

**Tab 1** | **CS/SB 476** by **CJ, Bean**; (Similar to H 00457) Terrorism and Terrorist Activities

**Tab 2** | **CS/SB 684** by **CJ, Baxley**; (Similar to CS/H 00699) Internet Identifiers

**Tab 3** | **CS/SB 766** by **CJ, Rodriguez**; (Similar to CS/H 00343) Payment Card Offenses

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**Tab 4** | **SB 1564** by **Garcia**; (Similar to H 01385) Domestic Violence

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**  
**APPROPRIATIONS SUBCOMMITTEE ON CRIMINAL AND**  
**CIVIL JUSTICE**  
**Senator Bean, Chair**  
**Senator Bracy, Vice Chair**

**MEETING DATE:** Tuesday, April 18, 2017  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** Mallory Horne Committee Room, 37 Senate Office Building

**MEMBERS:** Senator Bean, Chair; Senator Bracy, Vice Chair; Senators Baxley, Clemens, and Perry

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 476</b> Criminal Justice / Bean (Similar H 457)	Terrorism and Terrorist Activities; Extending the applicability of the definition of the term "terrorism" to other sections of ch. 775, F.S.; prohibiting a person from using, attempting to use, or conspiring to use military-type training received from a designated foreign terrorist organization for certain purposes; prohibiting a person from providing material support or resources, or engaging in other specified actions, to violate specified criminal provisions, etc.  CJ 04/03/2017 Fav/CS MS 04/17/2017 Favorable ACJ 04/18/2017 Favorable AP	Favorable Yeas 5 Nays 0
2	<b>CS/SB 684</b> Criminal Justice / Baxley (Similar CS/H 699, Compare CS/H 701, Linked CS/S 686)	Internet Identifiers; Requiring a sexual predator to register each Internet identifier's corresponding website home page or application software name with the Department of Law Enforcement through the sheriff's office; requiring a sexual predator to report any change to certain information after initial in-person registration in a specified manner; providing that the department's sexual predator registration list is a public record, unless otherwise made exempt or confidential and exempt, etc.  CJ 04/03/2017 Fav/CS ACJ 04/18/2017 Favorable AP	Favorable Yeas 5 Nays 0
3	<b>CS/SB 766</b> Criminal Justice / Rodriguez (Similar CS/H 343)	Payment Card Offenses; Revising the offenses of using a scanning device or reencoder with the intent to defraud; prohibiting the use of a skimming device with intent to defraud; prohibiting the possession, sale, or delivery of a skimming device, etc.  CJ 04/03/2017 Fav/CS ACJ 04/18/2017 Fav/CS AP	Fav/CS Yeas 4 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations Subcommittee on Criminal and Civil Justice  
Tuesday, April 18, 2017, 1:30—3:30 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 1564</b> Garcia (Similar H 1385)	Domestic Violence; Specifying that a person must complete a batterers' intervention program ordered as a condition of probation in certain circumstances; increasing the minimum terms of imprisonment for domestic violence; prohibiting the award of attorney fees in specified domestic violence proceedings, etc.  CJ 04/03/2017 Favorable ACJ 04/18/2017 Favorable AP	Favorable Yeas 4 Nays 0

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Other Related Meeting Documents

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

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

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

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BILL: CS/SB 476

INTRODUCER: Criminal Justice Committee and Senator Bean

SUBJECT: Terrorism and Terrorist Activities

DATE: April 17, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Hrdlicka</u>	<u>CJ</u>	<b>Fav/CS</b>
2.	<u>Sanders</u>	<u>Ryon</u>	<u>MS</u>	<b>Favorable</b>
3.	<u>McAuliffe</u>	<u>Sadberry</u>	<u>ACJ</u>	<b>Recommend: Favorable</b>
4.	_____	_____	<u>AP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 476 addresses terrorism by creating a crime of terrorism and by also creating crimes for:

- Receiving military-type training from a designated foreign terrorist organization and using that training to unlawfully harm another person or damage a critical infrastructure facility;
- Providing material support or resources to designated foreign terrorist organizations, including providing such support or materials to be used for carrying out specified crimes;
- Becoming a member of such terrorist organization and serving under its direction or control with the intent to further the organization's illegal acts; and
- Engaging in agroterrorism.

The Criminal Justice Impact Conference estimates that the bill will have a positive indeterminate prison bed impact (an unquantifiable increase in prison beds).

**II. Present Situation:**

**Florida Law on Terrorism**

Florida does not have a crime of terrorism. Instead, Florida law defines the term "terrorism" and provides enhanced punishment for crimes that facilitated or furthered an act of terrorism.

Section 775.30(1), F.S., defines “terrorism” as an activity that:

- Involves a violent act or an act dangerous to human life which is a violation of criminal laws of this state or the United States or a violation of s. 815.06, F.S., which punishes unlawful acts against users of computers, computer systems, computer networks, or electronic devices; and
- Is intended to:
  - Intimidate, injure, or coerce a civilian population;
  - Influence the policy of a government by intimidation or coercion; or
  - Affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.

Section 775.31, F.S., provides that if a person is convicted of committing a felony or misdemeanor that facilitated or furthered any act of terrorism,<sup>1</sup> the court shall reclassify the felony or misdemeanor to the next higher degree as provided in this section. The reclassification is made in the following manner:

- In the case of a misdemeanor of the second degree, the offense is reclassified as a first degree misdemeanor.
- In the case of a first degree misdemeanor, the offense is reclassified as a third degree felony.
- In the case of a third degree felony, the offense is reclassified as a second degree felony.
- In the case of a second degree felony, the offense is reclassified as a first degree felony.
- In the case of a first degree felony or a first degree felony punishable by a term of imprisonment not exceeding life, the offense is reclassified as a life felony.

Reclassification of the degree of an offense has the effect of increasing the maximum sentence that a judge may impose for the offense. The maximum sentence for:

- A second degree misdemeanor is 60 days in jail and a \$500 fine;
- A first degree misdemeanor is 1 year in jail and a \$1,000 fine;
- A third degree felony is 5 years in state prison and a \$5,000 fine;
- A second degree felony is 15 years in state prison and a \$10,000 fine;
- A first degree felony is generally 30 years in state prison and a \$10,000 fine; and
- A life felony is generally a term of imprisonment for life or imprisonment for a term of years not exceeding life imprisonment and a \$15,000 fine.<sup>2</sup>

Additionally, felony reclassification may impact the scored lowest permissible sentence under the Criminal Punishment Code (Code). For example, a primary offense that is a second degree felony would typically score more sentence points than a primary offense that is a third degree felony.

For purposes of sentencing under the Code, the following offense severity ranking levels apply:

- An offense that is a first degree misdemeanor and that is reclassified as a third degree felony degree is ranked in Level 2 of s. 921.0022, the Code offense severity ranking chart.

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<sup>1</sup> The definition of “terrorism” in s. 775.31, F.S., is identical to the definition of that term in s. 775.30, F.S.

<sup>2</sup> Sections 775.082 and 775.083, F.S.

- A felony offense that is reclassified is ranked one level above the ranking specified in s. 921.0022, F.S., or s. 921.0023, F.S., (providing an assigned level ranking for offenses not ranked in the Code offense severity ranking chart).

### **Federal Laws on Terrorism**

Pursuant to 18 U.S.C. Section 2339A, it is unlawful to provide material support or resources or conceal or disguise the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, any listed violation of federal law or in preparation for, or in carrying out, the concealment of an escape from the commission of any such violation, or attempts or conspires to do such an act.

For purposes of this section, the following definitions of terms are provided:

- “Material support or resources” means “any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials”;
- “Training” means “instruction or teaching designed to impart a specific skill, as opposed to general knowledge”; and
- “Expert advice or assistance” means “advice or assistance derived from scientific, technical or other specialized knowledge.”

Pursuant to 18 U.S.C. Section 2339B, it is unlawful to provide material support or resources to a foreign terrorist organization, or attempt or conspire to do so. To commit this violation, a person must have knowledge that the organization:

- Is a designated terrorist organization;
- Has engaged or engages in terrorist activity as defined in Section 212(a)(3)(B) of the Immigration and Nationality Act (INA);<sup>3</sup> or
- Has engaged or engages in terrorism as defined in Section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.<sup>4</sup>

The terms “material support or resources,” “training,” and “expert advice or assistance” have the same meaning as provided in Section 2339A. The term “terrorist organization” means an

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<sup>3</sup> 8 U.S.C. Section 1182. Section 212(a)(3)(B)(iii) of the INA (11 U.S.C. Section 1182(a)(3)(B)(iii)) defines “terrorist activity” as any activity which is unlawful under the laws of the place where it is committed (or which, if it had been committed in the United States, would be unlawful under the laws of the United States or any state) and which involves any of the following: (1) hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle); (2) seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained; (3) a violent attack upon an internationally protected person or upon the liberty of such a person; (4) an assassination; (5) the use of any biological agent, chemical agent, nuclear weapon or device, explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain), with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property; or (6) a threat, attempt, or conspiracy to do any of the previously describe acts.

<sup>4</sup> Public Law 100-204 (1987), available at <https://www.govtrack.us/congress/bills/100/hr1777/text/enr> (last visited on April 13, 2017).

organization designated as a terrorist organization under Section 219 of the INA.<sup>5</sup> Section 219 of the INA authorizes the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to designate an organization as a foreign terrorist organization, in accordance with a process specified in that section, if the Secretary finds: (1) the organization is a foreign organization; (2) the organization engages in terrorist activity; and (3) the terrorist activity or terrorism of the organization threatens the security of United States nationals or the national security of the United States.

A person may not be prosecuted under 18 U.S.C. Section 2339B in connection with the term:

- “Personnel” unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include himself or herself) to work under that terrorist organization’s direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Individuals who act entirely independently of the foreign terrorist organization to advance its goals or objectives are not considered to be working under the foreign terrorist organization’s direction and control; or
- “Personnel,” “training,” or “expert advice or assistance” if the provision of that material support or resources to a foreign terrorist organization was approved by the Secretary of State with the concurrence of the Attorney General.<sup>6</sup>

Pursuant to 18 U.S.C. Section 2339D, it is unlawful to knowingly receive military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under Section 219 of the INA as a foreign terrorist organization. To commit this violation, a person must have knowledge that the organization:

- Is a designated terrorist organization as defined in Section 219 of the INA;
- Has engaged or engages in terrorist activity as defined in Section 212 of the INA; or
- Has engaged or engages in terrorism as defined in Section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.

Section 2339D provides that “military-type training” includes training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm, or other weapon, including any weapon of mass destruction. The term “foreign terrorist organization” has the same meaning as the term “terrorist organization” in 18 U.S.C. Section 2339B.

### **Felony Murder**

Section 782.04(1)(a)2., F.S., provides that it is first degree murder, a capital felony,<sup>7</sup> to unlawfully kill a human being when the killing is committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any of the listed offenses. One of those listed offenses is any felony that is an act of terrorism or is in furtherance of an act of terrorism.<sup>8</sup>

<sup>5</sup> 8 U.S.C. Section 1189.

<sup>6</sup> The Secretary of State may not approve the provision of any material support that may be used to carry out terrorist activity as defined in Section 212(a)(3)(B)(iii) of the INA.

<sup>7</sup> A capital felony is generally punishable by life imprisonment or a death sentence. Sections 775.082 and 921.141, F.S.

<sup>8</sup> Section 782.04(1)(a)2.r., F.S.

Section 782.04(3), F.S., provides that when a person is killed in the perpetration of, or in the attempt to perpetrate, any listed offense, by a person other than the person engaged in the perpetration of, or in the attempt to perpetrate, such offense, the person perpetrating or attempting to perpetrate such felony commits second degree murder, a first degree felony punishable by life imprisonment or by up to 30 years imprisonment.<sup>9</sup> One of those listed offenses is any felony that is an act of terrorism or is in furtherance of an act of terrorism.<sup>10</sup>

Section 782.04(4), F.S., provides that the unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than a listed offense is third degree murder, a second degree felony punishable by up to 15 years imprisonment.<sup>11</sup> One of those listed offenses is any felony that is an act of terrorism or is in furtherance of an act of terrorism.<sup>12</sup>

### III. Effect of Proposed Changes:

The bill, which takes effect October 1, 2017, addresses terrorism by creating a crime of terrorism and by also creating crimes for:

- Receiving military-type training from a designated foreign terrorist organization and using that training to unlawfully harm another person or damage a critical infrastructure facility;
- Providing material support or resources to designated foreign terrorist organizations, including providing such support or materials to be used for carrying out specified crimes;
- Becoming a member of such terrorist organization and serving under its direction or control with the intent to further the organization's illegal acts; and
- Engaging in agroterrorism.

The material support offenses and military-type training offense are patterned after federal terrorism statutes.

#### Crime of Terrorism (Section 1)

Section 1 amends s. 775.30, F.S., to define the term "terrorism" to create a crime of terrorism. A person who violates any listed statute or statutory provision in furtherance of intimidating or coercing the policy of a government, or in furtherance of affecting the conduct of a government by mass destruction, assassination, or kidnapping, commits the crime of terrorism, a first degree felony. However, it is a life felony if this violation results in death or serious bodily injury.<sup>13</sup>

The listed statutes or statutory provisions are:

- Section 782.04(1)(a)1. or (2), F.S., which, respectively, punish first degree murder (premeditated design) and first degree murder (felony murder);
- Section 782.065, F.S., which punishes murder of a law enforcement officer;

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<sup>9</sup> Section 775.082, F.S.

<sup>10</sup> Section 782.04(3)(r), F.S.

<sup>11</sup> Section 775.082, F.S.

<sup>12</sup> Section 782.04(4)(s), F.S.

<sup>13</sup> The bill defines "serious bodily injury" as an injury to a person that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of a bodily member or an organ. The term "serious bodily injury" has this same meaning when it is used in connection with other crimes created by the bill.



- Section 782.07(1), F.S., which punishes manslaughter;
- Section 782.09, F.S., which punishes the killing of an unborn child by injury to the mother;
- Section 784.045, F.S., which punishes aggravated battery;
- Section 784.07, F.S., which punishes assault or battery on a law enforcement officer or other specified persons;
- Section 787.01, F.S., which punishes kidnapping;
- Section 787.02, F.S., which punishes false imprisonment;
- Section 787.07, F.S., which punishes human smuggling;
- Section 790.115, F.S., which punishes possessing or discharging a weapon or firearm at a school-sponsored event or on school property;
- Section 790.15, F.S., which punishes discharging a firearm in public or on residential property;
- Section 790.16, F.S., which punishes discharging a machine gun;
- Section 790.161, F.S., which punishes making, possessing, throwing, projecting, placing, or discharging a destructive device;
- Section 790.1615, F.S., which punishes throwing, projecting, placing, or discharging a destructive device or bomb resulting in injury to another;
- Section 790.162, F.S., which punishes threatening to throw, project, place, or discharge any destructive device;
- Section 790.166, F.S., which punishes manufacturing, possessing, selling, delivering, displaying, using, or attempting or threatening to use a weapon of mass destruction or a hoax weapon of mass destruction;
- Section 790.19, F.S., which punishes shooting or throwing a deadly missile into dwellings, public or private buildings, or designated vehicle;
- Section 806.01, F.S., which punishes arson;
- Section 806.031, F.S., which punishes arson resulting in injury to another person;
- Section 806.111, F.S., which punishes possessing, manufacturing, transporting, or disposing fire bombs;
- Section 815.06, F.S., which punishes unlawful acts against users of computers, computer systems, computer networks, or electronic devices;
- Section 815.061, F.S., which punishes unlawful acts against public utilities;
- Section 859.01, F.S., which punishes poisoning food or water; and
- Section 876.34, F.S., which punishes combinations by force to usurp or overturn state government or forcibly interfere in government administration.

### **Unlawful Use of Military-Type Training from a Designated Foreign Terrorist Organization (Section 3)**

Section 3 creates s. 775.32, F.S., to provide that a person commits a second degree felony if he or she receives military-type training from a designated foreign terrorist organization and uses, attempts to use, or conspires to use such training with the intent to unlawfully harm another person or damage critical infrastructure facilities.<sup>14</sup> However, it is a first degree felony if this violation results in death or serious bodily injury.

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<sup>14</sup> “Critical infrastructure facility” is defined by reference to the definition of that term in s. 493.631, F.S. Section 493.631(1), F.S., defines a “critical infrastructure facility as any of the following if the facility employs measures such as fences, barriers,

“Military-type training” means training in means or methods that can cause the death of, or serious bodily injury to, another person, destroy or damage property or critical infrastructure facilities, or disrupt services to critical infrastructure; or training on the use, storage, production, or assembly of an explosive, a firearm, or any other weapon, including a weapon of mass destruction.<sup>15</sup>

“Designated foreign terrorist organization” means an organization designated as a terrorist organization under Section 219 of the INA.<sup>16</sup>

#### **Providing Material Support or Resources for Terrorism or to a Designated Foreign Terrorist Organization (Section 4)**

Section 4 creates s. 775.33, F.S., to include two crimes relating to providing material support to foreign terrorist organizations. Subsection (2) is patterned after 18 U.S.C. Section 2339A. Subsection (2) provides that it is a first degree felony for a person to provide material support or resources or conceal or disguise the nature, location, source, or ownership of material support or resources, knowing or intending that the support or resources are to be used in preparation for or in carrying out a violation of any of the following listed statutes or statutory provisions:

- Section 775.30, F.S. (created by the bill), which includes the new crime of terrorism;
- Section 775.32, F.S. (created by the bill), which includes the new crime of unlawful use of military-type training from a designated foreign terrorist organization;
- Section 775.34, F.S. (created by the bill), which includes the new crime of membership in a designated foreign terrorist organization (discussed below);
- Section 775.35, F.S., which includes the new crime of agroterrorism (discussed below);
- Section 790.16, F.S., which punishes discharging a machine gun;
- Section 790.161(2), (3), or (4), F.S., which punishes making, possessing, throwing, projecting, placing, or discharging a destructive device if the act was perpetrated with the intent to do bodily harm, damage property, or disrupt governmental operations, commerce, or a person’s private affairs, or resulted in bodily harm or death;
- Section 790.166, F.S., which punishes manufacturing, possessing, selling, delivering, displaying, using, or attempting or threatening to use a weapon of mass destruction or a hoax weapon of mass destruction;

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or guard posts that are designed to exclude unauthorized persons: (1) a chemical manufacturing facility; (2) a refinery; (3) an electrical power plant, including a substation, switching station, electrical control center, or electric transmission or distribution facility; (4) a water intake structure, water treatment facility, wastewater treatment plant, or pump station; (5) a natural gas transmission compressor station; (6) a liquid natural gas terminal or storage facility; (7) a telecommunications central switching office; (8) a deepwater port or railroad switching yard; or (9) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas.

<sup>15</sup> “Weapons of mass destruction” is defined by reference to the definition of that term in s. 790.166, F.S. Section 790.166(1)(a), F.S., defines a “weapons of mass destruction” as any of the following: (1) any device or object that is designed or intended to cause death or serious bodily injury to any human or animal, or severe emotional or mental harm to any human, through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors; (2) any device or object involving a biological agent; or (3) any device or object that is designed or intended to release radiation or radioactivity at a level dangerous to human or animal life; or (4) any biological agent, toxin, vector, or delivery system. Section 790.166(8)(a), F.S., specifies authorized exceptions for possession or use.

<sup>16</sup> The term “designated foreign terrorist organization” has this same meaning when it is used in connection with other crimes created by the bill.

- Section 790.19, F.S., which punishes shooting or throwing a deadly missile into dwellings, public or private buildings, or designated vehicles;
- Section 815.06, F.S., which punishes unlawful acts against users of computers, computer systems, computer networks, or electronic devices;
- Section 859.01, F.S., which punishes poisoning food or water;
- Section 860.121, F.S., which punishes shooting at, throwing any object capable of causing death or great bodily harm at, or placing any object capable of causing death or great bodily harm in the path of any railroad train or other railroad vehicle;
- Section 860.16, F.S., which punishes aircraft piracy;
- Section 876.32, F.S., which punishes treason;
- Section 876.34, F.S., which punishes combinations by force to usurp or overturn state government or forcibly interfere in government administration; or
- Section 876.36, F.S., which punishes inciting insurrection.

Subsection (2) also provides that it is a first degree felony to conceal an escape from the commission of any of the above-described violations or to attempt or conspire to carry out any such violation.

For purposes of s. 775.33, F.S., “material support or resources” means any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training,<sup>17</sup> expert advice or assistance,<sup>18</sup> safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, or transportation. The term does not include medicine or religious materials.

Subsection (3) is patterned after 18 U.S.C. Section 2339B. Subsection (3) provides that it is a first degree felony to knowingly provide material support or resources to a designated foreign terrorist organization, or to attempt or conspire to do so. To commit this offense, a person must have knowledge that the organization is a designated foreign terrorist organization or that the organization has engaged in or engages in terrorism or terrorist activity.

If a violation of s. 775.33(2) or (3), F.S., results in death or serious bodily injury, the violation is enhanced to a life felony.

