory sentences for crimes of aggravated assault. Because a person convicted only of aggravated assault will no longer qualify for 10-20-Life sentencing under the bill, the deleted language would have no further application in cases of aggravated assault committed after the effective date of the bill.

¹ Sections 775.087(2)(a)1. and 775.087(3)(a)1., F.S.

The Criminal Justice Impact Conference met on October 28, 2015 and determined the bill has a positive, insignificant fiscal impact.

The bill becomes effective July 1, 2016.

II. Present Situation:

The 10-20-Life Law

The 10-20-Life law, s. 775.087, F.S., is among ten sentencing laws enacted by the 1999 Legislature after Governor Jeb Bush was elected in 1998 on a platform that included making Florida's streets safer in response to Florida's rising violent crime rate in the 1990's.² The new laws took sentencing discretion away from judges and, at the same time, discouraged elected state attorneys from plea-bargaining these cases to lesser sentences.³

10-20-Life requires a judge to sentence a person convicted of specified offenses to a minimum term of imprisonment if, while committing the offense, the person possesses or discharges a firearm or destructive device, or if the discharge of the firearm results in death or great bodily harm.⁴

Mandatory Minimum Sentencing Under 10-20-Life

Under the 10-20-Life law, a person convicted of one of the specified crimes or the attempt to commit the crime must be sentenced to the following mandatory prison penalties:

- Possession of a firearm – 10 years
- Possession of a semi-automatic/machine gun – 15 years
- Discharge of a firearm (any type) – 20 years
- Discharge with great bodily injury or death – 25 years to life

The crimes specified in s. 775.087(2)(a)1., F.S., are:

- a. Murder;
- b. Sexual battery;
- c. Robbery;
- d. Burglary;
- e. Arson;
- f. Aggravated assault;
- g. Aggravated battery;
- h. Kidnapping;
- i. Escape;
- j. Aircraft piracy;
- k. Aggravated child abuse;

² Chapter 99-12, L.O.F., "Whereas" clauses.

³ *Tough Times in the Sunshine State*, Fingerhut, Scola; The Florida Bar Journal, November, 1999 Volume LXXIII, No. 10. Until 2011, when s. 27.366, F.S., was amended, 10-20-Life required state attorneys to report every potential 10-20-Life defendant whose case was not charged as a 10-20-Life case or who was not sentenced according to the minimum mandatories, to the presiding officers of the Legislature and the Governor. Current law only requires that the deviation memo be retained in the case file.

⁴ The terms "firearm" and "destructive device" are defined in accordance with s. 790.001, F.S.

- l. Aggravated abuse of an elderly person or disabled adult;
- m. Unlawful throwing, placing, or discharging of a destructive device or bomb;
- n. Carjacking;
- o. Home-invasion robbery;
- p. Aggravated stalking;
- q. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1); or
- r. Possession of a firearm by a felon.

The offense of possession of a firearm by a convicted felon does not appear in the crimes specified in s. 775.087(3)(a)1., F.S., however sale, manufacture, delivery, or intent to sell, manufacture, or deliver any controlled substance is specified therein.⁵

Since the creation of the 10-20-Life mandatory minimum sentencing law, over 14,000 inmates have been admitted to prison for offenses under this law. On June 30, 2014, there were approximately 9,500 inmates in the prison population who were sentenced under the 10-20-Life law.

Amendment to 10-20-Life Law

Section 775.087, F.S., was amended in 2014 to create an exception for sentencing in aggravated assault cases outside the 10-20-Life minimum mandatory terms of imprisonment.

The exception provides that the court shall not impose the minimum mandatory sentence if the court makes written findings that:

- (a) The defendant had a good faith belief that the aggravated assault was justifiable pursuant to chapter 776.
- (b) The aggravated assault was not committed in the course of committing another criminal offense.
- (c) The defendant does not pose a threat to public safety.
- (d) The totality of the circumstances involved in the offense do not justify the imposition of such sentence.⁶

⁵ Section 775.087(3)(a)1.j., F.S.

⁶ Chapter 2014-195, L.O.F.; s. 775.087(6), F.S. Arguably it was the Marissa Alexander and Ronald Thompson 10-20-Life cases in Florida's Fourth Judicial Circuit and the George Zimmerman "Stand Your Ground"/justifiable use of force case in Sanford that began to highlight for the public the apparent incongruence in the very existence of, or perhaps the disparate application of, these two legal concepts. See "Use a Gun and You're Done: How 10-20-Life and 'Stand Your Ground' Together Have a Disparate Impact on Florida Citizens," Heller, Vol. 43, 2014, Southwestern L.R. See also Menzel, "Worst...case...ever" draws 20-year sentence, outrage, The St. Augustine Record, June 23, 2012; and <http://famm.org/ronald-thompson/>.

The Use of the 10-20-Life Law in Cases Involving Self-Defense

In recent years some high-profile cases and controversy has emerged concerning the use of the 10-20-Life law when a defendant either displays or fires a gun in self-defense. Many of these cases constitute aggravated assault. Defendants who believe they acted in self-defense often times agree to a plea deal, admitting to crimes they do not feel they committed, in order to avoid the risk of a trial and a possible mandatory minimum 10 or 20-year prison sentence.

III. Effect of Proposed Changes:

The bill eliminates the minimum mandatory sentences for aggravated assault in the 10-20-Life statute by deleting aggravated assault from the list of crimes to which 10-20-Life applies.⁷ As a result persons who are convicted of only an aggravated assault offense will no longer qualify for the 10-20-Life penalties.

The bill deletes subsection (6) from s. 775.087, F.S. Subsection (6) is the language added to the 10-20-Life statute in 2014 to allow the sentencing court to deviate from the minimum mandatory sentences for crimes of aggravated assault if the court makes the statutory findings based upon mitigating evidence presented at sentencing. Under the bill, because a person convicted only of aggravated assault will no longer qualify for 10-20-Life sentencing, the deleted language would have no further application in cases of aggravated assault committed after the effective date of the bill.

The 10-20-Life statute is referenced in ss. 27.366, 921.0022(2), 921.0024(1)(b), 947.146(3)(b), and 985.557, F.S., therefore those sections are amended or reenacted to incorporate or conform the amendments made to s. 775.087, F.S., by the bill.

The bill's effective date is July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁷ Sections 775.087(2)(a)1. and 775.087(3)(a)1., F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Office of Economic and Demographic Research, there were 235 inmates sentenced under the 10-20-Life Law on June 30, 2015, with a primary offense of aggravated assault. This represents roughly 2.3 percent of the 10-20-Life population. Below is a more detailed breakdown of that population.

10-20-Life June 30, 2015 Population with Primary Offense of Aggravated Assault					
Offense	Sentence				
	3 YR-10 YR	10 YR-20 YR	20 YR-25 YR	25 YR-Life	Total
Aggravated assault with weapon - no intent to kill	12	19	168	10	209
Aggravated assault – intent to commit felony	0	1	2	0	3
Aggravated assault on law enforcement officer, firefighter, emergency management services	3	6	14	0	23
Total	15	26	184	10	235

Consequently, CS/SB 228 will result in a reduction in the number of offenders sentenced to prison under 10-20-Life. The Criminal Justice Impact Conference met on October 28, 2015 and determined the bill has a positive, insignificant fiscal impact due to the reduction in the need for state prison beds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 775.087 of the Florida Statutes.

The bill also amends section 985.557, Florida Statutes to conform a cross-reference.

The bill reenacts sections 27.366, 921.0022(2), 921.0024(1)(b), and 947.146(3)(b), Florida Statutes.