For purposes of prosecuting a violation of s. 775.33(2) or (3), F.S., a person is deemed to provide material support or resources by providing personnel if the person knowingly provides, attempts to provide, or conspires to provide himself or herself or another person:

- To a person engaged in, or intending to engage in, an act of terrorism to work under the direction and control of the person engaged in, or intending to engage in, an act of terrorism,

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<sup>17</sup> “Training” means instruction or teaching designed to impart a specific skill rather than general knowledge.

<sup>18</sup> “Expert advice or assistance” means advice or assistance derived from scientific, technical, or other specialized knowledge.

or to organize, manage, supervise, or otherwise direct the operations of the person engaged in, or intending to engage in, an act of terrorism; or

- To work under the direction and control of a designated foreign terrorist organization, or to organize, manage, supervise, or otherwise direct the operation of that organization.<sup>19</sup>

Section 775.33, F.S., also:

- Specifies that an individual who acts entirely independently of the person engaged in, or intending to engage in, an act of terrorism or the designated foreign terrorist organization to advance the person's or organization's goals or objectives is not working under the direction and control of the person engaged in, or intending to engage in, an act of terrorism or the designated foreign terrorist organization;
- Prohibits prosecuting a person under s. 775.33, F.S., if his or her activity was authorized by a governmental or law enforcement agency of this state or of the United States in the agency's official capacity and pursuant to a lawful purpose;
- Provides that it is the intent of the Legislature that a violation of s. 775.33(2) or (3), F.S., be interpreted in a manner consistent with federal case law interpreting 18 U.S.C. Sections 2339A and 2339B;<sup>20</sup> and
- Requires the Florida Department of Law Enforcement,<sup>21</sup> in consultation with the Office of the Attorney General, to create guidelines for law enforcement investigations conducted pursuant to this section to ensure the protection of privacy rights, civil rights, and civil liberties.

### **Membership in a Designated Foreign Terrorist Organization (Section 5)**

Section 5 creates s. 775.34, F.S., to provide that it is a second degree felony to willfully become a member of a designated foreign terrorist organization and serve under the direction or control of that organization *with the intent to further the illegal acts of the organization*. As provided in the bill, membership alone does not constitute a crime.

### **Agroterrorism (Section 6)**

Section 6 creates s. 775.35, F.S., to provide that it is a second degree felony for a person to intentionally disseminate or spread any type of contagious, communicable, or infectious disease

<sup>19</sup> A notable difference between the bill and federal law is that the prosecution language in the bill applies to s. 775.33(2), F.S., which is patterned after 18 U.S.C. Section 2339B, and to s. 775.33(3), F.S., which is patterned after 18 U.S.C. section 2339B. In contrast, the prosecution language in 18 U.S.C. Section 2339B only applies to that section. Another notable difference between the bill and federal law is that the prosecution language in the bill covers a person who provides himself or herself or another person to a person engaged in, or intending to engage in, an act of terrorism. The prosecution language in 18 U.S.C. Section 2339B does not cover such person.

<sup>20</sup> Section 775.33, F.S., does not contain a provision similar to 18 U.S.C. Section 2339B(i), which provides that nothing in 18 U.S.C. Section 2339B shall be construed or applied so as to abridge the exercise of rights guaranteed under the First Amendment. However, interpretation of s. 775.33(2) and (3), F.S., would presumably be consistent with this rule of construction of s. 775.33(2) or (3), F.S., because of legislative intent to interpret these subsections in a manner consistent with federal case law interpreting 18 U.S.C. Sections 2339A and 2339B.

<sup>21</sup> The Florida Department of Law Enforcement (FDLE) coordinates and directs counterterrorism efforts for Florida. FDLE's Commissioner serves as incident commander for the state in the event of a terrorist incident, and the Special Agent in Charge of FDLE's Office of Statewide Investigative Services serves as Florida's Homeland Security Advisor. *Long-Range Program Plan FY 17-18 through 21-22* (September 30, 2016), p. 16, Florida Department of Law Enforcement, available at <http://floridafiscalportal.state.fl.us/Publications.aspx?AgyID=7100> (last visited on April 13, 2017).

among crops, poultry, livestock, or other animals. However, it is a life felony if this violation results in death or serious bodily injury.

It is an affirmative defense to this violation if the activity is consistent with a medically recognized procedure or if the activity is done in the course of legitimate, professional scientific research.

The elements of the new agroterrorism crime and affirmative defense are identical to Missouri's agroterrorism crime and affirmative defense.<sup>22</sup>

### **Felony Murder (Section 7)**

Section 7 amends the felony murder provisions of s. 782.04, F.S. Currently these provisions reference a felony that is an act of terrorism or is in furtherance of an act of terrorism as a predicate offense. The bill includes specific reference to a felony under s. 775.30, F.S., s. 775.32, F.S., s. 775.33, F.S. s. 775.34, F.S., or s. 775.35, F.S. These sections include the new crime of terrorism and new terrorism-related crimes created by the bill.

### **“Terroristic Activity” and Felony Degree Reclassification of Offenses Facilitating Terrorism (Sections 1 and 2)**

Section 1 also amends the definition of “terrorism” in s. 775.30, F.S., to provide that the definition of this term also covers the term “terroristic activity.”

Section 2 amends s. 775.31, F.S., to specify that, as used in that section, the term “terrorism” has the same meaning as provided in s. 775.30(1), F.S. The bill also specifies that reclassification of offenses under s. 775.31, F.S., does not apply to s. 775.30, F.S., s. 775.32, F.S., s. 775.33, F.S., s. 775.34, F.S., or s. 775.35, F.S. These sections include the new crime of terrorism and new terrorism-related crimes created by the bill.

### **Reenactments (Sections 8-33)**

Sections 8-33 of the bill reenact, ss. 373.6055, 381.95, 395.1056, 874.03, 907.041, 943.0312, 943.0321, 27.401, 39.806, 63.089, 95.11, 435.04, 435.07, 775.082, 775.0823, 782.051, 782.065, 903.133, 921.0022, 921.16, 947.146, 948.06, 948.062, 985.265, 1012.315, 1012.467, F.S., respectively for the purpose of incorporating amendments to ss. 775.30 and 782.04, F.S.

## **IV. Constitutional Issues:**

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

None.

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

None.

<sup>22</sup> MO Rev. Stat. section 574.130 (2016).

## C. Trust Funds Restrictions:

None.

## D. Other Constitutional Issues:

Most constitutional challenges to federal terrorism statutes appear to be directed at 18 U.S.C. Section 2339B<sup>23</sup> and involve First Amendment challenges to that statute (freedom of speech and association). One reason for the focus on this statute may be that “[u]nder Section 2339B, a person just has to attempt, conspire, or actually provide support to a *terrorist organization*, while under Section 2339A a person has to attempt, conspire, or actually provide support to a specific *terroristic act*.”<sup>24</sup>

The leading case involving First Amendment challenges to 18 U.S.C. Section 2339B is *Holder v. Humanitarian Project*.<sup>25</sup> In this case, the U.S. Supreme Court considered a pre-enforcement challenge to the statute. The plaintiffs claimed that they wished to provide support for the humanitarian activities and political activities of two designated foreign terrorist organizations (FTOs) but could not do so for fear of prosecution under 18 U.S.C. Section 2339B. This support was to consist of monetary contributions, other tangible aid, legal training, and political advocacy. The plaintiffs claimed that the statute was unconstitutionally vague and violated their freedom of speech and association under the First Amendment because it criminalized their material support to the FTOs without requiring the government to prove the plaintiffs specifically intended to further illegal activities of the FTOs.

Before addressing the Plaintiffs’ vagueness, free speech, and free association claims, the U.S. Supreme Court considered and rejected the plaintiffs’ contention that the Court should interpret the statute, when applied to speech, to require proof that a defendant intended to further illegal activities of a FTO. The Court found that the text of the statute did not support this interpretation and that a case on which the plaintiffs had heavily relied for support, *Scales v. United States*,<sup>26</sup> did not apply to 18 U.S.C. Section 2339B: “Section 2339B does not criminalize mere membership in a designated foreign terrorist organization. It instead prohibits ‘material support’ to such a group.”<sup>27</sup> In *Scales*, the Court held that a person could not be convicted under a federal law which prohibited membership in a group advocating the violent overthrow of the government, unless the person had knowledge of the group’s illegal advocacy and a specific intent to violently overthrow the government.

The Court limited its analysis of the vagueness claim to addressing “whether the statute ‘provide[s] a person of ordinary intelligence fair notice of what is prohibited’”<sup>28</sup> The

<sup>23</sup> As previously noted, s. 775.33, F.S., which is created by the bill, is patterned after this statute.

<sup>24</sup> Tuley, Aaron. “*Holder v. Humanitarian Law Project*: Redefining Free Speech Protection In The War On Terror,” Vol. 49:579, No. 2 (2016), at p. 584 (footnotes omitted), *Indiana Law Review*, available at <https://journals.iupui.edu/index.php/inlawrev/article/view/21003> (last visited on April 13, 2017).

<sup>25</sup> 561 U.S. 1 (2010).

<sup>26</sup> 376 U.S. 203 (1961).

<sup>27</sup> *Holder*, 561 U.S. at 18.

<sup>28</sup> *Holder*, 561 U.S. at 20, quoting *United States v. Williams*, 553 U.S. 285, 304 (2008).

Court determined that the statute did provide fair notice to the plaintiffs. While acknowledging that the statute might not be clear in every application, the Court found that the statutory terms clearly applied to the plaintiffs' proposed conduct. The Court's findings that the terms "personnel" and "service" do not cover "independent advocacy" were important to its later analysis of the free speech claim.

Before addressing the free speech and association claims, the Court rejected the position of the plaintiffs that Congress had banned their political speech, finding that the statute does not prohibit communication on any topic or membership in a FTO. Instead, the statute prohibits providing material support. The court found that most often material support does not involve speech but when it does "the statute is carefully drawn to cover only a narrow category of speech to, under the direction of, or in coordination with foreign groups that the speaker knows to be terrorist organizations."<sup>29</sup> The Court also rejected the government's position that the only issue in the case was conduct, not speech. The Court found that the plaintiffs' conduct "triggering coverage under the statute consists of communicating a message."<sup>30</sup> Therefore, the question was whether the government could prohibit the plaintiffs from providing material support to the FTOs "in the form of speech."<sup>31</sup> The Court determined that the government could because it found a compelling governmental interest (national security) and Congress had taken action to address potential constitutional concerns.

In reaching this determination, the Court relied, in part, on a finding by Congress that FTOs were "so tainted by their criminal conduct" that any contribution to a FTO would further that conduct.<sup>32</sup> The Court also relied on statements from a State Department official supporting this finding. The Court also found it "significant that Congress has been conscious of its own responsibility to consider how its actions may implicate constitutional concerns": applying the statute only to FTOs; narrowing definitions and explaining knowledge required under the statute; indicating its intent not to abridge the First Amendment; creating limited exceptions to the material support ban (e.g., medicine and religious materials); and, most importantly, avoiding "any restriction on independent advocacy, or indeed any activities not directed to, coordinated with, or controlled by" FTOs.<sup>33</sup>

Finally, the Court disposed of the plaintiffs' free association claim. The Court found that the federal Ninth Circuit Court of Appeals had correctly rejected this claim because the statute does not penalize mere association with a FTO. Further, the Court found that any burden on the plaintiffs' freedom of association in regard to providing material support to the FTOs was justified for the same reasons the Court denied the plaintiffs' free speech challenge.

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<sup>29</sup> *Holder*, 561 U.S. at 26 (footnote omitted).

<sup>30</sup> *Holder*, 561 U.S. at 28.

<sup>31</sup> *Id.*

<sup>32</sup> *Holder*, 561 U.S. at 29, quoting s. 301(a)(7) of the Antiterrorism and Effective Death Penalty Act of 1996, Public Law 104-132 (1996), available at <https://www.uscis.gov/sites/default/files/ocomm/ilink/0-0-0-8598.html#0-0-0-903> (last visited on April 13, 2017).

<sup>33</sup> *Holder*, 561 U.S. at 36.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Criminal Justice Impact Conference (CJIC), estimated that the original bill will have a “positive indeterminate” prison bed impact (an unquantifiable increase in prison beds).<sup>34</sup> The nominal changes to the original bill should not change that estimate.

Per the Department of Corrections, in FY 2015-2016, there were 2,603 prison admissions for the offenses specified for those that could be considered terrorism, given the intent described under the amended s. 775.30, F.S. The same number of admissions exist when the additional offenses are included under s. 775.33, F.S. It is not known how many of these offenses included the intent defined in this bill.

Per the FDLE, there were 12 arrests since 2011 under s. 775.31, F.S., for felonies facilitating or furthering terrorism. Few of these had a court record, but those that did were recorded as dismissed.

The FDLE is required to create certain guidelines, in consultation with the Attorney General, under the bill (Section 4); however, the FDLE reports that the bill will have no fiscal impact.<sup>35</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill creates new second degree felonies, first degree felonies, and life felonies. Because the bill does not specifically rank the new offenses in s. 921.0022, F.S., the Code offense severity ranking chart, they are assigned the following ranking pursuant to s. 921.0023, F.S.:

- A second degree felony is ranked in level 4;
- A first degree felony is ranked in level 7; and
- A life felony is ranked in level 10.

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<sup>34</sup> Impact information was provided by staff of the Office of Economic and Demographic Research on March 6, 2017, via e-mail (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security). All information in this section of the analysis is from this source.

<sup>35</sup> 2017 FDLE Legislative Bill Analysis (SB 476) (February 1, 2017) (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).



Generally, a first-time offender with a Level 4 offense will not score a lowest permissible sentence of state prison but the court still has the discretion to impose a state prison sentence up to the statutory maximum in s. 775.082, F.S.<sup>36</sup> However, if the victim died or was severely injured as a result of the offense, this offender will score a lowest permissible sentence of state prison.<sup>37</sup> A first-time offender with a Level 7 or Level 10 offense will score a lowest permissible sentence of state prison, regardless of victim injury.<sup>38</sup>

### VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 775.30, 775.31, and 782.04.

This bill creates the following sections of the Florida Statutes: 775.32, 775.33, 775.34, and 775.35.

This bill reenacts ss. 27.401, 39.806, 63.089, 95.11, 373.6055, 381.95, 395.1056, 435.04, 435.07, 775.082, 775.0823, 782.051, 782.065, 874.03, 903.133, 907.041, 921.0022, 921.16, 943.0312, 943.0321, 947.146, 948.06, 948.062, 985.265, 1012.315, and 1012.467, F.S., for the purpose of incorporating amendments to ss. 775.30 and 782.04, 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 April 3, 2017:**

The committee substitute:

- Revises the elements of the crime of terrorism to provide that a person commits this crime by violating any listed statute or statutory provision in furtherance of intimidating or coercing the policy of a government, or in furtherance of affecting the conduct of a government by mass destruction, assassination, or kidnapping.
- Revises the elements of the crime of unlawful use of military-type training from a designated foreign terrorist organization to provide that a person commits this crime if he or she receives military-type training from a designated foreign terrorist organization and uses, attempts to use, or conspires to use such training with the intent to *unlawfully* harm another person or damage critical infrastructure facilities.

- B. **Amendments:**

None.

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

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<sup>36</sup> Section 921.0024, F.S.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

By the Committee on Criminal Justice; and Senator Bean

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1 A bill to be entitled  
 2 An act relating to terrorism and terrorist activities;  
 3 amending s. 775.30, F.S.; extending the applicability  
 4 of the definition of the term "terrorism" to other  
 5 sections of ch. 775, F.S.; defining the term  
 6 "terrorist activity"; providing that a violation of  
 7 specified criminal provisions in furtherance of  
 8 certain objectives is a crime of terrorism; providing  
 9 penalties; providing increased penalties if the action  
 10 results in death or serious bodily injury; defining  
 11 the term "serious bodily injury"; amending s. 775.31,  
 12 F.S.; redefining the term "terrorism"; providing  
 13 applicability; creating s. 775.32, F.S.; defining  
 14 terms; prohibiting a person from using, attempting to  
 15 use, or conspiring to use military-type training  
 16 received from a designated foreign terrorist  
 17 organization for certain purposes; providing  
 18 penalties; providing increased penalties if the  
 19 actions result in death or serious bodily injury;  
 20 creating s. 775.33, F.S.; defining terms; prohibiting  
 21 a person from providing material support or resources,  
 22 or engaging in other specified actions, to violate  
 23 specified criminal provisions; providing penalties;  
 24 prohibiting a person from attempting to provide,  
 25 conspiring to provide, or knowingly providing material  
 26 support or resources to a designated foreign terrorist  
 27 organization; providing penalties; providing increased  
 28 penalties if specified actions result in death or  
 29 serious bodily injury; specifying the circumstances

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30 under which a person provides material support by  
 31 providing personnel; prohibiting prosecution under  
 32 certain circumstances; providing legislative intent;  
 33 requiring the Department of Law Enforcement, in  
 34 consultation with the Office of the Attorney General,  
 35 to create specified guidelines; creating s. 775.34,  
 36 F.S.; providing penalties for a person who willfully  
 37 becomes a member of a designated foreign terrorist  
 38 organization and serves under the direction or control  
 39 of the organization with the intent to further the  
 40 illegal acts of the organization; defining the term  
 41 "designated foreign terrorist organization"; creating  
 42 s. 775.35, F.S.; providing penalties for a person who  
 43 intentionally disseminates or spreads any type of  
 44 contagious, communicable, or infectious disease among  
 45 crops, poultry, livestock, or other animals; providing  
 46 an affirmative defense; providing increased penalties  
 47 if specified actions result in death or serious bodily  
 48 injury; defining the term "serious bodily injury";  
 49 amending s. 782.04, F.S.; revising the provisions  
 50 related to terrorism for murder in the first degree,  
 51 murder in the second degree, and murder in the third  
 52 degree to include the terrorism felonies created by  
 53 this act; reenacting ss. 373.6055(3)(c), 381.95(1),  
 54 395.1056(1)(a) and (2), 874.03(7), 907.041(4)(a),  
 55 943.0312(2), and 943.0321(2), F.S., relating to the  
 56 definition of the term "terrorism," to incorporate the  
 57 amendment made to s. 775.30, F.S., in references  
 58 thereto; reenacting ss. 27.401(2), 39.806(1)(d),

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59 63.089(4)(b), 95.11(10), 435.04(2)(e), 435.07(4)(c),  
 60 775.082(1)(b) and (3)(a), (b), and (c), 775.0823(1),  
 61 (2), (4), (5), (6), and (7), 782.051, 782.065,  
 62 903.133, 921.0022(3)(h) and (i), 921.16(1),  
 63 947.146(3)(i), 948.06(8)(c), 948.062(1),  
 64 985.265(3)(b), and 1012.315(1)(d), F.S., relating to  
 65 capital felonies, murder in the first degree, murder  
 66 in the second degree, and murder in the third degree,  
 67 to incorporate the amendment made to s. 782.04, F.S.,  
 68 in references thereto; reenacting s. 1012.467(2)(g),  
 69 F.S., relating to terrorism and murder, to incorporate  
 70 the amendments made to ss. 775.30 and 782.04, F.S., in  
 71 references thereto; providing an effective date.

72  
 73 WHEREAS, the domestic security of the State of Florida and  
 74 terrorism prevention within the state's borders are of paramount  
 75 importance, and

76 WHEREAS, the threats to the domestic security of the State  
 77 of Florida are constantly evolving and expanding, and

78 WHEREAS, it is incumbent upon officials of the State of  
 79 Florida to prevent future acts of terrorism and to bring to  
 80 justice those who attempt, solicit, support, commit, or conspire  
 81 to commit acts of terrorism, and

82 WHEREAS, law enforcement officials in the State of Florida  
 83 require adequate and appropriate authority to investigate and  
 84 prevent potential acts of terrorism or acts of mass catastrophe  
 85 in the state, and

86 WHEREAS, the constitutional rights of the residents of and  
 87 visitors to the State of Florida are also of great importance,

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88 and those rights can be safeguarded through reasonable  
 89 protections in appropriate law enforcement actions, NOW,  
 90 THEREFORE,

91  
 92 Be It Enacted by the Legislature of the State of Florida:

93  
 94 Section 1. Section 775.30, Florida Statutes, is amended to  
 95 read:

96 775.30 Terrorism; defined; penalties.—

97 (1) As used in this chapter and the Florida Criminal Code,  
 98 the term "terrorism" or "terrorist activity" means an activity  
 99 that:

100 ~~(1)~~(a) Involves a violent act or an act dangerous to human  
 101 life which is a violation of the criminal laws of this state or  
 102 of the United States; or

103 (b) Involves a violation of s. 815.06; and

104 (c)~~(2)~~ Is intended to:

105 1.~~(a)~~ Intimidate, injure, or coerce a civilian population;

106 2.~~(b)~~ Influence the policy of a government by intimidation  
 107 or coercion; or

108 3.~~(e)~~ Affect the conduct of government through destruction  
 109 of property, assassination, murder, kidnapping, or aircraft  
 110 piracy.

111 (2) A person who violates s. 782.04(1)(a)1. or (2), s.  
 112 782.065, s. 782.07(1), s. 782.09, s. 784.045, s. 784.07, s.  
 113 787.01, s. 787.02, s. 787.07, s. 790.115, s. 790.15, s. 790.16,  
 114 s. 790.161, s. 790.1615, s. 790.162, s. 790.166, s. 790.19, s.  
 115 806.01, s. 806.031, s. 806.111, s. 815.06, s. 815.061, s.  
 116 859.01, or s. 876.34, in furtherance of intimidating or coercing

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117 the policy of a government, or in furtherance of affecting the  
 118 conduct of a government by mass destruction, assassination, or  
 119 kidnapping, commits the crime of terrorism, a felony of the  
 120 first degree, punishable as provided in s. 775.082, s. 775.083,  
 121 or s. 775.084.

122 (3) A person who commits a violation of subsection (2)  
 123 which results in death or serious bodily injury commits a life  
 124 felony, punishable as provided in s. 775.082, s. 775.083, or s.  
 125 775.084. As used in this subsection, the term "serious bodily  
 126 injury" means an injury to a person which creates a substantial  
 127 risk of death, serious personal disfigurement, or protracted  
 128 loss or impairment of the function of a bodily member or an  
 129 organ.

130 Section 2. Section 775.31, Florida Statutes, is amended to  
 131 read:

132 775.31 Facilitating or furthering terrorism; felony or  
 133 misdemeanor reclassification.—

134 (1) If a person is convicted of committing a felony or  
 135 misdemeanor that facilitated or furthered any act of terrorism,  
 136 the court shall reclassify the felony or misdemeanor to the next  
 137 higher degree as provided in this section. The reclassification  
 138 shall be made in the following manner:

139 (a) In the case of a misdemeanor of the second degree, the  
 140 offense is reclassified as a misdemeanor of the first degree.

141 (b) In the case of a misdemeanor of the first degree, the  
 142 offense is reclassified as a felony of the third degree.

143 (c) In the case of a felony of the third degree, the  
 144 offense is reclassified as a felony of the second degree.

145 (d) In the case of a felony of the second degree, the

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146 offense is reclassified as a felony of the first degree.

147 (e) In the case of a felony of the first degree or a felony  
 148 of the first degree punishable by a term of imprisonment not  
 149 exceeding life, the offense is reclassified as a life felony.

150 (2) For purposes of sentencing under chapter 921, the  
 151 following offense severity ranking levels apply:

152 (a) An offense that is a misdemeanor of the first degree  
 153 and that is reclassified under this section as a felony of the  
 154 third degree is ranked in level 2 of the offense severity  
 155 ranking chart.

156 (b) A felony offense that is reclassified under this  
 157 section is ranked one level above the ranking specified in s.  
 158 921.0022 or s. 921.0023 for the offense committed.

159 (3) As used in this section, the term "terrorism" has the  
 160 same meaning as provided in s. 775.30(1) means an activity that:

161 ~~(a)1. Involves a violent act or an act dangerous to human~~  
 162 ~~life which is a violation of the criminal laws of this state or~~  
 163 ~~of the United States; or~~

164 ~~2. Involves a violation of s. 815.06; and~~

165 ~~(b) Is intended to:~~

166 ~~1. Intimidate, injure, or coerce a civilian population;~~

167 ~~2. Influence the policy of a government by intimidation or~~  
 168 ~~coercion; or~~

169 ~~3. Affect the conduct of government through destruction of~~  
 170 ~~property, assassination, murder, kidnapping, or aircraft piracy.~~

171 (4) The reclassification of offenses under this section  
 172 does not apply to s. 775.30, s. 775.32, s. 775.33, s. 775.34, or  
 173 s. 775.35.

174 Section 3. Section 775.32, Florida Statutes, is created to

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175 read:

176 775.32 Use of military-type training provided by a  
 177 designated foreign terrorist organization.-

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

179 (a) "Critical infrastructure facility" has the same meaning  
 180 as provided in s. 493.631.

181 (b) "Designated foreign terrorist organization" means an  
 182 organization designated as a terrorist organization under s. 219  
 183 of the Immigration and Nationality Act.

184 (c) "Military-type training" means training in means or  
 185 methods that can cause the death of, or serious bodily injury  
 186 to, another person, destroy or damage property or critical  
 187 infrastructure facilities, or disrupt services to critical  
 188 infrastructure facilities; or training on the use, storage,  
 189 production, or assembly of an explosive, a firearm, or any other  
 190 weapon, including a weapon of mass destruction.

191 (d) "Serious bodily injury" has the same meaning as  
 192 provided in s. 775.30(3).

193 (e) "Weapon of mass destruction" has the same meaning as  
 194 provided in s. 790.166.

195 (2) A person who has received military-type training from a  
 196 designated foreign terrorist organization may not use, attempt  
 197 to use, or conspire to use such military-type training with the  
 198 intent to unlawfully harm another person or damage critical  
 199 infrastructure facilities.

200 (3) A person who commits a violation of subsection (2)  
 201 commits a felony of the second degree, punishable as provided in  
 202 s. 775.082, s. 775.083, or s. 775.084.

203 (4) A person who commits a violation of subsection (2)

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204 which results in the death of, or serious bodily injury to, a  
 205 person commits a felony of the first degree, punishable as  
 206 provided in s. 775.082, s. 775.083, or s. 775.084.

207 Section 4. Section 775.33, Florida Statutes, is created to  
 208 read:

209 775.33 Providing material support or resources for  
 210 terrorism or to terrorist organizations.-

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

212 (a) "Designated foreign terrorist organization" has the  
 213 same meaning as provided in s. 775.32.

214 (b) "Expert advice or assistance" means advice or  
 215 assistance derived from scientific, technical, or other  
 216 specialized knowledge.

217 (c) "Material support or resources" means any property,  
 218 tangible or intangible, or service, including currency or  
 219 monetary instruments or financial securities, financial  
 220 services, lodging, training, expert advice or assistance, safe  
 221 houses, false documentation or identification, communications  
 222 equipment, facilities, weapons, lethal substances, explosives,  
 223 personnel, or transportation. The term does not include medicine  
 224 or religious materials.

225 (d) "Serious bodily injury" has the same meaning as  
 226 provided in s. 775.30(3).

227 (e) "Training" means instruction or teaching designed to  
 228 impart a specific skill rather than general knowledge.

229 (2) A person who provides material support or resources or  
 230 conceals or disguises the nature, location, source, or ownership  
 231 of material support or resources, knowing or intending that the  
 232 support or resources are to be used in preparation for or in

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233 carrying out a violation of s. 775.30, s. 775.32, s. 775.34, s.  
 234 775.35, s. 790.16, s. 790.161(2), (3), or (4), s. 790.166, s.  
 235 790.19, s. 815.06, s. 859.01, s. 860.121, s. 860.16, s. 876.32,  
 236 s. 876.34, or s. 876.36; who conceals an escape from the  
 237 commission of any such violation; or who attempts or conspires  
 238 to carry out such violation commits a felony of the first  
 239 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 240 775.084.

241 (3) A person who knowingly provides material support or  
 242 resources to a designated foreign terrorist organization, or  
 243 attempts or conspires to do so, commits a felony of the first  
 244 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 245 775.084. To violate this subsection, a person must have  
 246 knowledge that the organization is a designated foreign  
 247 terrorist organization or that the organization has engaged in  
 248 or engages in terrorism or terrorist activity.

249 (4) A person who commits a violation of subsection (2) or  
 250 subsection (3) which results in death or serious bodily injury  
 251 commits a life felony, punishable as provided in s. 775.082, s.  
 252 775.083, or s. 775.084.

253 (5) (a) For purposes of prosecution under subsection (2) or  
 254 subsection (3), a person is deemed to provide material support  
 255 or resources by providing personnel if the person knowingly  
 256 provides, attempts to provide, or conspires to provide himself  
 257 or herself or another person:

258 1. To a person engaged in, or intending to engage in, an  
 259 act of terrorism to work under the direction and control of the  
 260 person engaged in, or intending to engage in, an act of  
 261 terrorism, or to organize, manage, supervise, or otherwise

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262 direct the operations of the person engaged in, or intending to  
 263 engage in, an act of terrorism; or

264 2. To work under the direction and control of a designated  
 265 foreign terrorist organization, or to organize, manage,  
 266 supervise, or otherwise direct the operation of that  
 267 organization.

268 (b) An individual who acts entirely independently of the  
 269 person engaged in, or intending to engage in, an act of  
 270 terrorism or the designated foreign terrorist organization to  
 271 advance the person's or organization's goals or objectives is  
 272 not working under the direction and control of the person  
 273 engaged in, or intending to engage in, an act of terrorism or  
 274 the designated foreign terrorist organization.

275 (6) A person may not be prosecuted under this section if  
 276 his or her activity was authorized by a governmental or law  
 277 enforcement agency of this state or of the United States in the  
 278 agency's official capacity and pursuant to a lawful purpose.

279 (7) It is the intent of the Legislature that subsections  
 280 (2) and (3) be interpreted in a manner consistent with federal  
 281 case law interpreting 18 U.S.C. ss. 2339A and 2339B,  
 282 respectively.

283 (8) The Department of Law Enforcement, in consultation with  
 284 the Office of the Attorney General, shall create guidelines for  
 285 law enforcement investigations conducted pursuant to this  
 286 section to ensure the protection of privacy rights, civil  
 287 rights, and civil liberties.

288 Section 5. Section 775.34, Florida Statutes, is created to  
 289 read:  
 290 775.34 Membership in a designated foreign terrorist

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291 organization.—A person who willfully becomes a member of a  
 292 designated foreign terrorist organization and serves under the  
 293 direction or control of that organization with the intent to  
 294 further the illegal acts of the organization commits a felony of  
 295 the second degree, punishable as provided in s. 775.082, s.  
 296 775.083, or s. 775.084. As used in this section, the term  
 297 “designated foreign terrorist organization” has the same meaning  
 298 as provided in s. 775.32.

299 Section 6. Section 775.35, Florida Statutes, is created to  
 300 read:

301 775.35 Agroterrorism; penalties.—

302 (1) A person who intentionally disseminates or spreads any  
 303 type of contagious, communicable, or infectious disease among  
 304 crops, poultry as defined in s. 583.01, livestock as defined in  
 305 s. 588.13, or other animals commits a felony of the second  
 306 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 307 775.084. It is an affirmative defense to this violation if the  
 308 activity is consistent with a medically recognized procedure or  
 309 if the activity is done in the course of legitimate,  
 310 professional scientific research.

311 (2) A person who commits a violation of subsection (1)  
 312 which results in death or serious bodily injury to a person  
 313 commits a life felony, punishable as provided in s. 775.082, s.  
 314 775.083, or s. 775.084. As used in this subsection, the term  
 315 “serious bodily injury” has the same meaning as provided in s.  
 316 775.30(3).

317 Section 7. Paragraph (a) of subsection (1) and subsections  
 318 (3) and (4) of section 782.04, Florida Statutes, are amended to  
 319 read:

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320 782.04 Murder.—

321 (1) (a) The unlawful killing of a human being:

322 1. When perpetrated from a premeditated design to effect  
 323 the death of the person killed or any human being;

324 2. When committed by a person engaged in the perpetration  
 325 of, or in the attempt to perpetrate, any:

326 a. Trafficking offense prohibited by s. 893.135(1),

327 b. Arson,

328 c. Sexual battery,

329 d. Robbery,

330 e. Burglary,

331 f. Kidnapping,

332 g. Escape,

333 h. Aggravated child abuse,

334 i. Aggravated abuse of an elderly person or disabled adult,

335 j. Aircraft piracy,

336 k. Unlawful throwing, placing, or discharging of a

337 destructive device or bomb,

338 l. Carjacking,

339 m. Home-invasion robbery,

340 n. Aggravated stalking,

341 o. Murder of another human being,

342 p. Resisting an officer with violence to his or her person,

343 q. Aggravated fleeing or eluding with serious bodily injury

344 or death,

345 r. Felony that is an act of terrorism or is in furtherance

346 of an act of terrorism, including a felony under s. 775.30, s.

347 775.32, s. 775.33, s. 775.34, or s. 775.35, or

348 s. Human trafficking; or

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349 3. Which resulted from the unlawful distribution of any  
 350 substance controlled under s. 893.03(1), cocaine as described in  
 351 s. 893.03(2)(a)4., opium or any synthetic or natural salt,  
 352 compound, derivative, or preparation of opium, or methadone by a  
 353 person 18 years of age or older, when such drug is proven to be  
 354 the proximate cause of the death of the user,

355  
 356 is murder in the first degree and constitutes a capital felony,  
 357 punishable as provided in s. 775.082.

358 (3) When a human being is killed during the perpetration  
 359 of, or during the attempt to perpetrate, any:

- 360 (a) Trafficking offense prohibited by s. 893.135(1),
- 361 (b) Arson,
- 362 (c) Sexual battery,
- 363 (d) Robbery,
- 364 (e) Burglary,
- 365 (f) Kidnapping,
- 366 (g) Escape,
- 367 (h) Aggravated child abuse,
- 368 (i) Aggravated abuse of an elderly person or disabled  
 369 adult,
- 370 (j) Aircraft piracy,
- 371 (k) Unlawful throwing, placing, or discharging of a  
 372 destructive device or bomb,
- 373 (l) Carjacking,
- 374 (m) Home-invasion robbery,
- 375 (n) Aggravated stalking,
- 376 (o) Murder of another human being,
- 377 (p) Aggravated fleeing or eluding with serious bodily

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378 injury or death,

379 (q) Resisting an officer with violence to his or her  
 380 person, or

381 (r) Felony that is an act of terrorism or is in furtherance  
 382 of an act of terrorism, including a felony under s. 775.30, s.  
 383 775.32, s. 775.33, s. 775.34, or s. 775.35,

384  
 385 by a person other than the person engaged in the perpetration of  
 386 or in the attempt to perpetrate such felony, the person  
 387 perpetrating or attempting to perpetrate such felony commits  
 388 murder in the second degree, which constitutes a felony of the  
 389 first degree, punishable by imprisonment for a term of years not  
 390 exceeding life or as provided in s. 775.082, s. 775.083, or s.  
 391 775.084.

392 (4) The unlawful killing of a human being, when perpetrated  
 393 without any design to effect death, by a person engaged in the  
 394 perpetration of, or in the attempt to perpetrate, any felony  
 395 other than any:

- 396 (a) Trafficking offense prohibited by s. 893.135(1),
- 397 (b) Arson,
- 398 (c) Sexual battery,
- 399 (d) Robbery,
- 400 (e) Burglary,
- 401 (f) Kidnapping,
- 402 (g) Escape,
- 403 (h) Aggravated child abuse,
- 404 (i) Aggravated abuse of an elderly person or disabled  
 405 adult,
- 406 (j) Aircraft piracy,



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407 (k) Unlawful throwing, placing, or discharging of a  
 408 destructive device or bomb,  
 409 (l) Unlawful distribution of any substance controlled under  
 410 s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or  
 411 opium or any synthetic or natural salt, compound, derivative, or  
 412 preparation of opium by a person 18 years of age or older, when  
 413 such drug is proven to be the proximate cause of the death of  
 414 the user,  
 415 (m) Carjacking,  
 416 (n) Home-invasion robbery,  
 417 (o) Aggravated stalking,  
 418 (p) Murder of another human being,  
 419 (q) Aggravated fleeing or eluding with serious bodily  
 420 injury or death,  
 421 (r) Resisting an officer with violence to his or her  
 422 person, or  
 423 (s) Felony that is an act of terrorism or is in furtherance  
 424 of an act of terrorism, including a felony under s. 775.30, s.  
 425 775.32, s. 775.33, s. 775.34, or s. 775.35,  
 426  
 427 is murder in the third degree and constitutes a felony of the  
 428 second degree, punishable as provided in s. 775.082, s. 775.083,  
 429 or s. 775.084.  
 430 Section 8. For the purpose of incorporating the amendment  
 431 made by this act to section 775.30, Florida Statutes, in a  
 432 reference thereto, paragraph (c) of subsection (3) of section  
 433 373.6055, Florida Statutes, is reenacted to read:  
 434 373.6055 Criminal history checks for certain water  
 435 management district employees and others.-

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436 (3)  
 437 (c) In addition to other requirements for employment or  
 438 access established by any water management district pursuant to  
 439 its water management district's security plan for buildings,  
 440 facilities, and structures, each water management district's  
 441 security plan shall provide that:  
 442 1. Any person who has within the past 7 years been  
 443 convicted, regardless of whether adjudication was withheld, for  
 444 a forcible felony as defined in s. 776.08; an act of terrorism  
 445 as defined in s. 775.30; planting of a hoax bomb as provided in  
 446 s. 790.165; any violation involving the manufacture, possession,  
 447 sale, delivery, display, use, or attempted or threatened use of  
 448 a weapon of mass destruction or hoax weapon of mass destruction  
 449 as provided in s. 790.166; dealing in stolen property; any  
 450 violation of s. 893.135; any violation involving the sale,  
 451 manufacturing, delivery, or possession with intent to sell,  
 452 manufacture, or deliver a controlled substance; burglary;  
 453 robbery; any felony violation of s. 812.014; any violation of s.  
 454 790.07; any crime an element of which includes use or possession  
 455 of a firearm; any conviction for any similar offenses under the  
 456 laws of another jurisdiction; or conviction for conspiracy to  
 457 commit any of the listed offenses may not be qualified for  
 458 initial employment within or authorized regular access to  
 459 buildings, facilities, or structures defined in the water  
 460 management district's security plan as restricted access areas.  
 461 2. Any person who has at any time been convicted of any of  
 462 the offenses listed in subparagraph 1. may not be qualified for  
 463 initial employment within or authorized regular access to  
 464 buildings, facilities, or structures defined in the water

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465 management district's security plan as restricted access areas  
 466 unless, after release from incarceration and any supervision  
 467 imposed as a sentence, the person remained free from a  
 468 subsequent conviction, regardless of whether adjudication was  
 469 withheld, for any of the listed offenses for a period of at  
 470 least 7 years prior to the employment or access date under  
 471 consideration.

472 Section 9. For the purpose of incorporating the amendment  
 473 made by this act to section 775.30, Florida Statutes, in a  
 474 reference thereto, subsection (1) of section 381.95, Florida  
 475 Statutes, is reenacted to read:

476 381.95 Medical facility information maintained for  
 477 terrorism response purposes; confidentiality.-

478 (1) Any information identifying or describing the name,  
 479 location, pharmaceutical cache, contents, capacity, equipment,  
 480 physical features, or capabilities of individual medical  
 481 facilities, storage facilities, or laboratories established,  
 482 maintained, or regulated by the Department of Health as part of  
 483 the state's plan to defend against an act of terrorism as  
 484 defined in s. 775.30 is exempt from s. 119.07(1) and s. 24(a),  
 485 Art. I of the State Constitution. This exemption is remedial in  
 486 nature, and it is the intent of the Legislature that this  
 487 exemption apply to information held by the Department of Health  
 488 before, on, or after the effective date of this section.

489 Section 10. For the purpose of incorporating the amendment  
 490 made by this act to section 775.30, Florida Statutes, in  
 491 references thereto, paragraph (a) of subsection (1) and  
 492 subsection (2) of section 395.1056, Florida Statutes, are  
 493 reenacted to read:

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494 395.1056 Plan components addressing a hospital's response  
 495 to terrorism; public records exemption; public meetings  
 496 exemption.-

497 (1) (a) Those portions of a comprehensive emergency  
 498 management plan that address the response of a public or private  
 499 hospital to an act of terrorism as defined by s. 775.30 held by  
 500 the agency, a state or local law enforcement agency, a county or  
 501 municipal emergency management agency, the Executive Office of  
 502 the Governor, the Department of Health, or the Division of  
 503 Emergency Management are confidential and exempt from s.  
 504 119.07(1) and s. 24(a), Art. I of the State Constitution.