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

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

CS by Criminal Justice on October 5, 2015:

- Aggravated assault is removed from the list of crimes to which the 10-20-Life law applies. This means that a person who commits aggravated assault with a firearm is no longer subject to the minimum mandatory sentence.
- Subsection (6) of s. 775.087, F.S., is deleted. This eliminates language added to the statute in order to give persons convicted of aggravated assault an opportunity to present mitigating evidence at sentencing and to allow the court to deviate from the 10-20-Life minimum mandatory sentence. The language is no longer necessary due to the deletion of aggravated assault from the list of 10-20-Life crimes.
- Section 985.557, F.S., the juvenile direct file statute, is amended to conform a cross-reference to the list of 10-20-Life crimes.
- Sections 27.366, 921.0022(2), 921.0024(1)(b), and 947.146(3)(b), F.S., are reenacted to incorporate the amendments made by the bill to s. 775.087, F.S.
- The reference to the bill as the “Self-Defense Protection Act” is deleted.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator Bean

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1 A bill to be entitled
2 An act relating to the mandatory minimum sentences;
3 amending s. 775.087, F.S.; deleting aggravated assault
4 from the list of convictions which carry a minimum
5 term of imprisonment if during the commission of the
6 offense the convicted person possessed a firearm or
7 destructive device; deleting aggravated assault from a
8 list of convictions which carry a minimum term of
9 imprisonment if during the commission of the offense
10 the convicted person possessed a firearm or
11 destructive device; deleting aggravated assault from
12 the list of convictions which carry a minimum term of
13 imprisonment if during the commission of the offense
14 the convicted person possessed a semiautomatic firearm
15 and its high-capacity detachable box magazine or a
16 machine gun; deleting a provision prohibiting a court
17 from imposing the mandatory minimum sentence for a
18 conviction for aggravated assault if the court makes
19 specified written findings; conforming cross-
20 references; amending s. 985.557, F.S.; conforming a
21 cross-reference; reenacting ss. 27.366, 921.0022(2),
22 921.0024(1)(b), and 947.146(3)(b), F.S., relating to
23 legislative intent and policy in cases meeting the
24 criteria of s. 775.087(2) and (3), F.S., the Criminal
25 Punishment Code, the Criminal Punishment Code
26 worksheet, and the Control Release Authority,
27 respectively, to incorporate the amendment made to s.
28 775.087, F.S., in references thereto; providing an
29 effective date.

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

Section 1. Subsections (2), (3), and (6) of section 775.087, Florida Statutes, are amended to read:

775.087 Possession or use of weapon; aggravated battery; felony reclassification; minimum sentence.—

(2)(a)1. Any person who is convicted of a felony or an attempt to commit a felony, regardless of whether the use of a weapon is an element of the felony, and the conviction was for:

- a. Murder;
- b. Sexual battery;
- c. Robbery;
- d. Burglary;
- e. Arson;
- ~~f. Aggravated assault;~~
- f.g. Aggravated battery;
- ~~g.h.~~ Kidnapping;
- ~~h.i.~~ Escape;
- ~~i.j.~~ Aircraft piracy;
- ~~j.k.~~ Aggravated child abuse;
- ~~k.l.~~ Aggravated abuse of an elderly person or disabled adult;
- ~~l.m.~~ Unlawful throwing, placing, or discharging of a destructive device or bomb;
- ~~m.n.~~ Carjacking;
- ~~n.o.~~ Home-invasion robbery;
- ~~o.p.~~ Aggravated stalking;
- ~~p.q.~~ Trafficking in cannabis, trafficking in cocaine,

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59 capital importation of cocaine, trafficking in illegal drugs,
60 capital importation of illegal drugs, trafficking in
61 phencyclidine, capital importation of phencyclidine, trafficking
62 in methaqualone, capital importation of methaqualone,
63 trafficking in amphetamine, capital importation of amphetamine,
64 trafficking in flunitrazepam, trafficking in gamma-
65 hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol,
66 trafficking in Phenethylamines, or other violation of s.
67 893.135(1); or

68 g. ~~f.~~ Possession of a firearm by a felon

69
70 and during the commission of the offense, such person actually
71 possessed a "firearm" or "destructive device" as those terms are
72 defined in s. 790.001, shall be sentenced to a minimum term of
73 imprisonment of 10 years, except that a person who is convicted
74 for ~~aggravated assault~~, possession of a firearm by a felon, or
75 burglary of a conveyance shall be sentenced to a minimum term of
76 imprisonment of 3 years if such person possessed a "firearm" or
77 "destructive device" during the commission of the offense.
78 However, if an offender who is convicted of the offense of
79 possession of a firearm by a felon has a previous conviction of
80 committing or attempting to commit a felony listed in s.
81 775.084(1)(b)1. and actually possessed a firearm or destructive
82 device during the commission of the prior felony, the offender
83 shall be sentenced to a minimum term of imprisonment of 10
84 years.

85 2. Any person who is convicted of a felony or an attempt to
86 commit a felony listed in sub-subparagraphs (a)1.a.-p. ~~(a)1.a.-~~
87 ~~q.~~, regardless of whether the use of a weapon is an element of

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88 the felony, and during the course of the commission of the
89 felony such person discharged a "firearm" or "destructive
90 device" as defined in s. 790.001 shall be sentenced to a minimum
91 term of imprisonment of 20 years.

92 3. Any person who is convicted of a felony or an attempt to
93 commit a felony listed in sub-subparagraphs (a)1.a.-p. ~~(a)1.a.-~~
94 ~~q.~~, regardless of whether the use of a weapon is an element of
95 the felony, and during the course of the commission of the
96 felony such person discharged a "firearm" or "destructive
97 device" as defined in s. 790.001 and, as the result of the
98 discharge, death or great bodily harm was inflicted upon any
99 person, the convicted person shall be sentenced to a minimum
100 term of imprisonment of not less than 25 years and not more than
101 a term of imprisonment of life in prison.

102 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
103 (a)3. does not prevent a court from imposing a longer sentence
104 of incarceration as authorized by law in addition to the minimum
105 mandatory sentence, or from imposing a sentence of death
106 pursuant to other applicable law. Subparagraph (a)1.,
107 subparagraph (a)2., or subparagraph (a)3. does not authorize a
108 court to impose a lesser sentence than otherwise required by
109 law.

110
111 Notwithstanding s. 948.01, adjudication of guilt or imposition
112 of sentence shall not be suspended, deferred, or withheld, and
113 the defendant is not eligible for statutory gain-time under s.
114 944.275 or any form of discretionary early release, other than
115 pardon or executive clemency, or conditional medical release
116 under s. 947.149, prior to serving the minimum sentence.

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117 (c) If the minimum mandatory terms of imprisonment imposed
118 pursuant to this section exceed the maximum sentences authorized
119 by s. 775.082, s. 775.084, or the Criminal Punishment Code under
120 chapter 921, then the mandatory minimum sentence must be
121 imposed. If the mandatory minimum terms of imprisonment pursuant
122 to this section are less than the sentences that could be
123 imposed as authorized by s. 775.082, s. 775.084, or the Criminal
124 Punishment Code under chapter 921, then the sentence imposed by
125 the court must include the mandatory minimum term of
126 imprisonment as required in this section.

127 (d) It is the intent of the Legislature that offenders who
128 actually possess, carry, display, use, threaten to use, or
129 attempt to use firearms or destructive devices be punished to
130 the fullest extent of the law, and the minimum terms of
131 imprisonment imposed pursuant to this subsection shall be
132 imposed for each qualifying felony count for which the person is
133 convicted. The court shall impose any term of imprisonment
134 provided for in this subsection consecutively to any other term
135 of imprisonment imposed for any other felony offense.

136 (3)(a)1. Any person who is convicted of a felony or an
137 attempt to commit a felony, regardless of whether the use of a
138 firearm is an element of the felony, and the conviction was for:

- 139 a. Murder;
140 b. Sexual battery;
141 c. Robbery;
142 d. Burglary;
143 e. Arson;
144 ~~f. Aggravated assault;~~
145 f.g. Aggravated battery;

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146 ~~g.h.~~ Kidnapping;
147 ~~h.i.~~ Escape;
148 ~~i.j.~~ Sale, manufacture, delivery, or intent to sell,
149 manufacture, or deliver any controlled substance;
150 ~~j.k.~~ Aircraft piracy;
151 ~~k.l.~~ Aggravated child abuse;
152 ~~l.m.~~ Aggravated abuse of an elderly person or disabled
153 adult;
154 ~~m.n.~~ Unlawful throwing, placing, or discharging of a
155 destructive device or bomb;
156 ~~n.o.~~ Carjacking;
157 ~~o.p.~~ Home-invasion robbery;
158 ~~p.q.~~ Aggravated stalking; or
159 ~~q.r.~~ Trafficking in cannabis, trafficking in cocaine,
160 capital importation of cocaine, trafficking in illegal drugs,
161 capital importation of illegal drugs, trafficking in
162 phencyclidine, capital importation of phencyclidine, trafficking
163 in methaqualone, capital importation of methaqualone,
164 trafficking in amphetamine, capital importation of amphetamine,
165 trafficking in flunitrazepam, trafficking in gamma-
166 hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol,
167 trafficking in Phenethylamines, or other violation of s.
168 893.135(1);
169
170 and during the commission of the offense, such person possessed
171 a semiautomatic firearm and its high-capacity detachable box
172 magazine or a machine gun as defined in s. 790.001, shall be
173 sentenced to a minimum term of imprisonment of 15 years.
174 2. Any person who is convicted of a felony or an attempt to

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175 commit a felony listed in subparagraph (a)1., regardless of
176 whether the use of a weapon is an element of the felony, and
177 during the course of the commission of the felony such person
178 discharged a semiautomatic firearm and its high-capacity box
179 magazine or a "machine gun" as defined in s. 790.001 shall be
180 sentenced to a minimum term of imprisonment of 20 years.