505 (2) Those portions of a comprehensive emergency management  
 506 plan that address the response of a public hospital to an act of  
 507 terrorism as defined by s. 775.30 held by that public hospital  
 508 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 509 Constitution. Portions of a comprehensive emergency management  
 510 plan that address the response of a public hospital to an act of  
 511 terrorism include those portions addressing:

- 512 (a) Security systems or plans;
- 513 (b) Vulnerability analyses;
- 514 (c) Emergency evacuation transportation;
- 515 (d) Sheltering arrangements;
- 516 (e) Postdisaster activities, including provisions for  
 517 emergency power, communications, food, and water;
- 518 (f) Postdisaster transportation;
- 519 (g) Supplies, including drug caches;
- 520 (h) Staffing;
- 521 (i) Emergency equipment; and
- 522 (j) Individual identification of residents, transfer of

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523 records, and methods of responding to family inquiries.  
 524 Section 11. For the purpose of incorporating the amendment  
 525 made by this act to section 775.30, Florida Statutes, in a  
 526 reference thereto, subsection (7) of section 874.03, Florida  
 527 Statutes, is reenacted to read:  
 528 874.03 Definitions.—As used in this chapter:  
 529 (7) "Terrorist organization" means any organized group  
 530 engaged in or organized for the purpose of engaging in terrorism  
 531 as defined in s. 775.30. This definition shall not be construed  
 532 to prevent prosecution under this chapter of individuals acting  
 533 alone.  
 534 Section 12. For the purpose of incorporating the amendment  
 535 made by this act to section 775.30, Florida Statutes, in a  
 536 reference thereto, paragraph (a) of subsection (4) of section  
 537 907.041, Florida Statutes, is reenacted to read:  
 538 907.041 Pretrial detention and release.—  
 539 (4) PRETRIAL DETENTION.—  
 540 (a) As used in this subsection, "dangerous crime" means any  
 541 of the following:  
 542 1. Arson;  
 543 2. Aggravated assault;  
 544 3. Aggravated battery;  
 545 4. Illegal use of explosives;  
 546 5. Child abuse or aggravated child abuse;  
 547 6. Abuse of an elderly person or disabled adult, or  
 548 aggravated abuse of an elderly person or disabled adult;  
 549 7. Aircraft piracy;  
 550 8. Kidnapping;  
 551 9. Homicide;

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552 10. Manslaughter;  
 553 11. Sexual battery;  
 554 12. Robbery;  
 555 13. Carjacking;  
 556 14. Lewd, lascivious, or indecent assault or act upon or in  
 557 presence of a child under the age of 16 years;  
 558 15. Sexual activity with a child, who is 12 years of age or  
 559 older but less than 18 years of age, by or at solicitation of  
 560 person in familial or custodial authority;  
 561 16. Burglary of a dwelling;  
 562 17. Stalking and aggravated stalking;  
 563 18. Act of domestic violence as defined in s. 741.28;  
 564 19. Home invasion robbery;  
 565 20. Act of terrorism as defined in s. 775.30;  
 566 21. Manufacturing any substances in violation of chapter  
 567 893; and  
 568 22. Attempting or conspiring to commit any such crime.  
 569 Section 13. For the purpose of incorporating the amendment  
 570 made by this act to section 775.30, Florida Statutes, in a  
 571 reference thereto, subsection (2) of section 943.0312, Florida  
 572 Statutes, is reenacted to read:  
 573 943.0312 Regional domestic security task forces.—The  
 574 Legislature finds that there is a need to develop and implement  
 575 a statewide strategy to address prevention, preparation,  
 576 protection, response, and recovery efforts by federal, state,  
 577 and local law enforcement agencies, emergency management  
 578 agencies, fire and rescue departments, first-responder personnel  
 579 and others in dealing with potential or actual terrorist acts  
 580 within or affecting this state.

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581 (2) In accordance with the state's domestic security  
 582 strategic goals and objectives, each task force shall coordinate  
 583 efforts to counter terrorism, as defined by s. 775.30, among  
 584 local, state, and federal resources to ensure that such efforts  
 585 are not fragmented or unnecessarily duplicated; coordinate  
 586 training for local and state personnel to counter terrorism as  
 587 defined by s. 775.30; coordinate the collection and  
 588 dissemination of investigative and intelligence information; and  
 589 facilitate responses to terrorist incidents within or affecting  
 590 each region. With the approval of the Chief of Domestic  
 591 Security, the task forces may incorporate other objectives  
 592 reasonably related to the goals of enhancing the state's  
 593 domestic security and ability to detect, prevent, and respond to  
 594 acts of terrorism within or affecting this state. Each task  
 595 force shall take into account the variety of conditions and  
 596 resources present within its region.

597 Section 14. For the purpose of incorporating the amendment  
 598 made by this act to section 775.30, Florida Statutes, in a  
 599 reference thereto, subsection (2) of section 943.0321, Florida  
 600 Statutes, is reenacted to read:

601 943.0321 The Florida Domestic Security and Counter-  
 602 Terrorism Intelligence Center and the Florida Domestic Security  
 603 and Counter-Terrorism Database.—

604 (2) The intelligence center shall:

605 (a) Gather, document, and analyze active criminal  
 606 intelligence and criminal investigative information related to  
 607 terrorism, as defined in s. 775.30, including information  
 608 related to individuals or groups that plot, plan, or coordinate  
 609 acts of terrorism, as defined in s. 775.30, and that operate

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610 within this state or otherwise commit acts affecting this state;

611 (b) Maintain and operate the domestic security and counter-  
 612 terrorism database; and

613 (c) Provide support and assistance to federal, state, and  
 614 local law enforcement agencies and prosecutors that investigate  
 615 or prosecute terrorism, as defined in s. 775.30.

616 Section 15. For the purpose of incorporating the amendment  
 617 made by this act to section 782.04, Florida Statutes, in a  
 618 reference thereto, subsection (2) of section 27.401, Florida  
 619 Statutes, is reenacted to read:

620 27.401 Cross-Circuit Conflict Representation Pilot  
 621 Program.—

622 (2) Notwithstanding ss. 27.40 and 27.5305:

623 (a) If the public defender in the Tenth Judicial Circuit is  
 624 unable to provide representation to an indigent defendant  
 625 charged with a crime under s. 782.04(2), (3), or (4) due to a  
 626 conflict of interest and the criminal conflict and civil  
 627 regional counsel of the Second Region is also unable to provide  
 628 representation for the case due to a conflict of interest, the  
 629 public defender in the Thirteenth Judicial Circuit shall be  
 630 appointed. If the public defender in the Thirteenth Judicial  
 631 Circuit is unable to provide representation for the case due to  
 632 a conflict of interest, the criminal conflict and civil regional  
 633 counsel in the Fifth Region shall be appointed. If the criminal  
 634 conflict and civil regional counsel in the Fifth Region is  
 635 unable to provide representation due to a conflict of interest,  
 636 private counsel shall be appointed.

637 (b) If the public defender in the Thirteenth Judicial  
 638 Circuit is unable to provide representation to an indigent

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 639 defendant charged with a crime under s. 782.04(2), (3), or (4)  
 640 due to a conflict of interest and the criminal conflict and  
 641 civil regional counsel of the Second Region is also unable to  
 642 provide representation for the case due to a conflict of  
 643 interest, the public defender in the Tenth Judicial Circuit  
 644 shall be appointed. If the public defender in the Tenth Judicial  
 645 Circuit is unable to provide representation for the case due to  
 646 a conflict of interest, the criminal conflict and civil regional  
 647 counsel in the Fifth Region shall be appointed. If the criminal  
 648 conflict and civil regional counsel in the Fifth Region is  
 649 unable to provide representation due to a conflict of interest,  
 650 private counsel shall be appointed.

651 Section 16. For the purpose of incorporating the amendment  
 652 made by this act to section 782.04, Florida Statutes, in a  
 653 reference thereto, paragraph (d) of subsection (1) of section  
 654 39.806, Florida Statutes, is reenacted to read:

655 39.806 Grounds for termination of parental rights.—

656 (1) Grounds for the termination of parental rights may be  
 657 established under any of the following circumstances:

658 (d) When the parent of a child is incarcerated and either:

659 1. The period of time for which the parent is expected to  
 660 be incarcerated will constitute a significant portion of the  
 661 child's minority. When determining whether the period of time is  
 662 significant, the court shall consider the child's age and the  
 663 child's need for a permanent and stable home. The period of time  
 664 begins on the date that the parent enters into incarceration;

665 2. The incarcerated parent has been determined by the court  
 666 to be a violent career criminal as defined in s. 775.084, a  
 667 habitual violent felony offender as defined in s. 775.084, or a

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 668 sexual predator as defined in s. 775.21; has been convicted of  
 669 first degree or second degree murder in violation of s. 782.04  
 670 or a sexual battery that constitutes a capital, life, or first  
 671 degree felony violation of s. 794.011; or has been convicted of  
 672 an offense in another jurisdiction which is substantially  
 673 similar to one of the offenses listed in this paragraph. As used  
 674 in this section, the term "substantially similar offense" means  
 675 any offense that is substantially similar in elements and  
 676 penalties to one of those listed in this subparagraph, and that  
 677 is in violation of a law of any other jurisdiction, whether that  
 678 of another state, the District of Columbia, the United States or  
 679 any possession or territory thereof, or any foreign  
 680 jurisdiction; or

681 3. The court determines by clear and convincing evidence  
 682 that continuing the parental relationship with the incarcerated  
 683 parent would be harmful to the child and, for this reason, that  
 684 termination of the parental rights of the incarcerated parent is  
 685 in the best interest of the child. When determining harm, the  
 686 court shall consider the following factors:

687 a. The age of the child.

688 b. The relationship between the child and the parent.

689 c. The nature of the parent's current and past provision  
 690 for the child's developmental, cognitive, psychological, and  
 691 physical needs.

692 d. The parent's history of criminal behavior, which may  
 693 include the frequency of incarceration and the unavailability of  
 694 the parent to the child due to incarceration.

695 e. Any other factor the court deems relevant.

696 Section 17. For the purpose of incorporating the amendment

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697 made by this act to section 782.04, Florida Statutes, in a  
698 reference thereto, paragraph (b) of subsection (4) of section  
699 63.089, Florida Statutes, is reenacted to read:

700 63.089 Proceeding to terminate parental rights pending  
701 adoption; hearing; grounds; dismissal of petition; judgment.—

702 (4) FINDING OF ABANDONMENT.—A finding of abandonment  
703 resulting in a termination of parental rights must be based upon  
704 clear and convincing evidence that a parent or person having  
705 legal custody has abandoned the child in accordance with the  
706 definition contained in s. 63.032. A finding of abandonment may  
707 also be based upon emotional abuse or a refusal to provide  
708 reasonable financial support, when able, to a birth mother  
709 during her pregnancy or on whether the person alleged to have  
710 abandoned the child, while being able, failed to establish  
711 contact with the child or accept responsibility for the child's  
712 welfare.

713 (b) The child has been abandoned when the parent of a child  
714 is incarcerated on or after October 1, 2001, in a federal,  
715 state, or county correctional institution and:

716 1. The period of time for which the parent has been or is  
717 expected to be incarcerated will constitute a significant  
718 portion of the child's minority. In determining whether the  
719 period of time is significant, the court shall consider the  
720 child's age and the child's need for a permanent and stable  
721 home. The period of time begins on the date that the parent  
722 enters into incarceration;

723 2. The incarcerated parent has been determined by a court  
724 of competent jurisdiction to be a violent career criminal as  
725 defined in s. 775.084, a habitual violent felony offender as

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726 defined in s. 775.084, convicted of child abuse as defined in s.  
727 827.03, or a sexual predator as defined in s. 775.21; has been  
728 convicted of first degree or second degree murder in violation  
729 of s. 782.04 or a sexual battery that constitutes a capital,  
730 life, or first degree felony violation of s. 794.011; or has  
731 been convicted of a substantially similar offense in another  
732 jurisdiction. As used in this section, the term "substantially  
733 similar offense" means any offense that is substantially similar  
734 in elements and penalties to one of those listed in this  
735 subparagraph, and that is in violation of a law of any other  
736 jurisdiction, whether that of another state, the District of  
737 Columbia, the United States or any possession or territory  
738 thereof, or any foreign jurisdiction; or

739 3. The court determines by clear and convincing evidence  
740 that continuing the parental relationship with the incarcerated  
741 parent would be harmful to the child and, for this reason,  
742 termination of the parental rights of the incarcerated parent is  
743 in the best interests of the child.

744 Section 18. For the purpose of incorporating the amendment  
745 made by this act to section 782.04, Florida Statutes, in a  
746 reference thereto, subsection (10) of section 95.11, Florida  
747 Statutes, is reenacted to read:

748 95.11 Limitations other than for the recovery of real  
749 property.—Actions other than for recovery of real property shall  
750 be commenced as follows:

751 (10) FOR INTENTIONAL TORTS RESULTING IN DEATH FROM ACTS  
752 DESCRIBED IN S. 782.04 OR S. 782.07.—Notwithstanding paragraph  
753 (4) (d), an action for wrongful death seeking damages authorized  
754 under s. 768.21 brought against a natural person for an

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755 intentional tort resulting in death from acts described in s.  
756 782.04 or s. 782.07 may be commenced at any time. This  
757 subsection shall not be construed to require an arrest, the  
758 filing of formal criminal charges, or a conviction for a  
759 violation of s. 782.04 or s. 782.07 as a condition for filing a  
760 civil action.

761 Section 19. For the purpose of incorporating the amendment  
762 made by this act to section 782.04, Florida Statutes, in a  
763 reference thereto, paragraph (e) of subsection (2) of section  
764 435.04, Florida Statutes, is reenacted to read:

765 435.04 Level 2 screening standards.—

766 (2) The security background investigations under this  
767 section must ensure that no persons subject to the provisions of  
768 this section have been arrested for and are awaiting final  
769 disposition of, have been found guilty of, regardless of  
770 adjudication, or entered a plea of nolo contendere or guilty to,  
771 or have been adjudicated delinquent and the record has not been  
772 sealed or expunged for, any offense prohibited under any of the  
773 following provisions of state law or similar law of another  
774 jurisdiction:

775 (e) Section 782.04, relating to murder.

776 Section 20. For the purpose of incorporating the amendment  
777 made by this act to section 782.04, Florida Statutes, in a  
778 reference thereto, paragraph (c) of subsection (4) of section  
779 435.07, Florida Statutes, is reenacted to read:

780 435.07 Exemptions from disqualification.—Unless otherwise  
781 provided by law, the provisions of this section apply to  
782 exemptions from disqualification for disqualifying offenses  
783 revealed pursuant to background screenings required under this

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784 chapter, regardless of whether those disqualifying offenses are  
785 listed in this chapter or other laws.

786 (4)

787 (c) Disqualification from employment under this chapter may  
788 not be removed from, and an exemption may not be granted to, any  
789 current or prospective child care personnel, as defined in s.  
790 402.302(3), and such a person is disqualified from employment as  
791 child care personnel, regardless of any previous exemptions from  
792 disqualification, if the person has been registered as a sex  
793 offender as described in 42 U.S.C. s. 9858f(c)(1)(C) or has been  
794 arrested for and is awaiting final disposition of, has been  
795 convicted or found guilty of, or entered a plea of guilty or  
796 nolo contendere to, regardless of adjudication, or has been  
797 adjudicated delinquent and the record has not been sealed or  
798 expunged for, any offense prohibited under any of the following  
799 provisions of state law or a similar law of another  
800 jurisdiction:

801 1. A felony offense prohibited under any of the following  
802 statutes:

803 a. Chapter 741, relating to domestic violence.

804 b. Section 782.04, relating to murder.

805 c. Section 782.07, relating to manslaughter, aggravated  
806 manslaughter of an elderly person or disabled adult, aggravated  
807 manslaughter of a child, or aggravated manslaughter of an  
808 officer, a firefighter, an emergency medical technician, or a  
809 paramedic.

810 d. Section 784.021, relating to aggravated assault.

811 e. Section 784.045, relating to aggravated battery.

812 f. Section 787.01, relating to kidnapping.

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813 g. Section 787.025, relating to luring or enticing a child.  
 814 h. Section 787.04(2), relating to leading, taking,  
 815 enticing, or removing a minor beyond the state limits, or  
 816 concealing the location of a minor, with criminal intent pending  
 817 custody proceedings.  
 818 i. Section 787.04(3), relating to leading, taking,  
 819 enticing, or removing a minor beyond the state limits, or  
 820 concealing the location of a minor, with criminal intent pending  
 821 dependency proceedings or proceedings concerning alleged abuse  
 822 or neglect of a minor.  
 823 j. Section 794.011, relating to sexual battery.  
 824 k. Former s. 794.041, relating to sexual activity with or  
 825 solicitation of a child by a person in familial or custodial  
 826 authority.  
 827 l. Section 794.05, relating to unlawful sexual activity  
 828 with certain minors.  
 829 m. Section 794.08, relating to female genital mutilation.  
 830 n. Section 806.01, relating to arson.  
 831 o. Section 826.04, relating to incest.  
 832 p. Section 827.03, relating to child abuse, aggravated  
 833 child abuse, or neglect of a child.  
 834 q. Section 827.04, relating to contributing to the  
 835 delinquency or dependency of a child.  
 836 r. Section 827.071, relating to sexual performance by a  
 837 child.  
 838 s. Chapter 847, relating to child pornography.  
 839 t. Section 985.701, relating to sexual misconduct in  
 840 juvenile justice programs.  
 841 2. A misdemeanor offense prohibited under any of the

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842 following statutes:  
 843 a. Section 784.03, relating to battery, if the victim of  
 844 the offense was a minor.  
 845 b. Section 787.025, relating to luring or enticing a child.  
 846 c. Chapter 847, relating to child pornography.  
 847 3. A criminal act committed in another state or under  
 848 federal law which, if committed in this state, constitutes an  
 849 offense prohibited under any statute listed in subparagraph 1.  
 850 or subparagraph 2.  
 851 Section 21. For the purpose of incorporating the amendment  
 852 made by this act to section 782.04, Florida Statutes, in  
 853 references thereto, paragraph (b) of subsection (1) and  
 854 paragraphs (a), (b), and (c) of subsection (3) of section  
 855 775.082, Florida Statutes, are reenacted to read:  
 856 775.082 Penalties; applicability of sentencing structures;  
 857 mandatory minimum sentences for certain reoffenders previously  
 858 released from prison.-  
 859 (1)  
 860 (b)1. A person who actually killed, intended to kill, or  
 861 attempted to kill the victim and who is convicted under s.  
 862 782.04 of a capital felony, or an offense that was reclassified  
 863 as a capital felony, which was committed before the person  
 864 attained 18 years of age shall be punished by a term of  
 865 imprisonment for life if, after a sentencing hearing conducted  
 866 by the court in accordance with s. 921.1401, the court finds  
 867 that life imprisonment is an appropriate sentence. If the court  
 868 finds that life imprisonment is not an appropriate sentence,  
 869 such person shall be punished by a term of imprisonment of at  
 870 least 40 years. A person sentenced pursuant to this subparagraph



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871 is entitled to a review of his or her sentence in accordance  
872 with s. 921.1402(2)(a).

873 2. A person who did not actually kill, intend to kill, or  
874 attempt to kill the victim and who is convicted under s. 782.04  
875 of a capital felony, or an offense that was reclassified as a  
876 capital felony, which was committed before the person attained  
877 18 years of age may be punished by a term of imprisonment for  
878 life or by a term of years equal to life if, after a sentencing  
879 hearing conducted by the court in accordance with s. 921.1401,  
880 the court finds that life imprisonment is an appropriate  
881 sentence. A person who is sentenced to a term of imprisonment of  
882 more than 15 years is entitled to a review of his or her  
883 sentence in accordance with s. 921.1402(2)(c).

884 3. The court shall make a written finding as to whether a  
885 person is eligible for a sentence review hearing under s.  
886 921.1402(2)(a) or (c). Such a finding shall be based upon  
887 whether the person actually killed, intended to kill, or  
888 attempted to kill the victim. The court may find that multiple  
889 defendants killed, intended to kill, or attempted to kill the  
890 victim.

891 (3) A person who has been convicted of any other designated  
892 felony may be punished as follows:

893 (a)1. For a life felony committed before October 1, 1983,  
894 by a term of imprisonment for life or for a term of at least 30  
895 years.

896 2. For a life felony committed on or after October 1, 1983,  
897 by a term of imprisonment for life or by a term of imprisonment  
898 not exceeding 40 years.

899 3. Except as provided in subparagraph 4., for a life felony

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900 committed on or after July 1, 1995, by a term of imprisonment  
901 for life or by imprisonment for a term of years not exceeding  
902 life imprisonment.

903 4.a. Except as provided in sub-subparagraph b., for a life  
904 felony committed on or after September 1, 2005, which is a  
905 violation of s. 800.04(5)(b), by:

906 (I) A term of imprisonment for life; or

907 (II) A split sentence that is a term of at least 25 years'  
908 imprisonment and not exceeding life imprisonment, followed by  
909 probation or community control for the remainder of the person's  
910 natural life, as provided in s. 948.012(4).

911 b. For a life felony committed on or after July 1, 2008,  
912 which is a person's second or subsequent violation of s.  
913 800.04(5)(b), by a term of imprisonment for life.

914 5. Notwithstanding subparagraphs 1.-4., a person who is  
915 convicted under s. 782.04 of an offense that was reclassified as  
916 a life felony which was committed before the person attained 18  
917 years of age may be punished by a term of imprisonment for life  
918 or by a term of years equal to life imprisonment if the judge  
919 conducts a sentencing hearing in accordance with s. 921.1401 and  
920 finds that life imprisonment or a term of years equal to life  
921 imprisonment is an appropriate sentence.

922 a. A person who actually killed, intended to kill, or  
923 attempted to kill the victim and is sentenced to a term of  
924 imprisonment of more than 25 years is entitled to a review of  
925 his or her sentence in accordance with s. 921.1402(2)(b).

926 b. A person who did not actually kill, intend to kill, or  
927 attempt to kill the victim and is sentenced to a term of  
928 imprisonment of more than 15 years is entitled to a review of

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929 his or her sentence in accordance with s. 921.1402(2)(c).

930 c. The court shall make a written finding as to whether a  
931 person is eligible for a sentence review hearing under s.  
932 921.1402(2)(b) or (c). Such a finding shall be based upon  
933 whether the person actually killed, intended to kill, or  
934 attempted to kill the victim. The court may find that multiple  
935 defendants killed, intended to kill, or attempted to kill the  
936 victim.

937 6. For a life felony committed on or after October 1, 2014,  
938 which is a violation of s. 787.06(3)(g), by a term of  
939 imprisonment for life.

940 (b)1. For a felony of the first degree, by a term of  
941 imprisonment not exceeding 30 years or, when specifically  
942 provided by statute, by imprisonment for a term of years not  
943 exceeding life imprisonment.

944 2. Notwithstanding subparagraph 1., a person convicted  
945 under s. 782.04 of a first degree felony punishable by a term of  
946 years not exceeding life imprisonment, or an offense that was  
947 reclassified as a first degree felony punishable by a term of  
948 years not exceeding life, which was committed before the person  
949 attained 18 years of age may be punished by a term of years  
950 equal to life imprisonment if the judge conducts a sentencing  
951 hearing in accordance with s. 921.1401 and finds that a term of  
952 years equal to life imprisonment is an appropriate sentence.

953 a. A person who actually killed, intended to kill, or  
954 attempted to kill the victim and is sentenced to a term of  
955 imprisonment of more than 25 years is entitled to a review of  
956 his or her sentence in accordance with s. 921.1402(2)(b).

957 b. A person who did not actually kill, intend to kill, or

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958 attempt to kill the victim and is sentenced to a term of  
959 imprisonment of more than 15 years is entitled to a review of  
960 his or her sentence in accordance with s. 921.1402(2)(c).

961 c. The court shall make a written finding as to whether a  
962 person is eligible for a sentence review hearing under s.  
963 921.1402(2)(b) or (c). Such a finding shall be based upon  
964 whether the person actually killed, intended to kill, or  
965 attempted to kill the victim. The court may find that multiple  
966 defendants killed, intended to kill, or attempted to kill the  
967 victim.

968 (c) Notwithstanding paragraphs (a) and (b), a person  
969 convicted of an offense that is not included in s. 782.04 but  
970 that is an offense that is a life felony or is punishable by a  
971 term of imprisonment for life or by a term of years not  
972 exceeding life imprisonment, or an offense that was reclassified  
973 as a life felony or an offense punishable by a term of  
974 imprisonment for life or by a term of years not exceeding life  
975 imprisonment, which was committed before the person attained 18  
976 years of age may be punished by a term of imprisonment for life  
977 or a term of years equal to life imprisonment if the judge  
978 conducts a sentencing hearing in accordance with s. 921.1401 and  
979 finds that life imprisonment or a term of years equal to life  
980 imprisonment is an appropriate sentence. A person who is  
981 sentenced to a term of imprisonment of more than 20 years is  
982 entitled to a review of his or her sentence in accordance with  
983 s. 921.1402(2)(d).

984 Section 22. For the purpose of incorporating the amendment  
985 made by this act to section 782.04, Florida Statutes, in  
986 references thereto, subsections (1), (2), (4), (5), (6), and (7)

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987 of section 775.0823, Florida Statutes, are reenacted to read:  
 988 775.0823 Violent offenses committed against law enforcement  
 989 officers, correctional officers, state attorneys, assistant  
 990 state attorneys, justices, or judges.—The Legislature does  
 991 hereby provide for an increase and certainty of penalty for any  
 992 person convicted of a violent offense against any law  
 993 enforcement or correctional officer, as defined in s. 943.10(1),  
 994 (2), (3), (6), (7), (8), or (9); against any state attorney  
 995 elected pursuant to s. 27.01 or assistant state attorney  
 996 appointed under s. 27.181; or against any justice or judge of a  
 997 court described in Art. V of the State Constitution, which  
 998 offense arises out of or in the scope of the officer's duty as a  
 999 law enforcement or correctional officer, the state attorney's or  
 1000 assistant state attorney's duty as a prosecutor or investigator,  
 1001 or the justice's or judge's duty as a judicial officer, as  
 1002 follows:

1003 (1) For murder in the first degree as described in s.  
 1004 782.04(1), if the death sentence is not imposed, a sentence of  
 1005 imprisonment for life without eligibility for release.

1006 (2) For attempted murder in the first degree as described  
 1007 in s. 782.04(1), a sentence pursuant to s. 775.082, s. 775.083,  
 1008 or s. 775.084.

1009 (4) For murder in the second degree as described in s.  
 1010 782.04(2) and (3), a sentence pursuant to s. 775.082, s.  
 1011 775.083, or s. 775.084.

1012 (5) For attempted murder in the second degree as described  
 1013 in s. 782.04(2) and (3), a sentence pursuant to s. 775.082, s.  
 1014 775.083, or s. 775.084.

1015 (6) For murder in the third degree as described in s.

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1016 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s.  
 1017 775.084.

1018 (7) For attempted murder in the third degree as described  
 1019 in s. 782.04(4), a sentence pursuant to s. 775.082, s. 775.083,  
 1020 or s. 775.084.

1021

1022 Notwithstanding the provisions of s. 948.01, with respect to any  
 1023 person who is found to have violated this section, adjudication  
 1024 of guilt or imposition of sentence shall not be suspended,  
 1025 deferred, or withheld.

1026 Section 23. For the purpose of incorporating the amendment  
 1027 made by this act to section 782.04, Florida Statutes, in a  
 1028 reference thereto, section 782.051, Florida Statutes, is  
 1029 reenacted to read:

1030 782.051 Attempted felony murder.—

1031 (1) Any person who perpetrates or attempts to perpetrate  
 1032 any felony enumerated in s. 782.04(3) and who commits, aids, or  
 1033 abets an intentional act that is not an essential element of the  
 1034 felony and that could, but does not, cause the death of another  
 1035 commits a felony of the first degree, punishable by imprisonment  
 1036 for a term of years not exceeding life, or as provided in s.  
 1037 775.082, s. 775.083, or s. 775.084, which is an offense ranked  
 1038 in level 9 of the Criminal Punishment Code. Victim injury points  
 1039 shall be scored under this subsection.

1040 (2) Any person who perpetrates or attempts to perpetrate  
 1041 any felony other than a felony enumerated in s. 782.04(3) and  
 1042 who commits, aids, or abets an intentional act that is not an  
 1043 essential element of the felony and that could, but does not,  
 1044 cause the death of another commits a felony of the first degree,

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1045 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,  
 1046 which is an offense ranked in level 8 of the Criminal Punishment  
 1047 Code. Victim injury points shall be scored under this  
 1048 subsection.

1049 (3) When a person is injured during the perpetration of or  
 1050 the attempt to perpetrate any felony enumerated in s. 782.04(3)  
 1051 by a person other than the person engaged in the perpetration of  
 1052 or the attempt to perpetrate such felony, the person  
 1053 perpetrating or attempting to perpetrate such felony commits a  
 1054 felony of the second degree, punishable as provided in s.  
 1055 775.082, s. 775.083, or s. 775.084, which is an offense ranked  
 1056 in level 7 of the Criminal Punishment Code. Victim injury points  
 1057 shall be scored under this subsection.

1058 Section 24. For the purpose of incorporating the amendment  
 1059 made by this act to section 782.04, Florida Statutes, in a  
 1060 reference thereto, section 782.065, Florida Statutes, is  
 1061 reenacted to read:

1062 782.065 Murder; law enforcement officer, correctional  
 1063 officer, correctional probation officer.—Notwithstanding ss.  
 1064 775.082, 775.0823, 782.04, 782.051, and chapter 921, a defendant  
 1065 shall be sentenced to life imprisonment without eligibility for  
 1066 release upon findings by the trier of fact that, beyond a  
 1067 reasonable doubt:

1068 (1) The defendant committed murder in the first degree in  
 1069 violation of s. 782.04(1) and a death sentence was not imposed;  
 1070 murder in the second or third degree in violation of s.  
 1071 782.04(2), (3), or (4); attempted murder in the first or second  
 1072 degree in violation of s. 782.04(1)(a)1. or (2); or attempted  
 1073 felony murder in violation of s. 782.051; and

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1074 (2) The victim of any offense described in subsection (1)  
 1075 was a law enforcement officer, part-time law enforcement  
 1076 officer, auxiliary law enforcement officer, correctional  
 1077 officer, part-time correctional officer, auxiliary correctional  
 1078 officer, correctional probation officer, part-time correctional  
 1079 probation officer, or auxiliary correctional probation officer,  
 1080 as those terms are defined in s. 943.10, engaged in the lawful  
 1081 performance of a legal duty.

1082 Section 25. For the purpose of incorporating the amendment  
 1083 made by this act to section 782.04, Florida Statutes, in a  
 1084 reference thereto, section 903.133, Florida Statutes, is  
 1085 reenacted to read:

1086 903.133 Bail on appeal; prohibited for certain felony  
 1087 convictions.—Notwithstanding the provisions of s. 903.132, no  
 1088 person adjudged guilty of a felony of the first degree for a  
 1089 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.  
 1090 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a  
 1091 violation of s. 794.011(2) or (3), shall be admitted to bail  
 1092 pending review either by posttrial motion or appeal.

1093 Section 26. For the purpose of incorporating the amendment  
 1094 made by this act to section 782.04, Florida Statutes, in  
 1095 references thereto, paragraphs (h) and (i) of subsection (3) of  
 1096 section 921.0022, Florida Statutes, are reenacted to read:

1097 921.0022 Criminal Punishment Code; offense severity ranking  
 1098 chart.—

1099 (3) OFFENSE SEVERITY RANKING CHART

1100 (h) LEVEL 8

1101

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	Florida Statute	Felony Degree	Description
1102	316.193	2nd	DUI manslaughter.
	(3) (c) 3.a.		
1103	316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
1104	327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
1105	499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
1106	499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
1107	560.123 (8) (b) 2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.
1108	560.125 (5) (b)	2nd	Money transmitter

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			business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.
1109	655.50 (10) (b) 2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
1110	777.03 (2) (a)	1st	Accessory after the fact, capital felony.
1111	782.04 (4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.

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1112	782.051(2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
1113	782.071(1)(b)	1st	Committing vehicular homicide and failing to render aid or give information.
1114	782.072(2)	1st	Committing vessel homicide and failing to render aid or give information.
1115	787.06(3)(a)1.	1st	Human trafficking for labor and services of a child.
1116	787.06(3)(b)	1st	Human trafficking using coercion for commercial sexual activity of an adult.
1117	787.06(3)(c)2.	1st	Human trafficking using coercion for labor and services of an

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			unauthorized alien adult.
1118	787.06(3)(e)1.	1st	Human trafficking for labor and services by the transfer or transport of a child from outside Florida to within the state.
1119	787.06(3)(f)2.	1st	Human trafficking using coercion for commercial sexual activity by the transfer or transport of an adult from outside Florida to within the state.
1120	790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
1121	794.011(5)(a)	1st	Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury.

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1122	591-03326-17		2017476c1
	794.011(5)(b)	2nd	Sexual battery; victim and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.
1123	794.011(5)(c)	2nd	Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not use physical force likely to cause injury.
1124	794.011(5)(d)	1st	Sexual battery; victim 12 years of age or older; offender does not use physical force likely to cause serious injury; prior conviction for specified sex offense.
1125	794.08(3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
1126			

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	800.04(4)(b)	2nd	Lewd or lascivious battery.
1127	800.04(4)(c)	1st	Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.
1128	806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
1129	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
1130	810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
1131	810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
1132	812.014(2)(a)2.	1st	Property stolen; cargo

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			valued at \$50,000 or more, grand theft in 1st degree.	
1133				
	812.13(2)(b)	1st	Robbery with a weapon.	
1134				
	812.135(2)(c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.	
1135				
	817.535(2)(b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.	
1136				
	817.535(3)(a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.	
1137				
	817.535(4)(a)1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.	
1138				
	817.535(5)(a)	2nd	Filing false lien or other unauthorized	

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			document; owner of the property incurs financial loss as a result of the false instrument.	
1139				
	817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.	
1140				
	817.611(2)(c)	1st	Traffic in or possess 50 or more counterfeit credit cards or related documents.	
1141				
	825.102(2)	1st	Aggravated abuse of an elderly person or disabled adult.	
1142				
	825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.	
1143				
	825.103(3)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$50,000 or more.	
1144				



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1145	837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
1146	837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
1147	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
1148	860.16	1st	Aircraft piracy.
1149	893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
1150	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).

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1151	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
1152	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
1153	893.135(1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
1154	893.135(1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
1155	893.135(1)(c)2.c.	1st	Trafficking in hydrocodone, 50 grams or more, less than 200 grams.
1156	893.135(1)(c)3.c.	1st	Trafficking in oxycodone, 25 grams or more, less than 100 grams.
	893.135(1)(d)1.b.	1st	Trafficking in phencyclidine, more than

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1157	893.135 (1) (e) 1.b.	1st		Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
1158	893.135 (1) (f) 1.b.	1st		Trafficking in amphetamine, more than 28 grams, less than 200 grams.
1159	893.135 (1) (g) 1.b.	1st		Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
1160	893.135 (1) (h) 1.b.	1st		Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
1161	893.135 (1) (j) 1.b.	1st		Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
1162				

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	893.135 (1) (k) 2.b.	1st		Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
1163	893.1351(3)	1st		Possession of a place used to manufacture controlled substance when minor is present or resides there.
1164	895.03(1)	1st		Use or invest proceeds derived from pattern of racketeering activity.
1165	895.03(2)	1st		Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
1166	895.03(3)	1st		Conduct or participate in any enterprise through pattern of racketeering activity.
1167	896.101(5) (b)	2nd		Money laundering, financial transactions

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			totaling or exceeding \$20,000, but less than \$100,000.
1168	896.104 (4) (a) 2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.
1169			
1170	(i) LEVEL 9		
1171	Florida Statute	Felony Degree	Description
1172	316.193 (3) (c) 3.b.	1st	DUI manslaughter; failing to render aid or give information.
1173	327.35 (3) (c) 3.b.	1st	BUI manslaughter; failing to render aid or give information.
1174	409.920 (2) (b) 1.c.	1st	Medicaid provider fraud; \$50,000 or more.
1175	499.0051 (8)	1st	Knowing sale or purchase

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			of contraband prescription drugs resulting in great bodily harm.
1176	560.123 (8) (b) 3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
1177	560.125 (5) (c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
1178	655.50 (10) (b) 3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
1179	775.0844	1st	Aggravated white collar crime.
1180	782.04 (1)	1st	Attempt, conspire, or solicit to commit

	591-03326-17		2017476c1	premeditated murder.
1181	782.04(3)	1st,PBL		Accomplice to murder in connection with arson, sexual battery, robbery, burglary, aggravated fleeing or eluding with serious bodily injury or death, and other specified felonies.
1182	782.051(1)	1st		Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
1183	782.07(2)	1st		Aggravated manslaughter of an elderly person or disabled adult.
1184	787.01(1)(a)1.	1st,PBL		Kidnapping; hold for ransom or reward or as a shield or hostage.
1185	787.01(1)(a)2.	1st,PBL		Kidnapping with intent to commit or facilitate commission of any felony.
1186				

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	787.01(1)(a)4.	1st,PBL		Kidnapping with intent to interfere with performance of any governmental or political function.
1187	787.02(3)(a)	1st,PBL		False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
1188	787.06(3)(c)1.	1st		Human trafficking for labor and services of an unauthorized alien child.
1189	787.06(3)(d)	1st		Human trafficking using coercion for commercial sexual activity of an unauthorized adult alien.
1190	787.06(3)(f)1.	1st,PBL		Human trafficking for commercial sexual activity by the transfer or transport of any child from outside Florida to

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			within the state.	
1191	790.161	1st	Attempted capital destructive device offense.	
1192	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.	
1193	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.	
1194	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.	
1195	794.011(4)(a)	1st,PBL	Sexual battery, certain circumstances; victim 12 years of age or older but younger than 18 years; offender 18 years or older.	
1196	794.011(4)(b)	1st	Sexual battery, certain	

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			circumstances; victim and offender 18 years of age or older.	
1197	794.011(4)(c)	1st	Sexual battery, certain circumstances; victim 12 years of age or older; offender younger than 18 years.	
1198	794.011(4)(d)	1st,PBL	Sexual battery, certain circumstances; victim 12 years of age or older; prior conviction for specified sex offenses.	
1199	794.011(8)(b)	1st,PBL	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.	
1200	794.08(2)	1st	Female genital mutilation; victim younger than 18 years of age.	
1201	800.04(5)(b)	Life	Lewd or lascivious molestation; victim less	

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			than 12 years; offender 18 years or older.	
1202	812.13(2) (a)	1st, PBL	Robbery with firearm or other deadly weapon.	
1203	812.133(2) (a)	1st, PBL	Carjacking; firearm or other deadly weapon.	
1204	812.135(2) (b)	1st	Home-invasion robbery with weapon.	
1205	817.535(3) (b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.	
1206	817.535(4) (a)2.	1st	Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.	
1207	817.535(5) (b)	1st	Filing false lien or other unauthorized document; second or	

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			subsequent offense; owner of the property incurs financial loss as a result of the false instrument.	
1208	817.568(7)	2nd, PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.	
1209	827.03(2) (a)	1st	Aggravated child abuse.	
1210	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.	
1211	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.	
1212	859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into	

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			food, drink, medicine, or	
			water with intent to kill	
			or injure another person.	
1213	893.135	1st	Attempted capital	
			trafficking offense.	
1214	893.135(1)(a)3.	1st	Trafficking in cannabis,	
			more than 10,000 lbs.	
1215	893.135	1st	Trafficking in cocaine,	
	(1)(b)1.c.		more than 400 grams, less	
			than 150 kilograms.	
1216	893.135	1st	Trafficking in illegal	
	(1)(c)1.c.		drugs, more than 28	
			grams, less than 30	
			kilograms.	
1217	893.135	1st	Trafficking in	
	(1)(c)2.d.		hydrocodone, 200 grams or	
			more, less than 30	
			kilograms.	
1218	893.135	1st	Trafficking in oxycodone,	
	(1)(c)3.d.		100 grams or more, less	
			than 30 kilograms.	
1219	893.135	1st	Trafficking in	

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	(1)(d)1.c.		phencyclidine, more than	
			400 grams.	
1220	893.135	1st	Trafficking in	
	(1)(e)1.c.		methaqualone, more than	
			25 kilograms.	
1221	893.135	1st	Trafficking in	
	(1)(f)1.c.		amphetamine, more than	
			200 grams.	
1222	893.135	1st	Trafficking in gamma-	
	(1)(h)1.c.		hydroxybutyric acid	
			(GHB), 10 kilograms or	
			more.	
1223	893.135	1st	Trafficking in 1,4-	
	(1)(j)1.c.		Butanediol, 10 kilograms	
			or more.	
1224	893.135	1st	Trafficking in	
	(1)(k)2.c.		Phenethylamines, 400	
			grams or more.	
1225	896.101(5)(c)	1st	Money laundering,	
			financial instruments	
			totaling or exceeding	
			\$100,000.	
1226				

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 896.104(4)(a)3. 1st Structuring transactions  
 to evade reporting or  
 registration  
 requirements, financial  
 transactions totaling or  
 exceeding \$100,000.

1227  
 1228

Section 27. For the purpose of incorporating the amendment  
 made by this act to section 782.04, Florida Statutes, in a  
 reference thereto, subsection (1) of section 921.16, Florida  
 Statutes, is reenacted to read:

921.16 When sentences to be concurrent and when  
 consecutive.—

(1) A defendant convicted of two or more offenses charged  
 in the same indictment, information, or affidavit or in  
 consolidated indictments, informations, or affidavits shall  
 serve the sentences of imprisonment concurrently unless the  
 court directs that two or more of the sentences be served  
 consecutively. Sentences of imprisonment for offenses not  
 charged in the same indictment, information, or affidavit shall  
 be served consecutively unless the court directs that two or  
 more of the sentences be served concurrently. Any sentence for  
 sexual battery as defined in chapter 794 or murder as defined in  
 s. 782.04 must be imposed consecutively to any other sentence  
 for sexual battery or murder which arose out of a separate  
 criminal episode or transaction.

Section 28. For the purpose of incorporating the amendment  
 made by this act to section 782.04, Florida Statutes, in a

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 1250 reference thereto, paragraph (i) of subsection (3) of section  
 1251 947.146, Florida Statutes, is reenacted to read:  
 1252 947.146 Control Release Authority.—  
 1253 (3) Within 120 days prior to the date the state  
 1254 correctional system is projected pursuant to s. 216.136 to  
 1255 exceed 99 percent of total capacity, the authority shall  
 1256 determine eligibility for and establish a control release date  
 1257 for an appropriate number of parole ineligible inmates committed  
 1258 to the department and incarcerated within the state who have  
 1259 been determined by the authority to be eligible for  
 1260 discretionary early release pursuant to this section. In  
 1261 establishing control release dates, it is the intent of the  
 1262 Legislature that the authority prioritize consideration of  
 1263 eligible inmates closest to their tentative release date. The  
 1264 authority shall rely upon commitment data on the offender  
 1265 information system maintained by the department to initially  
 1266 identify inmates who are to be reviewed for control release  
 1267 consideration. The authority may use a method of objective risk  
 1268 assessment in determining if an eligible inmate should be  
 1269 released. Such assessment shall be a part of the department's  
 1270 management information system. However, the authority shall have  
 1271 sole responsibility for determining control release eligibility,  
 1272 establishing a control release date, and effectuating the  
 1273 release of a sufficient number of inmates to maintain the inmate  
 1274 population between 99 percent and 100 percent of total capacity.  
 1275 Inmates who are ineligible for control release are inmates who  
 1276 are parole eligible or inmates who:  
 1277 (i) Are convicted, or have been previously convicted, of  
 1278 committing or attempting to commit murder in the first, second,

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1279 or third degree under s. 782.04(1), (2), (3), or (4), or have  
 1280 ever been convicted of any degree of murder or attempted murder  
 1281 in another jurisdiction;

1282

1283 In making control release eligibility determinations under this  
 1284 subsection, the authority may rely on any document leading to or  
 1285 generated during the course of the criminal proceedings,  
 1286 including, but not limited to, any presentence or postsentence  
 1287 investigation or any information contained in arrest reports  
 1288 relating to circumstances of the offense.