181 3. Any person who is convicted of a felony or an attempt to
182 commit a felony listed in subparagraph (a)1., regardless of
183 whether the use of a weapon is an element of the felony, and
184 during the course of the commission of the felony such person
185 discharged a semiautomatic firearm and its high-capacity box
186 magazine or a "machine gun" as defined in s. 790.001 and, as the
187 result of the discharge, death or great bodily harm was
188 inflicted upon any person, the convicted person shall be
189 sentenced to a minimum term of imprisonment of not less than 25
190 years and not more than a term of imprisonment of life in
191 prison.

192 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
193 (a)3. does not prevent a court from imposing a longer sentence
194 of incarceration as authorized by law in addition to the minimum
195 mandatory sentence, or from imposing a sentence of death
196 pursuant to other applicable law. Subparagraph (a)1.,
197 subparagraph (a)2., or subparagraph (a)3. does not authorize a
198 court to impose a lesser sentence than otherwise required by
199 law.

200
201 Notwithstanding s. 948.01, adjudication of guilt or imposition
202 of sentence shall not be suspended, deferred, or withheld, and
203 the defendant is not eligible for statutory gain-time under s.

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204 944.275 or any form of discretionary early release, other than
205 pardon or executive clemency, or conditional medical release
206 under s. 947.149, prior to serving the minimum sentence.

207 (c) If the minimum mandatory terms of imprisonment imposed
208 pursuant to this section exceed the maximum sentences authorized
209 by s. 775.082, s. 775.084, or the Criminal Punishment Code under
210 chapter 921, then the mandatory minimum sentence must be
211 imposed. If the mandatory minimum terms of imprisonment pursuant
212 to this section are less than the sentences that could be
213 imposed as authorized by s. 775.082, s. 775.084, or the Criminal
214 Punishment Code under chapter 921, then the sentence imposed by
215 the court must include the mandatory minimum term of
216 imprisonment as required in this section.

217 (d) It is the intent of the Legislature that offenders who
218 possess, carry, display, use, threaten to use, or attempt to use
219 a semiautomatic firearm and its high-capacity detachable box
220 magazine or a machine gun as defined in s. 790.001 be punished
221 to the fullest extent of the law, and the minimum terms of
222 imprisonment imposed pursuant to this subsection shall be
223 imposed for each qualifying felony count for which the person is
224 convicted. The court shall impose any term of imprisonment
225 provided for in this subsection consecutively to any other term
226 of imprisonment imposed for any other felony offense.

227 (e) As used in this subsection, the term:

228 1. "High-capacity detachable box magazine" means any
229 detachable box magazine, for use in a semiautomatic firearm,
230 which is capable of being loaded with more than 20 centerfire
231 cartridges.

232 2. "Semiautomatic firearm" means a firearm which is capable

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233 of firing a series of rounds by separate successive depressions
234 of the trigger and which uses the energy of discharge to perform
235 a portion of the operating cycle.

236 ~~(6) Notwithstanding s. 27.366, the sentencing court shall~~
237 ~~not impose the mandatory minimum sentence required by subsection~~
238 ~~(2) or subsection (3) for a conviction for aggravated assault if~~
239 ~~the court makes written findings that:~~

240 ~~(a) The defendant had a good faith belief that the~~
241 ~~aggravated assault was justifiable pursuant to chapter 776.~~

242 ~~(b) The aggravated assault was not committed in the course~~
243 ~~of committing another criminal offense.~~

244 ~~(c) The defendant does not pose a threat to public safety.~~

245 ~~(d) The totality of the circumstances involved in the~~
246 ~~offense do not justify the imposition of such sentence.~~

247 Section 2. Paragraph (d) of subsection (2) of section
248 985.557, Florida Statutes, is amended to read:

249 985.557 Direct filing of an information; discretionary and
250 mandatory criteria.—

251 (2) MANDATORY DIRECT FILE.—

252 (d)1. With respect to any child who was 16 or 17 years of
253 age at the time the alleged offense was committed, the state
254 attorney shall file an information if the child has been charged
255 with committing or attempting to commit an offense listed in s.
256 775.087(2)(a)1.a.-p. ~~s. 775.087(2)(a)1.a.-q.~~, and, during the
257 commission of or attempt to commit the offense, the child:

258 a. Actually possessed a firearm or destructive device, as
259 those terms are defined in s. 790.001.

260 b. Discharged a firearm or destructive device, as described
261 in s. 775.087(2)(a)2.

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262 c. Discharged a firearm or destructive device, as described
263 in s. 775.087(2)(a)3., and, as a result of the discharge, death
264 or great bodily harm was inflicted upon any person.

265 2. Upon transfer, any child who is:

266 a. Charged under sub-subparagraph 1.a. and who has been
267 previously adjudicated or had adjudication withheld for a
268 forcible felony offense or any offense involving a firearm, or
269 who has been previously placed in a residential commitment
270 program, shall be subject to sentencing under s. 775.087(2)(a),
271 notwithstanding s. 985.565.

272 b. Charged under sub-subparagraph 1.b. or sub-subparagraph
273 1.c., shall be subject to sentencing under s. 775.087(2)(a),
274 notwithstanding s. 985.565.

275 3. Upon transfer, any child who is charged under this
276 paragraph, but who does not meet the requirements specified in
277 subparagraph 2., shall be sentenced under s. 985.565; however,
278 if the court imposes a juvenile sanction, the court must commit
279 the child to a high-risk or maximum-risk juvenile facility.

280 4. This paragraph shall not apply if the state attorney has
281 good cause to believe that exceptional circumstances exist that
282 preclude the just prosecution of the child in adult court.

283 5. The Department of Corrections shall make every
284 reasonable effort to ensure that any child 16 or 17 years of age
285 who is convicted and sentenced under this paragraph be
286 completely separated such that there is no physical contact with
287 adult offenders in the facility, to the extent that it is
288 consistent with chapter 958.

289 Section 3. For the purpose of incorporating the amendment
290 made by this act to section 775.087, Florida Statutes, in a

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291 reference thereto, section 27.366, Florida Statutes, is
292 reenacted to read:

293 27.366 Legislative intent and policy in cases meeting
294 criteria of s. 775.087(2) and (3).—It is the intent of the
295 Legislature that convicted criminal offenders who meet the
296 criteria in s. 775.087(2) and (3) be sentenced to the minimum
297 mandatory prison terms provided therein. It is the intent of the
298 Legislature to establish zero tolerance of criminals who use,
299 threaten to use, or avail themselves of firearms in order to
300 commit crimes and thereby demonstrate their lack of value for
301 human life. It is also the intent of the Legislature that
302 prosecutors should appropriately exercise their discretion in
303 those cases in which the offenders' possession of the firearm is
304 incidental to the commission of a crime and not used in
305 furtherance of the crime, used in order to commit the crime, or
306 used in preparation to commit the crime. For every case in which
307 the offender meets the criteria in this act and does not receive
308 the mandatory minimum prison sentence, the state attorney must
309 explain the sentencing deviation in writing and place such
310 explanation in the case file maintained by the state attorney.

311 Section 4. For the purpose of incorporating the amendment
312 made by this act to section 775.087, Florida Statutes, in a
313 reference thereto, subsection (2) of section 921.0022, Florida
314 Statutes, is reenacted to read:

315 921.0022 Criminal Punishment Code; offense severity ranking
316 chart.—

317 (2) The offense severity ranking chart has 10 offense
318 levels, ranked from least severe, which are level 1 offenses, to
319 most severe, which are level 10 offenses, and each felony

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320 offense is assigned to a level according to the severity of the
321 offense. For purposes of determining which felony offenses are
322 specifically listed in the offense severity ranking chart and
323 which severity level has been assigned to each of these
324 offenses, the numerical statutory references in the left column
325 of the chart and the felony degree designations in the middle
326 column of the chart are controlling; the language in the right
327 column of the chart is provided solely for descriptive purposes.
328 Reclassification of the degree of the felony through the
329 application of s. 775.0845, s. 775.0861, s. 775.0862, s.
330 775.087, s. 775.0875, s. 794.023, or any other law that provides
331 an enhanced penalty for a felony offense, to any offense listed
332 in the offense severity ranking chart in this section shall not
333 cause the offense to become unlisted and is not subject to the
334 provisions of s. 921.0023.

335 Section 5. For the purpose of incorporating the amendment
336 made by this act to section 775.087, Florida Statutes, in a
337 reference thereto, paragraph (b) of subsection (1) of section
338 921.0024, Florida Statutes, is reenacted to read:

339 921.0024 Criminal Punishment Code; worksheet computations;
340 scoresheets.-

341 (1)

342 (b) WORKSHEET KEY:

343

344 Legal status points are assessed when any form of legal status
345 existed at the time the offender committed an offense before the
346 court for sentencing. Four (4) sentence points are assessed for
347 an offender's legal status.