1289 Section 29. For the purpose of incorporating the amendment  
 1290 made by this act to section 782.04, Florida Statutes, in a  
 1291 reference thereto, paragraph (c) of subsection (8) of section  
 1292 948.06, Florida Statutes, is reenacted to read:

1293 948.06 Violation of probation or community control;  
 1294 revocation; modification; continuance; failure to pay  
 1295 restitution or cost of supervision.—

1296 (8)

1297 (c) For purposes of this section, the term "qualifying  
 1298 offense" means any of the following:

1299 1. Kidnapping or attempted kidnapping under s. 787.01,  
 1300 false imprisonment of a child under the age of 13 under s.  
 1301 787.02(3), or luring or enticing a child under s. 787.025(2) (b)  
 1302 or (c).

1303 2. Murder or attempted murder under s. 782.04, attempted  
 1304 felony murder under s. 782.051, or manslaughter under s. 782.07.

1305 3. Aggravated battery or attempted aggravated battery under  
 1306 s. 784.045.

1307 4. Sexual battery or attempted sexual battery under s.

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1308 794.011(2), (3), (4), or (8) (b) or (c).

1309 5. Lewd or lascivious battery or attempted lewd or  
 1310 lascivious battery under s. 800.04(4), lewd or lascivious  
 1311 molestation under s. 800.04(5) (b) or (c)2., lewd or lascivious  
 1312 conduct under s. 800.04(6) (b), lewd or lascivious exhibition  
 1313 under s. 800.04(7) (b), or lewd or lascivious exhibition on  
 1314 computer under s. 847.0135(5) (b).

1315 6. Robbery or attempted robbery under s. 812.13, carjacking  
 1316 or attempted carjacking under s. 812.133, or home invasion  
 1317 robbery or attempted home invasion robbery under s. 812.135.

1318 7. Lewd or lascivious offense upon or in the presence of an  
 1319 elderly or disabled person or attempted lewd or lascivious  
 1320 offense upon or in the presence of an elderly or disabled person  
 1321 under s. 825.1025.

1322 8. Sexual performance by a child or attempted sexual  
 1323 performance by a child under s. 827.071.

1324 9. Computer pornography under s. 847.0135(2) or (3),  
 1325 transmission of child pornography under s. 847.0137, or selling  
 1326 or buying of minors under s. 847.0145.

1327 10. Poisoning food or water under s. 859.01.

1328 11. Abuse of a dead human body under s. 872.06.

1329 12. Any burglary offense or attempted burglary offense that  
 1330 is either a first degree felony or second degree felony under s.  
 1331 810.02(2) or (3).

1332 13. Arson or attempted arson under s. 806.01(1).

1333 14. Aggravated assault under s. 784.021.

1334 15. Aggravated stalking under s. 784.048(3), (4), (5), or  
 1335 (7).

1336 16. Aircraft piracy under s. 860.16.

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1337 17. Unlawful throwing, placing, or discharging of a  
 1338 destructive device or bomb under s. 790.161(2), (3), or (4).  
 1339 18. Treason under s. 876.32.  
 1340 19. Any offense committed in another jurisdiction which  
 1341 would be an offense listed in this paragraph if that offense had  
 1342 been committed in this state.

1343 Section 30. For the purpose of incorporating the amendment  
 1344 made by this act to section 782.04, Florida Statutes, in a  
 1345 reference thereto, subsection (1) of section 948.062, Florida  
 1346 Statutes, is reenacted to read:

1347 948.062 Reviewing and reporting serious offenses committed  
 1348 by offenders placed on probation or community control.—

1349 (1) The department shall review the circumstances related  
 1350 to an offender placed on probation or community control who has  
 1351 been arrested while on supervision for the following offenses:

1352 (a) Any murder as provided in s. 782.04;  
 1353 (b) Any sexual battery as provided in s. 794.011 or s.  
 1354 794.023;  
 1355 (c) Any sexual performance by a child as provided in s.  
 1356 827.071;  
 1357 (d) Any kidnapping, false imprisonment, or luring of a  
 1358 child as provided in s. 787.01, s. 787.02, or s. 787.025;  
 1359 (e) Any lewd and lascivious battery or lewd and lascivious  
 1360 molestation as provided in s. 800.04(4) or (5);  
 1361 (f) Any aggravated child abuse as provided in s.  
 1362 827.03(2) (a);  
 1363 (g) Any robbery with a firearm or other deadly weapon, home  
 1364 invasion robbery, or carjacking as provided in s. 812.13(2) (a),  
 1365 s. 812.135, or s. 812.133;

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1366 (h) Any aggravated stalking as provided in s. 784.048(3),  
 1367 (4), or (5);  
 1368 (i) Any forcible felony as provided in s. 776.08, committed  
 1369 by a person on probation or community control who is designated  
 1370 as a sexual predator; or  
 1371 (j) Any DUI manslaughter as provided in s. 316.193(3) (c),  
 1372 or vehicular or vessel homicide as provided in s. 782.071 or s.  
 1373 782.072, committed by a person who is on probation or community  
 1374 control for an offense involving death or injury resulting from  
 1375 a driving incident.

1376 Section 31. For the purpose of incorporating the amendment  
 1377 made by this act to section 782.04, Florida Statutes, in a  
 1378 reference thereto, paragraph (b) of subsection (3) of section  
 1379 985.265, Florida Statutes, is reenacted to read:

1380 985.265 Detention transfer and release; education; adult  
 1381 jails.—

1382 (3)  
 1383 (b) When a juvenile is released from secure detention or  
 1384 transferred to nonsecure detention, detention staff shall  
 1385 immediately notify the appropriate law enforcement agency,  
 1386 school personnel, and victim if the juvenile is charged with  
 1387 committing any of the following offenses or attempting to commit  
 1388 any of the following offenses:

1389 1. Murder, under s. 782.04;  
 1390 2. Sexual battery, under chapter 794;  
 1391 3. Stalking, under s. 784.048; or  
 1392 4. Domestic violence, as defined in s. 741.28.

1393 Section 32. For the purpose of incorporating the amendment  
 1394 made by this act to section 782.04, Florida Statutes, in a

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1395 reference thereto, paragraph (d) of subsection (1) of section  
1396 1012.315, Florida Statutes, is reenacted to read:

1397 1012.315 Disqualification from employment.—A person is  
1398 ineligible for educator certification, and instructional  
1399 personnel and school administrators, as defined in s. 1012.01,  
1400 are ineligible for employment in any position that requires  
1401 direct contact with students in a district school system,  
1402 charter school, or private school that accepts scholarship  
1403 students under s. 1002.39 or s. 1002.395, if the person,  
1404 instructional personnel, or school administrator has been  
1405 convicted of:

1406 (1) Any felony offense prohibited under any of the  
1407 following statutes:

1408 (d) Section 782.04, relating to murder.

1409 Section 33. For the purpose of incorporating the amendments  
1410 made by this act to sections 775.30 and 782.04, Florida  
1411 Statutes, in a reference thereto, paragraph (g) of subsection  
1412 (2) of section 1012.467, Florida Statutes, is reenacted to read:

1413 1012.467 Noninstructional contractors who are permitted  
1414 access to school grounds when students are present; background  
1415 screening requirements.—

1416 (2)

1417 (g) A noninstructional contractor for whom a criminal  
1418 history check is required under this section may not have been  
1419 convicted of any of the following offenses designated in the  
1420 Florida Statutes, any similar offense in another jurisdiction,  
1421 or any similar offense committed in this state which has been  
1422 redesignated from a former provision of the Florida Statutes to  
1423 one of the following offenses:

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1424 1. Any offense listed in s. 943.0435(1)(h)1., relating to  
1425 the registration of an individual as a sexual offender.

1426 2. Section 393.135, relating to sexual misconduct with  
1427 certain developmentally disabled clients and the reporting of  
1428 such sexual misconduct.

1429 3. Section 394.4593, relating to sexual misconduct with  
1430 certain mental health patients and the reporting of such sexual  
1431 misconduct.

1432 4. Section 775.30, relating to terrorism.

1433 5. Section 782.04, relating to murder.

1434 6. Section 787.01, relating to kidnapping.

1435 7. Any offense under chapter 800, relating to lewdness and  
1436 indecent exposure.

1437 8. Section 826.04, relating to incest.

1438 9. Section 827.03, relating to child abuse, aggravated  
1439 child abuse, or neglect of a child.

1440 Section 34. This act shall take effect October 1, 2017.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

April 18, 2017  
Meeting Date

476  
Bill Number (if applicable)

Topic Terrorism and Terrorist Activities

Amendment Barcode (if applicable)

Name Chief Frank Fabrizio

Job Title Chief of Police

Address 2636 Mitcham Drive

Phone 850-219-3631

Street

Tallahassee FL 32308

City

State

Zip

Email bhoward@fpcr.com

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.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/18/17

Meeting Date

476

Bill Number (if applicable)

Topic TERRORISM

Amendment Barcode (if applicable)

Name JASON JONES

Job Title GENERAL COUNSEL

Address P. O. BOX 1489

Phone 850 410-7676

Street

TALLAHASSEE

FL

32302

Email JASONJONES@FDLC.STATE.FL.US

City

State

Zip

Speaking:  For  Against  Information

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

Representing FDLC

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

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

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

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BILL: CS/SB 684

INTRODUCER: Criminal Justice Committee and Senator Baxley

SUBJECT: Internet Identifiers

DATE: April 18, 2017

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

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

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 684 revises provisions requiring registered sexual predators and sexual offenders to report Internet identifiers. These revisions include modifying the definition of the term “Internet identifier” and defining the connected terms “social Internet communication” and “application software.” A recent Florida federal court found that the current definition of “Internet identifier” is overbroad and vague and requires an individual to either forego protected speech or run the risk of criminal prosecution.

The bill also requires a sexual predator and sexual offender to report each Internet identifier’s corresponding website homepage or application software name. The bill also expands third degree felony offenses involving failure to report certain information to include failure to report each Internet identifier’s corresponding website homepage or application software name.

The Criminal Justice Impact Conference estimated that the original bill would have a “positive indeterminate” prison bed impact (an unquantifiable increase in prison beds). Nominal changes to the original bill, which do not relate to penalties, should not change this estimate. See Section V. Fiscal Impact.

The bill takes effect upon becoming law.

## II. Present Situation:

### Registration of Sexual Predators and Sexual Offenders

Florida law requires registration of any person who has been convicted or adjudicated delinquent of a specified sex offense or offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender. The registration laws also require reregistration and provide for public and community notification of certain information about sexual predators and sexual offenders. The laws span several different chapters and numerous statutes,<sup>1</sup> and are implemented through the combined efforts of the Florida Department of Law Enforcement (FDLE), all Florida sheriffs, the Department of Corrections (DOC), the Department of Juvenile Justice (DJJ), the Department of Highway Safety and Motor Vehicles (DHSMV), and the Department of Children and Families (DCF).

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

- Has been convicted of a current qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;<sup>2</sup>
- Has been convicted of a current qualifying sex offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Was found to be a sexually violent predator in a civil commitment proceeding.<sup>3</sup>

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

- Has been convicted of a qualifying sex offense and has been released on or after October 1, 1997 (the date the modern registry became effective) from the sanction imposed for that offense;
- Establishes or maintains a Florida residence and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the person was 14 years of age or older.<sup>4</sup>

---

<sup>1</sup> Sections 775.21-775.25, 943.043-943.0437, 944.606-944.607, and 985.481-985.4815, F.S.

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

<sup>3</sup> Section s. 775.21(4) and (5), F.S. The Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act, part V, ch. 394, F.S., provides for the civil confinement of a group of sexual offenders who, due to their criminal history and the presence of mental abnormality, are found likely to engage in future acts of sexual violence if they are not confined in a secure facility for long-term control, care, and treatment.

<sup>4</sup> Sections 943.0435(1)(h) and 985.4815(1)(h), F.S. Sections 944.606(1)(f) and 944.607(1)(f), F.S., which address sexual offenders in the custody of or under the supervision of the Department of Corrections, also define the term "sexual offender."

Sexual predators and sexual offenders are required to report certain information, including electronic mail addresses<sup>5</sup> and Internet identifiers.<sup>6</sup> The FDLE may provide information relating to electronic mail addresses and Internet identifiers maintained as part of the sexual offender registry to commercial social networking websites<sup>7</sup> or third parties designated by commercial social networking websites.<sup>8</sup> The commercial social networking website may use this information for the purpose of comparing registered users and screening potential users of the commercial social networking website against the list of electronic mail addresses and Internet identifiers provided by the FDLE.<sup>9</sup>

Requirements for in-person registration and reregistration are similar for sexual predators and sexual offenders,<sup>10</sup> but the frequency of reregistration may differ.<sup>11</sup> Registration requirements may also differ based on a special status, e.g., the sexual predator or sexual offender is in the DOC's control or custody, under DOC or DJJ supervision, or in residential commitment under the DJJ.<sup>12</sup>

The FDLE, through its agency website, provides a searchable database that contains information about sexual predators and sexual offenders.<sup>13</sup> Further, local law enforcement agencies provide access to this information, typically through a link to the state public registry webpage.

Florida's registry laws meet minimum requirements of the federal Sex Offender Registration and Notification Act (SORNA), which is Title I of the Adam Walsh Protection and Safety Act of

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<sup>5</sup> An "electronic mail address" is defined in s. 775.21(2)(g), F.S., as having the same meaning as provided in s. 668.602, F.S. Section 668.602(6), F.S., defines an "electronic mail address" as a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered.

<sup>6</sup> Requirements to report electronic mail addresses and Internet identifiers and changes in this information are in: s. 775.21(6)(a), (e), and (g) and (8), F.S.; s. 943.0435(2)(a), (4)(e), and (14)(c), F.S.; s. 944.607(4)(a) and (13)(c), F.S.; and s. 985.4815(4)(a) and (13)(b), F.S.

<sup>7</sup> For purpose of s. 943.0437, F.S., the term "commercial social networking website" means a commercially operated Internet website that allows users to create web pages or profiles that provide information about themselves and are available publicly or to other users and that offers a mechanism for communication with other users, such as a forum, chat room, electronic mail, or instant messenger. Section 943.0437(1), F.S.

<sup>8</sup> Section 943.0437(2), F.S.

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

<sup>10</sup> Sexual predator reporting requirements are in s. 775.21(6) and (8), F.S. Sexual offender reporting requirements are in ss. 943.0435(2-4), (7-8), and (14), 944.607(4), (9), and (13), and 985.4815(4), (9), and (13), F.S.

<sup>11</sup> A sexual predator is required to reregister each year during the month of the predator's birthday and during every third month thereafter. Section 775.21(8), F.S. A sexual offender convicted of any listed offense in s. 943.0435(14)(b), F.S., must reregister in the same manner as a sexual predator. Any other sex offender must reregister each year during the month of the offender's birthday and during the sixth month following the offender's birth month. Section 943.0435(14)(a), F.S.

<sup>12</sup> See footnote 10.

<sup>13</sup> The FDLE is the central repository for registration information. The department also maintains the state public registry and ensures Florida's compliance with federal laws. The Florida sheriffs handle in-person registration and reregistration. "About Us" (updated October 1, 2016), Florida Department of Law Enforcement, *available at* <http://offender.fdle.state.fl.us/offender/About.jsp> (last visited on March 13, 2017). The FDLE maintains a database that allows members of the public to search for sexual offenders and sexual predators through a variety of search options, including name, neighborhood, and enrollment, employment, or volunteer status at a institute of higher education. Members of the public may also check whether an electronic mail address or Internet identifier belongs to a registered sexual offender or sexual predator. Offender searches and other information may be accessed from "Florida Sexual Offenders and Predators," Florida Department of Law Enforcement, *available at* <http://offender.fdle.state.fl.us/offender/Search.jsp> (last visited on March 13, 2017).



2006 (AWA).<sup>14</sup> The SORNA attempts to make all states' laws uniform with respect to requirements (or minimum standards) that Congress judged to be necessary to be included in states' registry laws. The U.S. Department of Justice (DOJ) maintains the Dru Sjodin National Sex Offender Public Website (NSOPW).<sup>15</sup> States may choose not to substantially implement the SORNA, but the AWA penalizes noncompliance by partially reducing Byrne Justice Assistance Grant funding.<sup>16</sup> The DOJ has determined that Florida has substantially implemented the SORNA.<sup>17</sup>

### **Preliminary Injunction Precluding Enforcement of the Current Definition of Internet Identifier**

As previously noted, sexual predators and sexual offenders are required to report certain information, including Internet identifiers. The requirement to report Internet identifiers was created by the Legislature in 2014.<sup>18</sup> In 2016, the Legislature modified the original definition of "Internet identifier."<sup>19</sup> This modified definition, which was to take effect on October 1, 2016,<sup>20</sup> expanded the original definition to include Internet identifiers associated with a website or URL<sup>21</sup> or software applications.

Section 775.21(2)(j), F.S., provides that an "Internet identifier" includes, but is not limited to, all website uniform resource locators (URLs) and application software, whether mobile or nonmobile, used for Internet communication, including anonymous communication, through electronic mail, chat, instant messages, social networking, social gaming, or other similar programs and all corresponding usernames, logins, screen names, and screen identifiers associated with each URL or application software. Internet identifier does not include a date of birth, Social Security number, personal identification number (PIN), URL, or application

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<sup>14</sup> 42 U.S.C. Sections 16911 *et seq.* The Department of Justice issued guidelines for the implementation of the SORNA. The final guidelines (July 2008) and supplemental guidelines (January 11, 2011) may be accessed at "Guidelines," Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), Office of Justice Programs, U.S. Department of Justice, available at <https://ojp.gov/smart/guidelines.htm> (last visited on March 13, 2017).

<sup>15</sup> Offender searches and other information may be accessed from "NSPOW," Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), Office of Justice Programs, U.S. Department of Justice, available at <http://www.nsopw.gov/Core/Portal.aspx> (last visited on March 13, 2017).

<sup>16</sup> *Edward Byrne Justice Assistance Grant (JAG) Program Fact Sheet*, Bureau of Justice Assistance, U.S. Department of Justice (updated January 1, 2016) available at <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=266685> (last visited on March 13, 2017).

<sup>17</sup> "Jurisdictions that have substantially implemented SORNA," Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), Office of Justice Programs, U.S. Department of Justice, available at [http://www.ojp.usdoj.gov/smart/newsroom\\_jurisdictions\\_sorna.htm](http://www.ojp.usdoj.gov/smart/newsroom_jurisdictions_sorna.htm) (last visited on March 13, 2017).

<sup>18</sup> Chapter 2014-5, L.O.F.

<sup>19</sup> Chapter 2016-104, L.O.F. (amending s. 775.21(2)(i), F.S., and renumbering it as s. 775.21(2)(j), F.S.). The original definition of "Internet identifier" was all electronic mail, chat, instant messenger, social networking, application software, or similar names used for Internet communication, but did not include a date of birth, social security number, or personal identification number (PIN). Voluntary disclosure by a sexual predator of his or her date of birth, social security number, or PIN as an Internet identifier waived the disclosure exemption in this paragraph for such personal information. Section 775.21(2)(i), F.S. (2014).

<sup>20</sup> *Id.*

<sup>21</sup> "URL stands for Uniform Resource Locator, and is used to specify addresses on the World Wide Web. A URL is the fundamental network identification for any resource connected to the web (e.g., hypertext pages, images, and sound files)." "ARCHIVED: What is a URL?", Indiana University Information Technology Knowledge Base Repository, available at <https://kb.iu.edu/d/adnz> (last visited on March 14, 2017).

software used for utility, banking, retail, or medical purposes. Voluntary disclosure by a sexual predator or sexual offender of his or her date of birth, Social Security number, or PIN as an Internet identifier waives the disclosure exemption in this paragraph for such personal information.<sup>22</sup>

Shortly before the amended definition of “Internet identifier” was slated to take effect, a group of plaintiffs in Florida who had been convicted as sexual offenders filed a lawsuit against the Commissioner of the FDLE in the United States District Court for the Northern District of Florida, Tallahassee Division.<sup>23</sup> The plaintiffs argued that the prior and amended definition of “Internet identifier” violated the First Amendment and raised a vagueness challenge. The plaintiffs also moved for a preliminary injunction, which the court treated as a challenge only to the amended definition.

The court found the current definition is “hopelessly vague, chills speech protected by the First Amendment, and is far broader than necessary to serve the state’s legitimate interest in deterring or solving online sex crimes.” The court granted the preliminary injunction.

The court stated the definition “sets no outer limit, because the term is expressly ‘not limited to’ what the definition says. Having jettisoned the ordinary understanding and replaced it with an expressly unlimited description, the definition leaves a sex offender guessing at what must be disclosed.” The court also stated that the definition, “at least on many plausible readings, is hopelessly and unnecessarily broad in scope.” One of the examples the court cited in its finding was Mr. Doe’s digital subscription to a newspaper. Mr. Doe receives an e-mail every morning with the day’s headlines and e-mails every day with additional articles or breaking news. The court continued:

He plainly must register at least the URL for the newspaper, if not the URL for every article the newspaper sends. But the State has absolutely no legitimate interest in requiring a sex offender to register the URL of the newspaper or articles the offender reads. And if Mr. Doe chooses one day to make a comment on an article, he must now figure out whether the same URL is in use, and he must make his identity available to the public. Unlike every other subscriber or member of the public, Mr. Doe cannot comment anonymously. *See White v. Baker*, 696 F. Supp. 2d 1289, 1313 (N.D. Ga. 2010) (holding that enforcement of a registration requirement would irreparably harm a registered sex offender “by chilling his First Amendment right to engage in anonymous free speech”).

The order states that the preliminary injunction remains in effect until entry of a final judgment in the case or until otherwise ordered. The injunction prohibits the FDLE Commissioner<sup>24</sup> from

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<sup>22</sup> Sections 943.0435(1)(e), 944.607, and 985.4815, F.S., provide that “Internet identifier” has the same meaning as provided in s. 775.21, F.S.

<sup>23</sup> The plaintiffs filed this action against current FDLE Commissioner Richard “Rick” L. Swearingen in his official capacity. Preliminary Injunction, *Doe I et al. v. Swearingen, etc.*, Case No. 4:16-00501-RH-CAS (N.D. Fla. Sept. 27, 2016) (on file with the Senate Committee on Criminal Justice). All information regarding this case is from this source.

<sup>24</sup> The injunction also binds the Commissioner’s “officers, agents, servants, employees, and attorneys - and others in active concert or participation with any of them - who receive actual notice of this injunction by personal service or otherwise.”

taking any action based on the current definition of “Internet identifier.” However, the injunction does not preclude enforcement of the prior definition.

### III. Effect of Proposed Changes:

**Section 1** amends s. 775.21, F.S., relating to sexual predator registration. The section modifies the definition of “Internet identifier” in s. 775.21(2)(j), F.S. “Internet identifier” means any designation, moniker, screen name, username, or other name used for self-identification to send or receive social Internet communication. Internet identifier does not include a date of birth, social security number, personal identification number (PIN), or password. A sexual offender’s or sexual predator’s use of an Internet identifier that discloses his or her date of birth, social security number, PIN, password, or other information that would reveal the identity of the sexual offender or sexual predator waives the described disclosure exemption described in this paragraph and in s. 119.071(5)(l), F.S.<sup>25</sup>

Connected to the definition of “Internet identifier,” s. 775.21(2)(m), F.S., is created, which defines “social Internet communication” as any communication through a commercial social networking website, as defined in s. 943.0437, F.S., or application software. The term does not include any of the following:

- Communication for which the primary purpose is the facilitation of commercial transactions involving goods or services;
- Communication on an Internet website for which the primary purpose of the website is the dissemination of news; or
- Communication with a governmental entity.

For purposes of paragraph (2)(m), the term “application software” is defined as any computer program that is designed to run on a mobile device such as a smartphone or tablet computer, that allows users to create web pages or profiles that provide information about themselves and are available publicly or to other users, and that offers a mechanism for communication with other users through a forum, a chatroom, electronic mail, or an instant messenger.

The following provisions of s. 775.21, F.S. are amended or created to require a sexual predator to report each Internet identifier’s corresponding website homepage or application software name:

- Section 775.21(6)(a)1., F.S., relating to information a sexual predator is required to report at initial registration.
- Section 775.21(6)(a)1.a., F.S., which is created by the bill, provides that any change to the following that occurs after the sexual predator initially registers must be reported as provided in s. 775.21(6)(g), (i), and (j), F.S.: permanent, temporary, or transient residence; name; electronic mail addresses; Internet identifiers and each Internet identifier’s corresponding website homepage or application software name; home and cellular telephone numbers; and employment information; and status at an institution of higher education.<sup>26</sup>

<sup>25</sup> A connected bill, SB 686 (2017), creates s. 119.071(5)(l), F.S., which exempts from public disclosure electronic mail addresses and Internet identifiers of sexual predators and sexual offenders which they report pursuant to specified registration statutes, unless otherwise ordered by a court.

<sup>26</sup> Excluding changes to Internet identifier’s corresponding website homepage or application software name, changes to all of the other noted information are already reported under current s. 775.21(6)(g), (i), or (j), F.S.

- Section 775.21(6)(e)2., F.S., which requires a sexual predator who is not in the custody or under the supervision of the DOC to report changes in certain information.
- Section 775.21(6)(g)5.a., F.S., which requires a sexual predator to report certain information to: the FDLE through the department's online system or in person with the sheriff's office; or the Department of Corrections or Department of Juvenile Justice, if the sexual predator is in custody or under the supervision of either department. The bill also modifies the current requirement for a sexual predator who is not under custody or supervision to register all electronic mail addresses and Internet identifiers before using them. Under the bill, this sexual predator must register them within 48 hours after using them.
- Section 775.21(6)(g)5.c., F.S., which specifies that FDLE's online system may be accessed by a sexual predator to report changes in certain information.
- Section 775.21(8)(a)1., F.S., which requires a sexual predator at reregistration to report any changes in certain information.

Currently, s. 775.21(6)(k), F.S., provides that the FDLE's sexual predator list, which contains information a sexual predator registers (pursuant to s. 775.21(6)(a)1., F.S.), is a public record. Section 1 specifies that this information is a public record, unless otherwise made exempt or confidential and exempt from public disclosure.

Section 775.21(10)(a), F.S., which provides that it is a third degree felony for a sexual predator to fail to report certain information, is expanded to include the failure to report each Internet identifier's corresponding website homepage or application software name.

Section 1 also makes several technical or conforming changes.

**Section 2** amends s. 943.0435, F.S., relating to sexual offender registration. The following provisions of s. 943.0435, F.S., are amended to require a sexual offender to report each Internet identifier's corresponding website homepage or application software name:

- Section 943.0435(2)(a) and (b), F.S., relating to information a sexual offender is required to report at initial registration and changes to that information after initial registration.
- Section 943.0435(4)(e)1., F.S., which requires a sexual offender to report certain information to the FDLE through the department's online system or in person with the sheriff's office; or the Department of Corrections or Department of Juvenile Justice, if the sexual offender is in custody or under the supervision of either department. The bill also modifies the current requirement for a sexual offender who is not under custody or supervision to register all electronic mail addresses and Internet identifiers before using them. Under the bill, this sexual offender must register them within 48 hours after using them.
- Section 943.0435(4)(e)3., F.S., which specifies that FDLE's online system may be accessed by a sexual offender to report changes in certain information.
- Section 943.0435(14)(c)1., F.S., which requires a sexual offender at reregistration to report any changes in certain information.

Section 943.0435(14)(c)4., F.S., which provides that it is a third degree felony for a sexual offender to fail to report certain information, is expanded to include the failure to report each Internet identifier's corresponding website homepage or application software name.

Section 2 of the bill also makes several technical or conforming changes.

**Sections 3-14** of the bill reenact, respectively, ss. 794.056, 921.0022, 938.085, 943.0437, 944.606, 944.607, 985.481, and 985.4815, F.S., for the purpose of incorporating amendments to ss. 775.21 and 943.0435, F.S., made by the bill.

**Section 15** of the bill provides that the bill takes effect upon becoming a law.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference estimated that the original bill would have a “positive indeterminate” prison bed impact (an unquantifiable increase in prison beds).<sup>27</sup> Nominal changes to the original bill, which do not relate to penalties, should not change this estimate.

The CJIC states that, per the Department of Corrections, in FY 2015-2016, there were 1,001 (adjusted)<sup>28</sup> offenders sentenced for registration/false information offenses relating to sexual offenders and sexual predators, with 503 (adjusted) of these offenders sentenced to prison (mean sentence length of 40.2 months and an incarceration rate of 60.5 percent

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<sup>27</sup> Impact information was provided by staff of the Office of Economic and Demographic Research on March 6, 2017, via e-mail (on file with the Senate Committee on Criminal Justice).

<sup>28</sup> Sentencing data from the DOC is incomplete, which means that the numbers the EDR receives are potentially lower than what the actual numbers are. The EDR adjusts these numbers by the percentage of scoresheets received for the applicable fiscal year.

adjusted and 60.4 percent unadjusted). It is unknown how many additional offenders might be added due to proposed changes made by the bill.

The FDLE states that Internet identifiers are to be reported as part of the sexual offender or sexual predator registration requirements pursuant to the federal Sex Offender Registration and Notification Act (SORNA), which is Title I of the Adam Walsh Protection and Safety Act of 2006, and SORNA guidelines. According to the FDLE, failure to comply with the guideline requirements could result in a 10 percent reduction of funding provided under the Edward Byrne Justice Assistance Grant (JAG) Program.<sup>29</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

A connected bill, CS/SB 686 (2017), creates s. 119.071(5)(1), F.S., to exempt from public disclosure electronic mail addresses and Internet identifiers of sexual predators and sexual offenders which they report pursuant to specified registration statutes, unless otherwise ordered by a court.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 775.21 and 943.0435.

This bill also reenacts ss. 794.056, 921.0022, 938.085, 943.0437, 944.606, 944.607, 985.481, and 985.4815, F.S., for the purpose of incorporating amendments to ss. 775.21 and 943.0435, F.S., made by the bill.

**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 April 3, 2017:**

The committee substitute:

- Redefines “social Internet communication” and defines “application software.”
- Provides that the FDLE’s sexual predator list, which contains information a sexual predator registers (pursuant to s. 775.21(6)(a)1., F.S.), is a public record, unless otherwise made exempt or confidential and exempt from public disclosure.

- B. **Amendments:**

None.

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<sup>29</sup> 2017 FDLE Legislative Bill Analysis (SB 684) (February 9, 2017), Florida Department of Law Enforcement (on file with the Senate Committee on Criminal Justice).

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

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By the Committee on Criminal Justice; and Senator Baxley

591-03322-17

2017684c1

1 A bill to be entitled  
 2 An act relating to Internet identifiers; amending s.  
 3 775.21, F.S.; revising the definition of the term  
 4 "Internet identifier"; defining the term "social  
 5 Internet communication"; requiring a sexual predator  
 6 to register each Internet identifier's corresponding  
 7 website home page or application software name with  
 8 the Department of Law Enforcement through the  
 9 sheriff's office; requiring a sexual predator to  
 10 report any change to certain information after initial  
 11 in-person registration in a specified manner;  
 12 requiring a sexual predator to register all electronic  
 13 mail addresses, Internet identifiers, and Internet  
 14 identifiers' corresponding website home pages or  
 15 application names with the department within 48 hours  
 16 after using the addresses or identifiers, rather than  
 17 before using them; providing that the department's  
 18 sexual predator registration list is a public record,  
 19 unless otherwise made exempt or confidential and  
 20 exempt; revising the information that a sexual  
 21 predator must report to the sheriff's office each  
 22 year; conforming provisions to change made by the act;  
 23 making technical changes; amending s. 943.0435, F.S.;  
 24 requiring a sexual offender, upon initial  
 25 registration, to report in person at the sheriff's  
 26 office; requiring the sexual offender to report any  
 27 change to each Internet identifier's corresponding  
 28 website home page or application software name in  
 29 person at the sheriff's office in a specified manner;

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30 requiring a sexual offender to report any change to  
 31 certain information after initial in-person  
 32 registration in a specified manner; requiring a sexual  
 33 offender to register all electronic mail addresses and  
 34 Internet identifiers, and each Internet identifier's  
 35 corresponding website home page or application  
 36 software name, with a specified period after using  
 37 these addresses or identifiers, rather than before  
 38 using them; making technical changes; reenacting ss.  
 39 943.0437(2), 944.606(1)(c), 944.607(1)(e),  
 40 985.481(1)(c), and 985.4815(1)(e), F.S., relating to  
 41 the definition of the term "Internet identifier," to  
 42 incorporate the amendment made to s. 775.21, F.S., in  
 43 references thereto; reenacting ss. 944.606(3)(a),  
 44 944.607(4)(a), (9), and (13)(c), 985.481(3)(a), and  
 45 985.4815(4)(a), (9), and (13)(b), F.S., relating to  
 46 sexual offenders, notification to the Department of  
 47 Law Enforcement of information on sexual offenders,  
 48 notification to the department upon release of sexual  
 49 offenders adjudicated delinquent, and notification to  
 50 the department of information on juvenile sexual  
 51 offenders, respectively, to incorporate the amendment  
 52 made to s. 943.0435, F.S., in references thereto;  
 53 reenacting ss. 794.056(1), 921.0022(3)(g), and  
 54 938.085, F.S., relating to the Rape Crisis Program  
 55 Trust Fund, the Criminal Punishment Code offense  
 56 severity ranking chart, and additional costs to fund  
 57 rape crisis centers, respectively, to incorporate the  
 58 amendments made to ss. 775.21 and 943.0435, F.S., in

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59 references thereto; providing an effective date.

60  
61 Be It Enacted by the Legislature of the State of Florida:

62  
63 Section 1. Present paragraphs (m), (n), and (o) of  
64 subsection (2) of section 775.21, Florida Statutes, are  
65 redesignated as paragraphs (n), (o), and (p), respectively, a  
66 new paragraph (m) is added to that subsection, paragraph (j) of  
67 that subsection is amended, paragraphs (a) and (d) of subsection  
68 (4) and paragraph (d) of subsection (5) of that section are  
69 republished, paragraphs (a), (e), (g), and (k) of subsection (6)  
70 of that section are amended, paragraph (i) of subsection (6) of  
71 that section is republished, paragraph (a) of subsection (8) and  
72 paragraph (a) of subsection (10) of that section are amended,  
73 and paragraph (e) of subsection (10) of that section is  
74 republished, to read:

75 775.21 The Florida Sexual Predators Act.—

76 (2) DEFINITIONS.—As used in this section, the term:

77 (j) "Internet identifier" means any designation, moniker,  
78 screen name, username, or other name used for self-  
79 identification to send or receive social Internet communication  
80 includes, but is not limited to, all website uniform resource  
81 locators (URLs) and application software, whether mobile or  
82 nonmobile, used for Internet communication, including anonymous  
83 communication, through electronic mail, chat, instant messages,  
84 social networking, social gaming, or other similar programs and  
85 all corresponding usernames, logins, screen names, and screen  
86 identifiers associated with each URL or application software.  
87 Internet identifier does not include a date of birth, social

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88 security number, personal identification number (PIN), or  
89 password. A sexual offender's or sexual predator's use of an  
90 Internet identifier that discloses his or her date of birth,  
91 social security number, personal identification number (PIN),  
92 password, or other information that would reveal the identity of  
93 the sexual offender or sexual predator URL, or application  
94 software used for utility, banking, retail, or medical purposes.  
95 ~~Voluntary disclosure by a sexual predator or sexual offender of~~  
96 ~~his or her date of birth, Social Security number, or PIN as an~~  
97 ~~Internet identifier waives the disclosure exemption in this~~  
98 ~~paragraph and in s. 119.071(5)(1) for such personal information.~~

99 (m) "Social Internet communication" means any communication  
100 through a commercial social networking website, as defined in s.  
101 943.0437, or application software. The term does not include any  
102 of the following:

103 1. Communication for which the primary purpose is the  
104 facilitation of commercial transactions involving goods or  
105 services;

106 2. Communication on an Internet website for which the  
107 primary purpose of the website is the dissemination of news; or

108 3. Communication with a governmental entity.

109  
110 For purposes of this paragraph, the term "application software"  
111 means any computer program that is designed to run on a mobile  
112 device such as a smartphone or tablet computer, that allows  
113 users to create web pages or profiles that provide information  
114 about themselves and are available publicly or to other users,  
115 and that offers a mechanism for communication with other users  
116 through a forum, a chatroom, electronic mail, or an instant

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messenger.

## (4) SEXUAL PREDATOR CRITERIA.—

(a) For a current offense committed on or after October 1, 1993, upon conviction, an offender shall be designated as a "sexual predator" under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

## 1. The felony is:

a. A capital, life, or first degree felony violation, or any attempt thereof, of s. 787.01 or s. 787.02, where the victim is a minor, or s. 794.011, s. 800.04, or s. 847.0145, or a violation of a similar law of another jurisdiction; or

b. Any felony violation, or any attempt thereof, of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8)(b); s. 825.1025; s. 827.071; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this subparagraph or at least one offense listed in this subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),

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(d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction;

2. The offender has not received a pardon for any felony or similar law of another jurisdiction that is necessary for the operation of this paragraph; and

3. A conviction of a felony or similar law of another jurisdiction necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(d) An offender who has been determined to be a sexually violent predator pursuant to a civil commitment proceeding under chapter 394 shall be designated as a "sexual predator" under subsection (5) and subject to registration under subsection (6) and community and public notification under subsection (7).

(5) SEXUAL PREDATOR DESIGNATION.—An offender is designated as a sexual predator as follows:

(d) A person who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the

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175 person was a resident of that state or jurisdiction, without  
 176 regard to whether the person otherwise meets the criteria for  
 177 registration as a sexual offender, shall register in the manner  
 178 provided in s. 943.0435 or s. 944.607 and shall be subject to  
 179 community and public notification as provided in s. 943.0435 or  
 180 s. 944.607. A person who meets the criteria of this section is  
 181 subject to the requirements and penalty provisions of s.  
 182 943.0435 or s. 944.607 until the person provides the department  
 183 with an order issued by the court that designated the person as  
 184 a sexual predator, as a sexually violent predator, or by another  
 185 sexual offender designation in the state or jurisdiction in  
 186 which the order was issued which states that such designation  
 187 has been removed or demonstrates to the department that such  
 188 designation, if not imposed by a court, has been removed by  
 189 operation of law or court order in the state or jurisdiction in  
 190 which the designation was made, and provided such person no  
 191 longer meets the criteria for registration as a sexual offender  
 192 under the laws of this state.

193 (6) REGISTRATION.—

194 (a) A sexual predator shall register with the department  
 195 through the sheriff's office by providing the following  
 196 information to the department:

197 1. Name; social security number; age; race; sex; date of  
 198 birth; height; weight; tattoos or other identifying marks; hair  
 199 and eye color; photograph; address of legal residence and  
 200 address of any current temporary residence, within the state or  
 201 out of state, including a rural route address and a post office  
 202 box; if no permanent or temporary address, any transient  
 203 residence within the state; address, location or description,

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204 and dates of any current or known future temporary residence  
 205 within the state or out of state; ~~all~~ electronic mail addresses;  
 206 ~~and all~~ Internet identifiers and each Internet identifier's  
 207 corresponding website home page or application software name  
 208 ~~required to be provided pursuant to subparagraph (g)5.; all~~ home  
 209 telephone numbers and cellular telephone numbers ~~required to be~~  
 210 ~~provided pursuant to subparagraph (g)5.;~~ employment information  
 211 ~~required to be provided pursuant to subparagraph (g)5.;~~ the  
 212 make, model, color, vehicle identification number (VIN), and  
 213 license tag number of all vehicles owned; date and place of each  
 214 conviction; fingerprints; palm prints; and a brief description  
 215 of the crime or crimes committed by the offender. A post office  
 216 box may not be provided in lieu of a physical residential  
 217 address. The sexual predator shall produce his or her passport,  
 218 if he or she has a passport, and, if he or she is an alien,  
 219 shall produce or provide information about documents  
 220 establishing his or her immigration status. The sexual predator  
 221 shall also provide information about any professional licenses  
 222 he or she has.

223 a. Any change that occurs after the sexual predator  
 224 registers in person at the sheriff's office as provided in this  
 225 subparagraph in any of the following information related to the  
 226 sexual predator must be reported as provided in paragraphs (g),  
 227 (i), and (j): permanent, temporary, or transient residence;  
 228 name; electronic mail addresses; Internet identifiers and each  
 229 Internet identifier's corresponding website home page or  
 230 application software name; home telephone numbers and cellular  
 231 telephone numbers; employment information; and status at an  
 232 institution of higher education.

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233 ~~b.a.~~ If the sexual predator's place of residence is a motor  
 234 vehicle, trailer, mobile home, or manufactured home, as defined  
 235 in chapter 320, the sexual predator shall also provide to the  
 236 department written notice of the vehicle identification number;  
 237 the license tag number; the registration number; and a  
 238 description, including color scheme, of the motor vehicle,  
 239 trailer, mobile home, or manufactured home. If a sexual  
 240 predator's place of residence is a vessel, live-aboard vessel,  
 241 or houseboat, as defined in chapter 327, the sexual predator  
 242 shall also provide to the department written notice of the hull  
 243 identification number; the manufacturer's serial number; the  
 244 name of the vessel, live-aboard vessel, or houseboat; the  
 245 registration number; and a description, including color scheme,  
 246 of the vessel, live-aboard vessel, or houseboat.