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349 Community sanction violation points are assessed when a
350 community sanction violation is before the court for sentencing.
351 Six (6) sentence points are assessed for each community sanction
352 violation and each successive community sanction violation,
353 unless any of the following apply:

354 1. If the community sanction violation includes a new
355 felony conviction before the sentencing court, twelve (12)
356 community sanction violation points are assessed for the
357 violation, and for each successive community sanction violation
358 involving a new felony conviction.

359 2. If the community sanction violation is committed by a
360 violent felony offender of special concern as defined in s.
361 948.06:

362 a. Twelve (12) community sanction violation points are
363 assessed for the violation and for each successive violation of
364 felony probation or community control where:

365 I. The violation does not include a new felony conviction;
366 and

367 II. The community sanction violation is not based solely on
368 the probationer or offender's failure to pay costs or fines or
369 make restitution payments.

370 b. Twenty-four (24) community sanction violation points are
371 assessed for the violation and for each successive violation of
372 felony probation or community control where the violation
373 includes a new felony conviction.

374
375 Multiple counts of community sanction violations before the
376 sentencing court shall not be a basis for multiplying the
377 assessment of community sanction violation points.

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378

379 Prior serious felony points: If the offender has a primary
380 offense or any additional offense ranked in level 8, level 9, or
381 level 10, and one or more prior serious felonies, a single
382 assessment of thirty (30) points shall be added. For purposes of
383 this section, a prior serious felony is an offense in the
384 offender's prior record that is ranked in level 8, level 9, or
385 level 10 under s. 921.0022 or s. 921.0023 and for which the
386 offender is serving a sentence of confinement, supervision, or
387 other sanction or for which the offender's date of release from
388 confinement, supervision, or other sanction, whichever is later,
389 is within 3 years before the date the primary offense or any
390 additional offense was committed.

391

392 Prior capital felony points: If the offender has one or more
393 prior capital felonies in the offender's criminal record, points
394 shall be added to the subtotal sentence points of the offender
395 equal to twice the number of points the offender receives for
396 the primary offense and any additional offense. A prior capital
397 felony in the offender's criminal record is a previous capital
398 felony offense for which the offender has entered a plea of nolo
399 contendere or guilty or has been found guilty; or a felony in
400 another jurisdiction which is a capital felony in that
401 jurisdiction, or would be a capital felony if the offense were
402 committed in this state.

403

404 Possession of a firearm, semiautomatic firearm, or machine gun:
405 If the offender is convicted of committing or attempting to
406 commit any felony other than those enumerated in s. 775.087(2)

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407 while having in his or her possession: a firearm as defined in
408 s. 790.001(6), an additional eighteen (18) sentence points are
409 assessed; or if the offender is convicted of committing or
410 attempting to commit any felony other than those enumerated in
411 s. 775.087(3) while having in his or her possession a
412 semiautomatic firearm as defined in s. 775.087(3) or a machine
413 gun as defined in s. 790.001(9), an additional twenty-five (25)
414 sentence points are assessed.

415

416 Sentencing multipliers:

417

418 Drug trafficking: If the primary offense is drug trafficking
419 under s. 893.135, the subtotal sentence points are multiplied,
420 at the discretion of the court, for a level 7 or level 8
421 offense, by 1.5. The state attorney may move the sentencing
422 court to reduce or suspend the sentence of a person convicted of
423 a level 7 or level 8 offense, if the offender provides
424 substantial assistance as described in s. 893.135(4).

425

426 Law enforcement protection: If the primary offense is a
427 violation of the Law Enforcement Protection Act under s.
428 775.0823(2), (3), or (4), the subtotal sentence points are
429 multiplied by 2.5. If the primary offense is a violation of s.
430 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
431 are multiplied by 2.0. If the primary offense is a violation of
432 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
433 Protection Act under s. 775.0823(10) or (11), the subtotal
434 sentence points are multiplied by 1.5.

435

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436 Grand theft of a motor vehicle: If the primary offense is grand
437 theft of the third degree involving a motor vehicle and in the
438 offender's prior record, there are three or more grand thefts of
439 the third degree involving a motor vehicle, the subtotal
440 sentence points are multiplied by 1.5.

441
442 Offense related to a criminal gang: If the offender is convicted
443 of the primary offense and committed that offense for the
444 purpose of benefiting, promoting, or furthering the interests of
445 a criminal gang as defined in s. 874.03, the subtotal sentence
446 points are multiplied by 1.5. If applying the multiplier results
447 in the lowest permissible sentence exceeding the statutory
448 maximum sentence for the primary offense under chapter 775, the
449 court may not apply the multiplier and must sentence the
450 defendant to the statutory maximum sentence.

451
452 Domestic violence in the presence of a child: If the offender is
453 convicted of the primary offense and the primary offense is a
454 crime of domestic violence, as defined in s. 741.28, which was
455 committed in the presence of a child under 16 years of age who
456 is a family or household member as defined in s. 741.28(3) with
457 the victim or perpetrator, the subtotal sentence points are
458 multiplied by 1.5.

459
460 Adult-on-minor sex offense: If the offender was 18 years of age
461 or older and the victim was younger than 18 years of age at the
462 time the offender committed the primary offense, and if the
463 primary offense was an offense committed on or after October 1,
464 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the

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465 violation involved a victim who was a minor and, in the course
466 of committing that violation, the defendant committed a sexual
467 battery under chapter 794 or a lewd act under s. 800.04 or s.
468 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.
469 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
470 800.04; or s. 847.0135(5), the subtotal sentence points are
471 multiplied by 2.0. If applying the multiplier results in the
472 lowest permissible sentence exceeding the statutory maximum
473 sentence for the primary offense under chapter 775, the court
474 may not apply the multiplier and must sentence the defendant to
475 the statutory maximum sentence.

476 Section 6. For the purpose of incorporating the amendment
477 made by this act to section 775.087, Florida Statutes, in a
478 reference thereto, paragraph (b) of subsection (3) of section
479 947.146, Florida Statutes, is reenacted to read:

480 947.146 Control Release Authority.—

481 (3) Within 120 days prior to the date the state
482 correctional system is projected pursuant to s. 216.136 to
483 exceed 99 percent of total capacity, the authority shall
484 determine eligibility for and establish a control release date
485 for an appropriate number of parole ineligible inmates committed
486 to the department and incarcerated within the state who have
487 been determined by the authority to be eligible for
488 discretionary early release pursuant to this section. In
489 establishing control release dates, it is the intent of the
490 Legislature that the authority prioritize consideration of
491 eligible inmates closest to their tentative release date. The
492 authority shall rely upon commitment data on the offender
493 information system maintained by the department to initially

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494 identify inmates who are to be reviewed for control release
495 consideration. The authority may use a method of objective risk
496 assessment in determining if an eligible inmate should be
497 released. Such assessment shall be a part of the department's
498 management information system. However, the authority shall have
499 sole responsibility for determining control release eligibility,
500 establishing a control release date, and effectuating the
501 release of a sufficient number of inmates to maintain the inmate
502 population between 99 percent and 100 percent of total capacity.
503 Inmates who are ineligible for control release are inmates who
504 are parole eligible or inmates who:

505 (b) Are serving the mandatory minimum portion of a sentence
506 enhanced under s. 775.087(2) or (3), or s. 784.07(3);

507
508 In making control release eligibility determinations under this
509 subsection, the authority may rely on any document leading to or
510 generated during the course of the criminal proceedings,
511 including, but not limited to, any presentence or postsentence
512 investigation or any information contained in arrest reports
513 relating to circumstances of the offense.

514 Section 7. This act shall take effect July 1, 2016.



The Florida Senate

Committee Agenda Request

To: Senator Joe Negron, Chair
Appropriations Subcommittee on Criminal and Civil Justice

Subject: Committee Agenda Request

Date: October 7, 2015

I respectfully request that **Senate Bill #228**, relating to Self Defense Protection Act, be placed on the:

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

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/3/2015

228

Meeting Date

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Matt Dunagan

Job Title Deputy Director

Address 2617 Mahan Drive

Phone 850-274-3599

Street

Tallahassee

FL

32308

Email mdunagan@flsheriffs.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida Sheriffs Association

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

November 3, 2015

228

Meeting Date

Bill Number (if applicable)

Topic Mandatory Minimum Sentences

Amendment Barcode (if applicable)

Name Hon. Nancy Daniels

Job Title Public Defender, 2nd Judicial Circuit

Address 301 South Monroe Street, Suite 401

Phone 850.606.1000

Street

Tallahassee

Florida

32301

Email nancy.daniels@flpd2.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Public Defender Association, Inc.

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

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

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

S-001 (10/14/14)

APPEARANCE RECORD

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

November 3, 2015
Meeting Date

SB 228
Bill Number (if applicable)

Topic Mandatory Minimum Sentence B

Amendment Barcode (if applicable)

Name Frank Fabrizio

Job Title Chief of Police, Ponce Inlet PD

Address 4301 S. Peninsula Drive
Street

Phone (386) 236-2160

Ponce Inlet FL 32127
City State Zip

Email ffabrizio@ponce-inlet.org

Speaking: [] For [] Against [] Information

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

Representing The Florida Police Chiefs Association

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

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

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

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

S-001 (10/14/14)

APPEARANCE RECORD

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

11/3/15
Meeting Date

CS/SB 228
Bill Number (if applicable)

Topic Aggravated Assault

Amendment Barcode (if applicable)

Name Buddy Jacobs

Job Title General Counsel FLA, Prosecuting Attys Assoc.

Address 761 687 Gateway Blvd.
Street

Phone 904 261-3693

Fernandina Bch, FL 32034
City State Zip

Email

Speaking: [x] For [] Against [] Information

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

Representing State Attorneys of FLA.

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

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

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 218

INTRODUCER: Criminal Justice Committee and Senator Hutson

SUBJECT: Offenses Involving Electronic Benefits Transfer Cards

DATE: November 3, 2015 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	Fav/CS
2.	<u>Clodfelter</u>	<u>Sadberry</u>	<u>ACJ</u>	Recommend: Favorable
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 218 amends s. 414.39, F.S., which punishes public assistance fraud. Currently this statute, in part, punishes a person who knowingly “traffics” (or knowingly attempts to traffic or knowingly aids another person in trafficking) in a food assistance card, an authorization for the expenditure of food assistance benefits, a certificate of eligibility for medical services, or a Medicaid identification card in any manner not authorized by law.

The bill specifies acts included in the term “traffic.” The bill also punishes a person who possesses two or more electronic benefits transfer cards issued to other persons and sells or attempts to sell one or more of these cards. The first violation is a first degree misdemeanor; a second or subsequent violation is a third degree felony.

The Criminal Justice Impact Conference met on October 28, 2015 and determined the bill has a positive, insignificant prison bed impact.

The bill has an effective date of October 1, 2016.

II. Present Situation:

Public Assistance Fraud

“Public assistance” refers to benefits paid for temporary cash assistance,¹ food assistance,² Medicaid,³ or optional state supplementation program.^{4, 5} The Division of Public Assistance Fraud in the Department of Financial Services (DFS) is authorized to investigate public assistance fraud.⁶

Relevant to the bill, s. 414.39(2), F.S., provides that a person is subject to the criminal penalties provided in s. 414.39(5), F.S., if the person knowingly uses, transfers, acquires, *traffics*, alters, forges, or possesses a food assistance identification card, an authorization, including, but not limited to, an electronic authorization, for the expenditure of food assistance benefits, a certificate of eligibility for medical services, or a Medicaid identification card in any manner not authorized by law.⁷ Subsection (2) also provides that a person is subject to the criminal penalties provided in s. 414.39(5), F.S., if the person knowingly attempts or knowingly aids or abets another person to commit any of the previously-described acts of public assistance fraud.

Section 414.39(5), F.S., provides that:

- If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is less than an aggregate value of \$200 in any 12 consecutive months, such person commits a first degree misdemeanor;⁸
- If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$200 or more, but less than \$20,000 in any 12 consecutive months, such person commits a third degree felony;⁹

¹ Temporary cash assistance provides cash assistance to families with children to help families become self-supporting.

² Food assistance helps low-income individuals and families buy healthy food.

³ Medicaid provides medical coverage to low-income individuals and families.

⁴ Optional state supplementation provides monthly cash payments to indigent elderly or disabled individuals.

⁵ Section 414.0252(10), F.S.

⁶ Section 414.411, F.S.; “Division of Public Assistance Fraud (Retailer Food Stamp Trafficking),” Department of Financial Services, available at <http://www.myfloridacfo.com/Division/PAF/SLEB/reportRetailFraud.htm> (last viewed on October 28, 2015). “On the State level, the Division partners with the Department of Children and Families, the Agency for Health Care Administration, the Department of Health, and the Office of Early Learning to investigate fraud in programs administered by those entities. On the Federal level[,] the Division partners with the United States Department of Agriculture’s Food and Nutrition Services, the Social Security Administration, and the Department of Health and Human Services.” “Division of Public Assistance Fraud,” Department of Financial Services, available at <http://www.myfloridacfo.com/Division/PAF/> (last viewed on October 28, 2015).

⁷ Federal law also punishes public assistance fraud. *See* 7 U.S.C. sec. 2024. Further, the Florida Department of Children and Families states: “According to [7 C.F.R. sec. 273.16], persons convicted in court of trafficking more than \$500 (aggregate) in food assistance benefits are permanently disqualified from receiving food assistance (lifetime ineligibility). Recipients are permanently disqualified on a third Intentional Program Violation (IPV or “fraud”) or receiving benefits in a transaction involving a controlled substance, firearms, ammunition, or explosives.” 2016 Agency Legislative Bill Analysis (SB 218) (September 17, 2015), Florida Department of Children and Families (on file with the Senate Committee on Criminal Justice).

⁸ A first degree misdemeanor is punishable by up to one year in county jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

⁹ A third degree felony is punishable by up to five years in state prison and a fine of up to \$5,000. However, if the third degree felony is not a forcible felony or a third degree felony under chapter 810, F.S., and if total sentence points are 22 points or fewer, the court must sentence the offender to a nonprison sanction unless the court makes written findings that this sanction could present a danger to the public. Sections 775.082 and 775.083, F.S.

- If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$20,000 or more, but less than \$100,000 in any 12 consecutive months, such person commits a second degree felony;¹⁰ and
- If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$100,000 or more in any 12 consecutive months, such person commits a first degree felony.¹¹

Relevant to the bill, s. 414.39(2), F.S., does not currently describe acts included in the term “traffics.”¹² The Code of Federal Regulation defines “trafficking” as:

- The buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;
- The exchange of firearms, ammunition, explosives, or controlled substances, as defined in section 802 of title 21, United States Code, for SNAP benefits;
- Purchasing a product with SNAP benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount;
- Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food;
- Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food; or
- Attempting to buy, sell, steal, or otherwise affect an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.¹³

SNAP Fraud and Electronic Benefits Transfer Card Fraud

The United States Department of Agriculture (USDA), under federal-state agreements, issues food assistance benefits to low-income individuals and households. These benefits used to be

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

¹¹ A first degree felony is punishable by up to 30 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

¹² According to the Florida Department of Children and Families, “[c]riminal prosecution of public assistance trafficking has met some resistance from prosecutors due in part to the lack of a definition. In SFY 2014-15, 496 recipients were administratively disqualified under trafficking regulations, while only 5 were sent to a State Attorney’s Office for criminal prosecution. (Note: This number does not include local law enforcement efforts.)” 2016 Agency Legislative Bill Analysis (SB 218) (September 17, 2015), Florida Department of Children and Families (on file with the Senate Committee on Criminal Justice).

¹³ 7 C.F.R. sec. 271.2 (Definitions).

issued in the form of paper food coupons that were commonly referred to as “food stamps.” Previously these coupons were issued under the federal Food Stamp Program. This program is now called the Supplemental Nutrition Assistance Program (SNAP). SNAP benefits are “deposited into a cash or food assistance (SNAP) account each month” by the USDA. These benefits are accessed using an Electronic Benefits Transfer (EBT) card.¹⁴ In Florida this card is referred to as an EBT ACCESS card.¹⁵ The Florida Department of Children and Families (DCF) administers the EBT card program.¹⁶

“Households can use food assistance benefits to buy breads, cereals, fruits, vegetables, meats, fish, poultry, dairy and plants and seeds to grow food for ... [a] household to eat. Households cannot use food assistance benefits to buy nonfood items such as pet foods, soaps, paper products, household supplies, grooming items, alcoholic beverages, tobacco, vitamins, medicines, food to eat in the store, or hot foods.”¹⁷ “SNAP benefits ... cannot be used to withdraw cash.”¹⁸

A retailer that would like to accept SNAP benefits (EBT) must be licensed by the USDA’s Food and Nutrition Service to participate. A retailer must either sell three varieties of qualifying foods in four specified staple food groups (with perishable foods in at least two of the categories) or “more than one-half (50%) of the total dollar amount of all retail sales (food, nonfood, gas and services) sold in the store must be from the sale of eligible staple foods.”¹⁹ Florida law specifically prohibits use or acceptance of EBT cards at certain establishments that sell distilled spirits and at bottle clubs, adult entertainment establishments, casinos, and gambling and gaming facilities.²⁰

Fraudulent activity involving SNAP benefits occurs in a number of different ways:

¹⁴ According to the USDA, in FY 2014, SNAP provided over \$5 billion (\$5,472,834,001) in food assistance benefits to a monthly average of 3,526,311 persons in Florida. *Supplemental Nutrition Assistance Program, State Activity Report, Fiscal Year 2014* (June 2015), Food and Nutrition Service, United States Department of Agriculture, available at <http://www.fns.usda.gov/sites/default/files/FY14%20State%20Activity%20Report.pdf> (last viewed on October 28, 2015). The Florida Department of Children and Families states: “EBT cards are produced with the name of the Head of Household – even though several family members may be on the public assistance case. There is no law prohibiting eligible clients from giving their EBT cards to someone for the purposes of obtaining those benefits for them. (Example: A grandmother may give her EBT card to her son or neighbor to get her groceries.) In some situations, an EBT card also can be issued and used by a representative on behalf of the client.” 2016 Agency Legislative Bill Analysis (SB 218) (September 17, 2015), Florida Department of Children and Families (on file with the Senate Committee on Criminal Justice).

¹⁵ “Welcome to EBT,” Florida Department of Children and Families, available at <http://www.myflfamilies.com/service-programs/access-florida-food-medical-assistance-cash/welcome-ebt> (last viewed on October 28, 2015).

¹⁶ Section 402.82, F.S.

¹⁷ What is SNAP Fraud?, Food and Nutrition Service, United States Department of Agriculture, available at <http://www.fns.usda.gov/fraud/what-snap-fraud> (last viewed on October 28, 2015).

¹⁸ “Restrictions On Use Of Public Assistance Electronic Benefit Transfer Cards” (May 8, 2015), National Conference of State Legislatures, available at <http://www.ncsl.org/research/human-services/ebt-electronic-benefit-transfer-card-restrictions-for-public-assistance.aspx> (last viewed on October 28, 2015).

¹⁹ “Retail Store Eligibility USDA Supplemental Nutrition Assistance Program,” Food and Nutrition Service, United States Department of Agriculture, available at <http://www.fns.usda.gov/snap/retail-store-eligibility-usda-supplemental-nutrition-assistance-program> (last viewed on October 28, 2015).

²⁰ Section 402.82, F.S.

SNAP fraud is when SNAP benefits are exchanged for cash. This is called trafficking and it is against the law.²¹

SNAP fraud also happens when someone lies on their application to get benefits or to get more benefits than they are supposed to get.

SNAP fraud also happens when a retailer has been disqualified from the program for past abuse and lies on the application to get in the program again.²²

State and federal investigations of SNAP fraud involve fraud that occurs before and after certification of eligibility for SNAP benefits.²³ The DFS's Division of Public Assistance Fraud states that EBT card trafficking, which is a type of fraud involving SNAP benefits, occurs:

when through the use of EBT cards there is an exchange of ... [SNAP] benefits with a retail store for cash. Trafficking also includes the buying or selling of EBT cards by citizens and stores. The advent of social networking has given rise to open selling of EBT cards by advertising them on social networking sites or on public listings such as Craigslist and EBay.^{24 25}

²¹ This act is also known as "cash back." "Owner Of Lakeland Market Sentenced To Federal Prison For Food Stamp Fraud" (April 17, 2015), United States Attorney's Office (Middle District of Florida), available at <http://www.justice.gov/usao-mdfl/pr/owner-lakeland-market-sentenced-federal-prison-food-stamp-fraud> (last viewed on October 28, 2015).

²² "What is SNAP Fraud?", Food and Nutrition Service, United States Department of Agriculture, available at <http://www.fns.usda.gov/fraud/what-snap-fraud> (last viewed on October 28, 2015).

²³ According to the USDA, in FY 2014 fraud dollars determined by pre-certification investigations (Florida) totaled \$23,633,173 and fraud dollars determined by post-certification eligibility (Florida) totaled \$14,605,207. *Supplemental Nutrition Assistance Program, State Activity Report, Fiscal Year 2014* (June 2015), Food and Nutrition Service, United States Department of Agriculture, available at

<http://www.fns.usda.gov/sites/default/files/FY14%20State%20Activity%20Report.pdf> (last viewed on October 28, 2015).

²⁴ "Division of Public Assistance Fraud (Retailer Food Stamp Trafficking)," Department of Financial Services, available at <http://www.myfloridacfo.com/Division/PAF/SLEB/reportRetailFraud.htm> (last viewed on October 28, 2015). The division further notes that SNAP trafficking is "a cash business that spawns other crimes in the community" and such trafficking supports drugs, prostitution, and illegal gambling. *Id.*

²⁵ The extent of EBT card fraud in Florida cannot be determined based on available data. Data from the USDA does not disaggregate EBT card fraud from SNAP fraud. The Division of Public Assistance Fraud in the Department of Financial Services has provided the following information regarding cases that office has handled:

In calendar year 2014, the Division of Public Assistance Fraud (PAF) completed 1,671 trafficking cases totaling \$2,613,546. The average recovery for a trafficking case is \$1,615.

However, PAF has shifted focus from EBT food stamp trafficking to fraud that is detected through data-matching processes. These are cases where PAF finds inconsistencies between wages being reported to DOR vs. what is reported to DCF - where people are fraudulently receiving benefits based on unreported income or by concealing material facts. The expense to the state is much higher in this type of fraud - so far in calendar year 2015, PAF has closed 265 cases involving eligibility totaling \$1.494 million. The average recovery per case is \$5,636.

In calendar year 2015, PAF completed an additional 15 cases for \$110,113. Trafficking investigations are still ongoing - just on a far smaller scale. When PAF has sufficient evidence the cases are elevated to the level that is appropriate for criminal prosecution. This bill will make the prosecution of trafficking much clearer and PAF will continue to work those cases to the full extent of the law.

According to the USDA, the EBT card creates an “‘audit trail’ from EBT transactions to identify trafficking and other suspicious activities.” Investigators with the USDA’s Food and Nutrition Service “analyze retailer data, conduct undercover investigations, and process cases – including fines and administrative disqualifications- against violating retailers.”²⁶ The USDA “also works with State law enforcement authorities to provide them with SNAP benefits that are used in sting operations, supporting anti-trafficking actions at the local level.”

As previously noted, EBT card fraud may be prosecuted under s. 414.39, F.S. Furthermore, according to the DCF, “EBT cards are also currently covered under the definition of ‘credit cards’ in s. 817.58, F.S.”²⁷ This definition is relevant to s. 817.60, F.S., which punishes theft by taking or retaining possession of a credit card taken; theft of a credit card that has been lost, mislaid, or delivered by mistake; the unauthorized purchase or selling of another person’s credit card; unlawfully obtaining control of a credit card as a security for debt; and dealing in other cardholders’ credit cards.

As previously noted, the DFS’s Division of Public Assistance Fraud is authorized to investigate SNAP fraud. Some of these cases may involve “allegations of clients/recipients trafficking in benefits” that are referred by the DCF to the division.²⁸ EBT card trafficking sting operations may involve multiple agencies such as the USDA and other federal agencies, local law enforcement and the Department of Law Enforcement, Florida or federal prosecutors, and the Department of Financial Services and other state agencies.

III. Effect of Proposed Changes:

The bill amends s. 414.39, F.S., which punishes public assistance fraud. Currently this statute, in part, punishes a person who knowingly “traffics” (or knowingly attempts to traffic or knowingly aids another person in trafficking) in a food assistance card, an authorization for the expenditure of food assistance benefits, a certificate of eligibility for medical services, or a Medicaid identification card in any manner not authorized by law.

The bill specifies acts included in the term “traffic.” “Traffic” includes:

- Buying, selling, stealing, or otherwise effecting an exchange of food assistance benefits issued and accessed via electronic benefits transfer (EBT) cards, electronic benefits transfer (EBT) card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;

Bill Analysis and Fiscal Impact Statement (SB 218) (September 23, 2015), Department of Financial Services (on file with the Senate Committee on Criminal Justice).

²⁶ What is SNAP Fraud?”, Food and Nutrition Service, United States Department of Agriculture, available at <http://www.fns.usda.gov/fraud/what-snap-fraud> (last viewed on October 28, 2015).

²⁷ 2016 Agency Legislative Bill Analysis (SB 218) (September 17, 2015), Florida Department of Children and Families (on file with the Senate Committee on Criminal Justice).

²⁸ 2016 Agency Legislative Bill Analysis (SB 218) (September 17, 2015), Florida Department of Children and Families (on file with the Senate Committee on Criminal Justice); “Public Benefits Integrity,” Florida Department of Children and Families, <http://www.myflfamilies.com/service-programs/public-benefits-integrity> (last viewed on October 28, 2015).

- Attempting to buy, sell, steal, or otherwise effect an exchange of food assistance benefits issued and accessed via electronic benefits transfer (EBT) cards, electronic benefits transfer (EBT) card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;
- Exchanging firearms, ammunition, explosives, or controlled substances, as defined in s. 893.02, F.S., for food assistance benefits;
- Purchasing with food assistance benefits a product with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with food assistance benefits in exchange for cash or consideration other than eligible food; or
- Intentionally purchasing products originally purchased with food assistance benefits in exchange for cash or consideration other than eligible food.

The acts described in the bill are substantively similar to the acts described in the federal definition of “trafficking” in 7 C.F.R. sec. 271.2 (Code of Federal Regulations).

The bill also punishes a person who possesses two or more electronic benefits transfer cards issued to other persons and sells or attempts to sell one or more of these cards. The first violation is a first degree misdemeanor; a second or subsequent violation is a third degree felony.

The bill reenacts s. 921.0022(3)(a), F.S. (offense severity ranking chart of Criminal Punishment Code), which currently ranks offenses in s. 414.39(2), F.S., as Level 1 offenses. This reenactment incorporates the amendment to s. 414.39(2), F.S., made by the bill. Therefore, the new third degree felony for EBT card fraud (second or subsequent violation) would be a Level 1 offense.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under CS/SB 218, an EBT card retailer who commits the new EBT card fraud offense could lose its license to accept SNAP benefits (EBT). A person receiving SNAP benefits (EBT) could be determined ineligible for further SNAP benefits if he or she commits the new EBT card fraud offense.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, met on October 28, 2012 and determined the bill has a positive, insignificant impact on prison beds. Although it is anticipated that defining the term “trafficking” will increase the number of criminal prosecutions, the great majority of cases involve small monetary amounts that would be punishable as misdemeanors or felonies not involving incarceration.

According to the DFS, the bill will not have a fiscal impact on the department.²⁹

The Florida Department of Children and Families did not indicate that the bill will have an impact on the department.³⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 414.39 of the Florida Statutes.

This bill also reenacts section 921.0022(3)(a), F.S., for the purpose of incorporating the amendment made by the bill to section 414.39, F.S., in reference to that statute in section 921.0022(3)(a), F.S.

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 October 5, 2015:

²⁹ Bill Analysis and Fiscal Impact Statement (SB 218) (September 23, 2015), Department of Financial Services (on file with the Senate Committee on Criminal Justice).

³⁰ 2016 Agency Legislative Bill Analysis (SB 218) (September 17, 2015), Florida Department of Children and Families (on file with the Senate Committee on Criminal Justice).

- Removes mandatory community service for a violation of the new EBT card fraud offense created by the bill.

Provides that a first violation of the new EBT card fraud offense is a first degree misdemeanor; a second or subsequent violation is a third degree felony.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator Hutson

591-00707-16

2016218c1

1 A bill to be entitled

2 An act relating to offenses involving electronic
3 benefits transfer cards; amending s. 414.39, F.S.;
4 specifying acts that constitute trafficking in food
5 assistance benefits cards and are subject to criminal
6 penalties; providing criminal penalties; reenacting s.
7 921.0022(3)(a), F.S., relating to level 1 of the
8 offense severity ranking chart, to incorporate the
9 amendment made to s. 414.39, F.S., in a reference
10 thereto; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Subsection (2) of section 414.39, Florida
15 Statutes, is amended to read:

16 414.39 Fraud.—

17 (2) (a) Any person who knowingly:

18 1. ~~(a)~~ Uses, transfers, acquires, traffics, alters, forges,
19 or possesses;

20 2. ~~(b)~~ Attempts to use, transfer, acquire, traffic, alter,
21 forge, or possess; or

22 3. ~~(c)~~ Aids and abets another person in the use, transfer,
23 acquisition, traffic, alteration, forgery, or possession of,

24
25 a food assistance identification card, an authorization,
26 including, but not limited to, an electronic authorization, for
27 the expenditure of food assistance benefits, a certificate of
28 eligibility for medical services, or a Medicaid identification
29 card in any manner not authorized by law commits a crime and

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30 shall be punished as provided in subsection (5).

31 (b) As used in this subsection, the term "traffic"
32 includes:

33 1. Buying, selling, stealing, or otherwise effecting an
34 exchange of food assistance benefits issued and accessed via
35 electronic benefits transfer (EBT) cards, electronic benefits
36 transfer (EBT) card numbers and personal identification numbers
37 (PINs), or by manual voucher and signature, for cash or
38 consideration other than eligible food, either directly,
39 indirectly, in complicity or collusion with others, or acting
40 alone;

41 2. Attempting to buy, sell, steal, or otherwise effect an
42 exchange of food assistance benefits issued and accessed via
43 electronic benefits transfer (EBT) cards, electronic benefits
44 transfer (EBT) card numbers and personal identification numbers
45 (PINs), or by manual voucher and signature, for cash or
46 consideration other than eligible food, either directly,
47 indirectly, in complicity or collusion with others, or acting
48 alone;

49 3. Exchanging firearms, ammunition, explosives, or
50 controlled substances, as defined in s. 893.02, for food
51 assistance benefits;

52 4. Purchasing with food assistance benefits a product with
53 the intent of obtaining cash or consideration other than
54 eligible food by reselling the product, and subsequently
55 intentionally reselling the product purchased with food
56 assistance benefits in exchange for cash or consideration other
57 than eligible food; or

58 5. Intentionally purchasing products originally purchased

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59 with food assistance benefits in exchange for cash or
 60 consideration other than eligible food.

61 (c) Any person who has possession of two or more electronic
 62 benefits transfer (EBT) cards issued to other persons and who
 63 sells or attempts to sell one or more of these cards commits a
 64 misdemeanor of the first degree, punishable as provided in s.
 65 775.082 or s. 775.083. A second or subsequent violation of this
 66 paragraph constitutes a felony of the third degree, punishable
 67 as provided in s. 775.082, s. 775.083, or s. 775.084.

68 Section 2. For the purpose of incorporating the amendment
 69 made by this act to section 414.39, Florida Statutes, in a
 70 reference thereto, paragraph (a) of subsection (3) of section
 71 921.0022, Florida Statutes, is reenacted to read:

72 921.0022 Criminal Punishment Code; offense severity ranking
 73 chart.—

74 (3) OFFENSE SEVERITY RANKING CHART

75 (a) LEVEL 1

76

Florida Statute	Felony Degree	Description
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b)	3rd	Failure to remit sales

79

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85
86

taxes, amount greater than \$300 but less than \$20,000.

316.1935 (1)

3rd

Fleeing or attempting to elude law enforcement officer.

319.30 (5)

3rd

Sell, exchange, give away certificate of title or identification number plate.

319.35 (1) (a)

3rd

Tamper, adjust, change, etc., an odometer.

320.26 (1) (a)

3rd

Counterfeit, manufacture, or sell registration license plates or validation stickers.

322.212
(1) (a) - (c)

3rd

Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated identification.

322.212 (4)

3rd

Supply or aid in supplying unauthorized driver license or identification card.

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87	322.212 (5) (a)	3rd	False application for driver license or identification card.
	414.39 (2)	3rd	Unauthorized use, possession, forgery, or alteration of food assistance program, Medicaid ID, value greater than \$200.
88	414.39 (3) (a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.
89	443.071 (1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.
90	509.151 (1)	3rd	Defraud an innkeeper, food or lodging value greater than \$300.
91	517.302 (1)	3rd	Violation of the Florida Securities and Investor Protection Act.
92	562.27 (1)	3rd	Possess still or still

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93
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99

apparatus.

713.69 3rd Tenant removes property upon which lien has accrued, value more than \$50.

812.014 (3) (c) 3rd Petit theft (3rd conviction); theft of any property not specified in subsection (2).

812.081 (2) 3rd Unlawfully makes or causes to be made a reproduction of a trade secret.

815.04 (5) (a) 3rd Offense against intellectual property (i.e., computer programs, data).

817.52 (2) 3rd Hiring with intent to defraud, motor vehicle services.

817.569 (2) 3rd Use of public record or public records information or providing false information to facilitate commission of a felony.

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100	826.01	3rd	Bigamy.
101	828.122 (3)	3rd	Fighting or baiting animals.
102	831.04 (1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
103	831.31 (1) (a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
104	832.041 (1)	3rd	Stopping payment with intent to defraud \$150 or more.
105	832.05 (2) (b) & (4) (c)	3rd	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
106	838.15 (2)	3rd	Commercial bribe receiving.
107	838.16	3rd	Commercial bribery.
	843.18	3rd	Fleeing by boat to elude a law enforcement officer.

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108

847.011(1)(a) 3rd Sell, distribute, etc.,
obscene, lewd, etc.,
material (2nd conviction).

109

849.01 3rd Keeping gambling house.

110

849.09(1)(a)-(d) 3rd Lottery; set up, promote,
etc., or assist therein,
conduct or advertise drawing
for prizes, or dispose of
property or money by means
of lottery.

111

849.23 3rd Gambling-related machines;
"common offender" as to
property rights.

112

849.25(2) 3rd Engaging in bookmaking.

113

860.08 3rd Interfere with a railroad
signal.

114

860.13(1)(a) 3rd Operate aircraft while under
the influence.

115

893.13(2)(a)2. 3rd Purchase of cannabis.

116

893.13(6)(a) 3rd Possession of cannabis (more

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than 20 grams).

117

934.03(1)(a)

3rd

Intercepts, or procures any other person to intercept, any wire or oral communication.

118

119

Section 3. This act shall take effect October 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal and Civil Justice
Children, Families, and Elder Affairs
Commerce and Tourism
Communications, Energy, and Public Utilities
Community Affairs
Environmental Preservation and Conservation

SENATOR TRAVIS HUTSON

6th District

October 8, 2015

The Honorable Joe Negron
Chairman
Appropriations Subcommittee on Criminal and Civil Justice
201 The Capitol
404 South Monroe Street
Tallahassee, Florida 32399-1100

Dear Chairman Negron:

I would like to respectfully request that my bill, SB 218 – Offenses Involving Electronic Benefits Transfer Cards – be placed on the Appropriations Subcommittee on Criminal and Civil Justice agenda for the week of October 19, 2015.

SB 218 expands the explanation of the term “Trafficking” in 414.39 FS, to include the sale, purchase, or theft, attempted or otherwise, of Electronic Benefits Transfer (EBT) Cards. The bill includes a criminal penalty of a misdemeanor of the first degree if a person is found in possession of 2 or more EBT Cards issued to another person, and who attempts to sell, barter, or trade these cards.

Thank you in advance for your consideration of this request. If you have any questions or concerns, please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in black ink that reads "Travis Hutson".

Senator Travis Hutson
District 6

REPLY TO:

- 4875 Palm Coast Parkway, NW, Suite 5, Palm Coast, Florida 32137 (386) 446-7610 FAX: (888) 263-3475
- 312 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/3/18
Meeting Date

CS/SB 218
Bill Number (if applicable)

Topic CS/SB

Amendment Barcode (if applicable)

Name Buddy Jacobs

Job Title General Counsel FLA. Prosecuting Attys Assoc.

Address 961 687 Gateway Blvd.

Phone 904-261-3643

Street

Fernandina Bch
City

FL
State

32034
Zip

Email _____

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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)

11/3/2015
Meeting Date

Bill Number (if applicable)

Topic Sexual Assault Kits

Amendment Barcode (if applicable)

Name Jennifer Cook Pritt

Job Title Assistant Commissioner

Address 2331 Phillips Road

Phone 850 410 8246

Street

Tallahassee, FL 32306

City

State

Zip

Email Jennifer.pritt@doj.state.fl.us

Speaking: For Against Information

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

Representing FDLE

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)

11/3/2015
Meeting Date

Bill Number (if applicable)

Topic Sexual Assault Kits

Amendment Barcode (if applicable)

Name David Coffman

Job Title Director Forensic Services

Address 2331 Phillips Rd

Phone _____

Street

Tallahassee FL 32308

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Florida Dept. of Law Enf.

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)

Nov. 3, 2015
Meeting Date

Bill Number (if applicable)

Topic Sexual Assault kits

Amendment Barcode (if applicable)

Name Rob Johnson

Job Title Leg. Affairs Director

Address PL-01 The Capitol

Phone 245-0155

Street
City Tall State FL Zip 32399

Email rob.johnson@myfloridalegal.com

Speaking: For Against Information

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

Representing Attorney General Bondi

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)

Duplicate

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/3/2015
Meeting Date

Bill Number (if applicable)

Topic Processing of Sexual Assault Kits

Amendment Barcode (if applicable)

Name Sadie Darnell

Job Title Sheriff of Alachua County

Address 2621 SE Hawthorne Road

Phone 352-367-4020

Street
City Gainesville State FL Zip 32641-7546

Email sdarnell@alachuasheriff.org

Speaking: For Against Information

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

Representing Florida Sheriffs Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

November 3, 2015 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)
Meeting Date

Bill Number (if applicable)

Topic Discussion related to processing of sexual assault kits Amendment Barcode (if applicable)

Name Frank Fabrizio

Job Title Chief of Police, Ponce Inlet PD

Address 4301 S. Peninsula Drive Phone (386) 236-2160
Street

Ponce Inlet, FL 32127 Email ffabrizio@ponce-inlet.org
City State Zip

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

Representing The 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

11/3/15 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)
Meeting Date

Bill Number (if applicable)

Topic Sexual Assault Kits Amendment Barcode (if applicable)

Name Greg Bond

Job Title _____

Address 9166 Sunrise Dr. Phone _____
Street

Largo Fla. Email _____
City State Zip

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

Representing _____

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

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

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

S-001 (10/14/14)

CourtSmart Tag Report

Room: LL 37
Caption: Senate Criminal and Civil Justice Appropriations

Type:
Judge:

Started: 11/3/2015 12:59:49 PM
Ends: 11/3/2015 2:41:01 PM **Length:** 01:41:13

12:59:48 PM Quorum present
1:00:27 PM Senator Hutson-CS/SB 218
1:01:17 PM Senator Soto for a question-How often is this happening?
1:02:10 PM Senator Soto continues with a series of questions
1:03:08 PM State Attorney's Assoc. waives in support
1:03:21 PM CS/SB 218 favorable
1:03:57 PM CS/SB 228 by Senator Bean-Mandatory Minimum Sentences
1:04:53 PM Senator Soto with a series of questions
1:06:19 PM Buddy Jacobs support
1:06:32 PM Nancy Daniels support
1:07:29 PM Senator Flores in debate
1:08:28 PM Senator Bradley in debate
1:10:59 PM Senator Soto in debate
1:12:01 PM Senator Joyner in debate
1:14:18 PM Senator Bean to close
1:14:32 PM CS/SB 228 favorable
1:15:04 PM Senator Joyner wants to be recorded as voting favorable on CS/SB 218
1:15:30 PM Senator Negron talks about Sexual Assault Kits
1:18:13 PM Jennifer Pritt, Asst. Commissioner, Public Safety Services, FDLE
1:27:33 PM Senator Negron with a series of questions
1:29:12 PM Jennifer Pritt
1:29:42 PM Senator Bradley with a series of questions
1:30:56 PM Senator Negron with a series of questions
1:32:26 PM Jennifer Pritt answers
1:33:02 PM Senator Bradley
1:33:51 PM Senator Negron
1:37:24 PM Senator Negron continues with a series a questions
1:43:33 PM Senator Bradley
1:45:54 PM Senator Negron with a series of questions
1:47:05 PM Senator Joyner with a series of questions
1:50:21 PM Senator Soto with a series of questions
1:56:28 PM Senator Bradley
2:01:44 PM Senator Negron with a series of questions
2:04:45 PM Senator Bradley with quesitons
2:06:39 PM David Coffman, Chief, Forensic Services
2:07:14 PM Senator Negron with a series of questions
2:09:44 PM Senator Negron gives a directive to David Coffman to prepare for the committees
2:10:03 PM consideration a plan to timely do the cases that come in without outsourcing
2:10:24 PM assault kits.
2:10:46 PM Talk briefly about losing staff to other labs.
2:12:57 PM Senator Soto recognized for questions
2:13:47 PM Senator Negron continues
2:14:31 PM Senator Bradley regarding Federal Law Enforcement Authorities
2:18:16 PM Sheriff Sadie Darnell, Alachua County Sheriff
2:18:47 PM Senator Negron with a series of questions
2:23:48 PM Chief Frank Fabrizio, Ponce Inlet, Chief of Police/Chair, Legislative Committee, FPCA
2:26:40 PM Senator Bradley
2:28:37 PM Senator Negron
2:28:48 PM Senator Soto
2:31:48 PM Rob Johnson, Attorney General's office
2:34:17 PM Senator Joyner with a series of questions regardin;g funding
2:35:31 PM Greg Pound-Largo Florida

2:37:39 PM

Senator Negron with a recap on sexual assault kits in FDLE

2:38:57 PM

FDLE should not outsource these kits according to Senator Negron.

2:40:31 PM

adjourn