247 ~~c.b.~~ If the sexual predator is enrolled or employed,  
 248 whether for compensation or as a volunteer, at an institution of  
 249 higher education in this state, the sexual predator shall also  
 250 provide to the department ~~pursuant to subparagraph (g)5.~~ the  
 251 name, address, and county of each institution, including each  
 252 campus attended, and the sexual predator's enrollment,  
 253 volunteer, or employment status. The sheriff, the Department of  
 254 Corrections, or the Department of Juvenile Justice shall  
 255 promptly notify each institution of higher education of the  
 256 sexual predator's presence and any change in the sexual  
 257 predator's enrollment, volunteer, or employment status.

258 ~~d.e.~~ A sexual predator shall report in person to the  
 259 sheriff's office within 48 hours after any change in vehicles  
 260 owned to report those vehicle information changes.

261 2. Any other information determined necessary by the

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262 department, including criminal and corrections records;  
 263 nonprivileged personnel and treatment records; and evidentiary  
 264 genetic markers when available.

265 (e)1. If the sexual predator is not in the custody or  
 266 control of, or under the supervision of, the Department of  
 267 Corrections or is not in the custody of a private correctional  
 268 facility, the sexual predator shall register in person:

269 a. At the sheriff's office in the county where he or she  
 270 establishes or maintains a residence within 48 hours after  
 271 establishing or maintaining a residence in this state; and

272 b. At the sheriff's office in the county where he or she  
 273 was designated a sexual predator by the court within 48 hours  
 274 after such finding is made.

275 2. Any change that occurs after the sexual predator  
 276 registers in person at the sheriff's office as provided in  
 277 subparagraph 1. in any of the following information related to  
 278 ~~in~~ the sexual predator must be reported as provided in  
 279 paragraphs (g), (i), and (j): predator's permanent, temporary,  
 280 or transient residence; name; vehicles owned; electronic mail  
 281 addresses; Internet identifiers and each Internet identifier's  
 282 corresponding website home page or application software name;  
 283 home telephone numbers and cellular telephone numbers; ~~and~~  
 284 employment information; ~~and any~~ change in status at an  
 285 institution of higher education, ~~required to be provided~~  
 286 pursuant to subparagraph (g)5., after the sexual predator  
 287 registers in person at the sheriff's office as provided in  
 288 subparagraph 1. must be accomplished in the manner provided in  
 289 paragraphs (g), (i), and (j). When a sexual predator registers  
 290 with the sheriff's office, the sheriff shall take a photograph,

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291 a set of fingerprints, and palm prints of the predator and  
 292 forward the photographs, palm prints, and fingerprints to the  
 293 department, along with the information that the predator is  
 294 required to provide pursuant to this section.

295 (g)1. Each time a sexual predator's driver license or  
 296 identification card is subject to renewal, and, without regard  
 297 to the status of the predator's driver license or identification  
 298 card, within 48 hours after any change of the predator's  
 299 residence or change in the predator's name by reason of marriage  
 300 or other legal process, the predator shall report in person to a  
 301 driver license office and is subject to the requirements  
 302 specified in paragraph (f). The Department of Highway Safety and  
 303 Motor Vehicles shall forward to the department and to the  
 304 Department of Corrections all photographs and information  
 305 provided by sexual predators. Notwithstanding the restrictions  
 306 set forth in s. 322.142, the Department of Highway Safety and  
 307 Motor Vehicles may release a reproduction of a color-photograph  
 308 or digital-image license to the Department of Law Enforcement  
 309 for purposes of public notification of sexual predators as  
 310 provided in this section. A sexual predator who is unable to  
 311 secure or update a driver license or an identification card with  
 312 the Department of Highway Safety and Motor Vehicles as provided  
 313 in paragraph (f) and this paragraph shall also report any change  
 314 of the predator's residence or change in the predator's name by  
 315 reason of marriage or other legal process within 48 hours after  
 316 the change to the sheriff's office in the county where the  
 317 predator resides or is located and provide confirmation that he  
 318 or she reported such information to the Department of Highway  
 319 Safety and Motor Vehicles. The reporting requirements under this

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320 subparagraph do not negate the requirement for a sexual predator  
 321 to obtain a Florida driver license or identification card as  
 322 required by this section.

323 2.a. A sexual predator who vacates a permanent, temporary,  
 324 or transient residence and fails to establish or maintain  
 325 another permanent, temporary, or transient residence shall,  
 326 within 48 hours after vacating the permanent, temporary, or  
 327 transient residence, report in person to the sheriff's office of  
 328 the county in which he or she is located. The sexual predator  
 329 shall specify the date upon which he or she intends to or did  
 330 vacate such residence. The sexual predator shall provide or  
 331 update all of the registration information required under  
 332 paragraph (a). The sexual predator shall provide an address for  
 333 the residence or other place that he or she is or will be  
 334 located during the time in which he or she fails to establish or  
 335 maintain a permanent or temporary residence.

336 b. A sexual predator shall report in person at the  
 337 sheriff's office in the county in which he or she is located  
 338 within 48 hours after establishing a transient residence and  
 339 thereafter must report in person every 30 days to the sheriff's  
 340 office in the county in which he or she is located while  
 341 maintaining a transient residence. The sexual predator must  
 342 provide the addresses and locations where he or she maintains a  
 343 transient residence. Each sheriff's office shall establish  
 344 procedures for reporting transient residence information and  
 345 provide notice to transient registrants to report transient  
 346 residence information as required in this sub-subparagraph.  
 347 Reporting to the sheriff's office as required by this sub-  
 348 subparagraph does not exempt registrants from any reregistration

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349 requirement. The sheriff may coordinate and enter into  
 350 agreements with police departments and other governmental  
 351 entities to facilitate additional reporting sites for transient  
 352 residence registration required in this sub-subparagraph. The  
 353 sheriff's office shall, within 2 business days, electronically  
 354 submit and update all information provided by the sexual  
 355 predator to the department.

356 3. A sexual predator who remains at a permanent, temporary,  
 357 or transient residence after reporting his or her intent to  
 358 vacate such residence shall, within 48 hours after the date upon  
 359 which the predator indicated he or she would or did vacate such  
 360 residence, report in person to the sheriff's office to which he  
 361 or she reported pursuant to subparagraph 2. for the purpose of  
 362 reporting his or her address at such residence. When the sheriff  
 363 receives the report, the sheriff shall promptly convey the  
 364 information to the department. An offender who makes a report as  
 365 required under subparagraph 2. but fails to make a report as  
 366 required under this subparagraph commits a felony of the second  
 367 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 368 775.084.

369 4. The failure of a sexual predator who maintains a  
 370 transient residence to report in person to the sheriff's office  
 371 every 30 days as required by sub-subparagraph 2.b. is punishable  
 372 as provided in subsection (10).

373 5.a. A sexual predator shall register all electronic mail  
 374 addresses and Internet identifiers, and each Internet  
 375 identifier's corresponding website home page or application  
 376 software name, with the department through the department's  
 377 online system or in person at the sheriff's office within 48

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378 hours after ~~before~~ using such electronic mail addresses and  
 379 Internet identifiers. If the sexual predator is in the custody  
 380 or control, or under the supervision, of the Department of  
 381 Corrections, he or she must report all electronic mail addresses  
 382 and Internet identifiers, and each Internet identifier's  
 383 corresponding website home page or application software name, to  
 384 the Department of Corrections before using such electronic mail  
 385 addresses or Internet identifiers. If the sexual predator is in  
 386 the custody or control, or under the supervision, of the  
 387 Department of Juvenile Justice, he or she must report all  
 388 electronic mail addresses and Internet identifiers, and each  
 389 Internet identifier's corresponding website home page or  
 390 application software name, to the Department of Juvenile Justice  
 391 before using such electronic mail addresses or Internet  
 392 identifiers.

393 b. A sexual predator shall register all changes to home  
 394 telephone numbers and cellular telephone numbers, including  
 395 added and deleted numbers, all changes to employment  
 396 information, and all changes in status related to enrollment,  
 397 volunteering, or employment at institutions of higher education,  
 398 through the department's online system; in person at the  
 399 sheriff's office; in person at the Department of Corrections if  
 400 the sexual predator is in the custody or control, or under the  
 401 supervision, of the Department of Corrections; or in person at  
 402 the Department of Juvenile Justice if the sexual predator is in  
 403 the custody or control, or under the supervision, of the  
 404 Department of Juvenile Justice. All changes required to be  
 405 reported in this sub-subparagraph shall be reported within 48  
 406 hours after the change.

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407 c. The department shall establish an online system through  
 408 which sexual predators may securely access, submit, and update  
 409 all electronic mail addresses; address and Internet identifiers  
 410 and each Internet identifier's corresponding website home page  
 411 or application software name; identifier information, home  
 412 telephone numbers and cellular telephone numbers;~~;~~ employment  
 413 information;~~;~~ and institution of higher education information.

414 (i) A sexual predator who intends to establish a permanent,  
 415 temporary, or transient residence in another state or  
 416 jurisdiction other than the State of Florida shall report in  
 417 person to the sheriff of the county of current residence within  
 418 48 hours before the date he or she intends to leave this state  
 419 to establish residence in another state or jurisdiction or at  
 420 least 21 days before the date he or she intends to travel if the  
 421 intended residence of 5 days or more is outside of the United  
 422 States. Any travel that is not known by the sexual predator 21  
 423 days before the departure date must be reported to the sheriff's  
 424 office as soon as possible before departure. The sexual predator  
 425 shall provide to the sheriff the address, municipality, county,  
 426 state, and country of intended residence. For international  
 427 travel, the sexual predator shall also provide travel  
 428 information, including, but not limited to, expected departure  
 429 and return dates, flight number, airport of departure, cruise  
 430 port of departure, or any other means of intended travel. The  
 431 sheriff shall promptly provide to the department the information  
 432 received from the sexual predator. The department shall notify  
 433 the statewide law enforcement agency, or a comparable agency, in  
 434 the intended state, jurisdiction, or country of residence of the  
 435 sexual predator's intended residence. The failure of a sexual

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436 predator to provide his or her intended place of residence is  
 437 punishable as provided in subsection (10).

438 (k)1. The department is responsible for the online  
 439 maintenance of current information regarding each registered  
 440 sexual predator. The department shall maintain hotline access  
 441 for state, local, and federal law enforcement agencies to obtain  
 442 instantaneous locator file and offender characteristics  
 443 information on all released registered sexual predators for  
 444 purposes of monitoring, tracking, and prosecution. The  
 445 photograph, palm prints, and fingerprints do not have to be  
 446 stored in a computerized format.

447 2. The department's sexual predator registration list,  
 448 containing the information described in subparagraph (a)1., is a  
 449 public record, unless otherwise made exempt or confidential and  
 450 exempt from s. 119.07(1) and s. 24(a) of Art. I of the State  
 451 Constitution. The department may disseminate this public  
 452 information by any means deemed appropriate, including operating  
 453 a toll-free telephone number for this purpose. When the  
 454 department provides information regarding a registered sexual  
 455 predator to the public, department personnel shall advise the  
 456 person making the inquiry that positive identification of a  
 457 person believed to be a sexual predator cannot be established  
 458 unless a fingerprint comparison is made, and that it is illegal  
 459 to use public information regarding a registered sexual predator  
 460 to facilitate the commission of a crime.

461 3. The department shall adopt guidelines as necessary  
 462 regarding the registration of sexual predators and the  
 463 dissemination of information regarding sexual predators as  
 464 required by this section.

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465 (8) VERIFICATION.—The department and the Department of  
 466 Corrections shall implement a system for verifying the addresses  
 467 of sexual predators. The system must be consistent with the  
 468 federal Adam Walsh Child Protection and Safety Act of 2006 and  
 469 any other federal standards applicable to such verification or  
 470 required to be met as a condition for the receipt of federal  
 471 funds by the state. The Department of Corrections shall verify  
 472 the addresses of sexual predators who are not incarcerated but  
 473 who reside in the community under the supervision of the  
 474 Department of Corrections and shall report to the department any  
 475 failure by a sexual predator to comply with registration  
 476 requirements. County and local law enforcement agencies, in  
 477 conjunction with the department, shall verify the addresses of  
 478 sexual predators who are not under the care, custody, control,  
 479 or supervision of the Department of Corrections, and may verify  
 480 the addresses of sexual predators who are under the care,  
 481 custody, control, or supervision of the Department of  
 482 Corrections. Local law enforcement agencies shall report to the  
 483 department any failure by a sexual predator to comply with  
 484 registration requirements.

485 (a) A sexual predator shall report in person each year  
 486 during the month of the sexual predator's birthday and during  
 487 every third month thereafter to the sheriff's office in the  
 488 county in which he or she resides or is otherwise located to  
 489 reregister. The sheriff's office may determine the appropriate  
 490 times and days for reporting by the sexual predator, which must  
 491 be consistent with the reporting requirements of this paragraph.  
 492 Reregistration must include any changes to the following  
 493 information:

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494 1. Name; social security number; age; race; sex; date of  
 495 birth; height; weight; tattoos or other identifying marks; hair  
 496 and eye color; address of any permanent residence and address of  
 497 any current temporary residence, within the state or out of  
 498 state, including a rural route address and a post office box; if  
 499 no permanent or temporary address, any transient residence  
 500 within the state including the address, location or description  
 501 of the transient residences, and dates of any current or known  
 502 future temporary residence within the state or out of state; all  
 503 electronic mail addresses; all ~~or~~ Internet identifiers and each  
 504 Internet identifier's corresponding website home page or  
 505 application software name required to be provided pursuant to  
 506 subparagraph (6) (g) 5-; all home telephone numbers and cellular  
 507 telephone numbers required to be provided pursuant to  
 508 subparagraph (6) (g) 5-; date and place of any employment required  
 509 to be provided pursuant to subparagraph (6) (g) 5-; the make,  
 510 model, color, vehicle identification number (VIN), and license  
 511 tag number of all vehicles owned; fingerprints; palm prints; and  
 512 photograph. A post office box may not be provided in lieu of a  
 513 physical residential address. The sexual predator shall also  
 514 produce his or her passport, if he or she has a passport, and,  
 515 if he or she is an alien, shall produce or provide information  
 516 about documents establishing his or her immigration status. The  
 517 sexual predator shall also provide information about any  
 518 professional licenses he or she has.

519 2. If the sexual predator is enrolled or employed, whether  
 520 for compensation or as a volunteer, at an institution of higher  
 521 education in this state, the sexual predator shall also provide  
 522 to the department the name, address, and county of each

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523 institution, including each campus attended, and the sexual  
524 predator's enrollment, volunteer, or employment status.

525 3. If the sexual predator's place of residence is a motor  
526 vehicle, trailer, mobile home, or manufactured home, as defined  
527 in chapter 320, the sexual predator shall also provide the  
528 vehicle identification number; the license tag number; the  
529 registration number; and a description, including color scheme,  
530 of the motor vehicle, trailer, mobile home, or manufactured  
531 home. If the sexual predator's place of residence is a vessel,  
532 live-aboard vessel, or houseboat, as defined in chapter 327, the  
533 sexual predator shall also provide the hull identification  
534 number; the manufacturer's serial number; the name of the  
535 vessel, live-aboard vessel, or houseboat; the registration  
536 number; and a description, including color scheme, of the  
537 vessel, live-aboard vessel, or houseboat.

538 (10) PENALTIES.—

539 (a) Except as otherwise specifically provided, a sexual  
540 predator who fails to register; who fails, after registration,  
541 to maintain, acquire, or renew a driver license or an  
542 identification card; who fails to provide required location  
543 information; who fails to provide, electronic mail addresses  
544 ~~address information before use~~, Internet identifiers, and each  
545 Internet identifier's corresponding website home page or  
546 application software name; who fails to provide identifier  
547 ~~information before use~~, all home telephone numbers and cellular  
548 telephone numbers, employment information, change in status at  
549 an institution of higher education, or change-of-name  
550 information; who fails to make a required report in connection  
551 with vacating a permanent residence; who fails to reregister as

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552 required; who fails to respond to any address verification  
553 correspondence from the department within 3 weeks of the date of  
554 the correspondence; who knowingly provides false registration  
555 information by act or omission; or who otherwise fails, by act  
556 or omission, to comply with the requirements of this section  
557 commits a felony of the third degree, punishable as provided in  
558 s. 775.082, s. 775.083, or s. 775.084.

559 (e) An arrest on charges of failure to register, the  
560 service of an information or a complaint for a violation of this  
561 section, or an arraignment on charges for a violation of this  
562 section constitutes actual notice of the duty to register when  
563 the predator has been provided and advised of his or her  
564 statutory obligation to register under subsection (6). A sexual  
565 predator's failure to immediately register as required by this  
566 section following such arrest, service, or arraignment  
567 constitutes grounds for a subsequent charge of failure to  
568 register. A sexual predator charged with the crime of failure to  
569 register who asserts, or intends to assert, a lack of notice of  
570 the duty to register as a defense to a charge of failure to  
571 register shall immediately register as required by this section.  
572 A sexual predator who is charged with a subsequent failure to  
573 register may not assert the defense of a lack of notice of the  
574 duty to register.

575 Section 2. Paragraph (e) of subsection (1) of section  
576 943.0435, Florida Statutes, is republished, and subsection (2),  
577 paragraph (e) of subsection (4), and paragraph (c) of subsection  
578 (14) of that section, are amended to read:

579 943.0435 Sexual offenders required to register with the  
580 department; penalty.—

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

582 (e) "Internet identifier" has the same meaning as provided

583 in s. 775.21.

584 (2) Upon initial registration, a sexual offender shall:

585 (a) Report in person at the sheriff's office:

586 1. In the county in which the offender establishes or

587 maintains a permanent, temporary, or transient residence within

588 48 hours after:

589 a. Establishing permanent, temporary, or transient

590 residence in this state; or

591 b. Being released from the custody, control, or supervision

592 of the Department of Corrections or from the custody of a

593 private correctional facility; or

594 2. In the county where he or she was convicted within 48

595 hours after being convicted for a qualifying offense for

596 registration under this section if the offender is not in the

597 custody or control of, or under the supervision of, the

598 Department of Corrections, or is not in the custody of a private

599 correctional facility.

600

601 Any change in the information required to be provided pursuant

602 to paragraph (b), including, but not limited to, any change in

603 the sexual offender's permanent, temporary, or transient

604 residence; name; electronic mail addresses; Internet identifiers

605 and each Internet identifier's corresponding website home page

606 or application software name; home telephone numbers and

607 cellular telephone numbers; ~~and employment information~~; and any

608 change in status at an institution of higher education, ~~required~~

609 ~~to be provided pursuant to paragraph (4)(c)~~, after the sexual

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610 offender reports in person at the sheriff's office must be

611 ~~reported accomplished~~ in the manner provided in subsections (4),

612 (7), and (8).

613 (b) Provide his or her name; date of birth; social security

614 number; race; sex; height; weight; hair and eye color; tattoos

615 or other identifying marks; fingerprints; palm prints;

616 photograph; employment information ~~required to be provided~~

617 ~~pursuant to paragraph (4)(c)~~; address of permanent or legal

618 residence or address of any current temporary residence, within

619 the state or out of state, including a rural route address and a

620 post office box; if no permanent or temporary address, any

621 transient residence within the state, address, location or

622 description, and dates of any current or known future temporary

623 residence within the state or out of state; the make, model,

624 color, vehicle identification number (VIN), and license tag

625 number of all vehicles owned; ~~all~~ home telephone numbers and

626 cellular telephone numbers ~~required to be provided pursuant to~~

627 ~~paragraph (4)(c)~~; ~~all~~ electronic mail addresses; ~~and all~~

628 Internet identifiers and each Internet identifier's

629 corresponding website home page or application software name

630 ~~required to be provided pursuant to paragraph (4)(c)~~; date and

631 place of each conviction; and a brief description of the crime

632 or crimes committed by the offender. A post office box may not

633 be provided in lieu of a physical residential address. The

634 sexual offender shall also produce his or her passport, if he or

635 she has a passport, and, if he or she is an alien, shall produce

636 or provide information about documents establishing his or her

637 immigration status. The sexual offender shall also provide

638 information about any professional licenses he or she has.

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639 1. If the sexual offender's place of residence is a motor  
 640 vehicle, trailer, mobile home, or manufactured home, as defined  
 641 in chapter 320, the sexual offender shall also provide to the  
 642 department through the sheriff's office written notice of the  
 643 vehicle identification number; the license tag number; the  
 644 registration number; and a description, including color scheme,  
 645 of the motor vehicle, trailer, mobile home, or manufactured  
 646 home. If the sexual offender's place of residence is a vessel,  
 647 live-aboard vessel, or houseboat, as defined in chapter 327, the  
 648 sexual offender shall also provide to the department written  
 649 notice of the hull identification number; the manufacturer's  
 650 serial number; the name of the vessel, live-aboard vessel, or  
 651 houseboat; the registration number; and a description, including  
 652 color scheme, of the vessel, live-aboard vessel, or houseboat.

653 2. If the sexual offender is enrolled or employed, whether  
 654 for compensation or as a volunteer, at an institution of higher  
 655 education in this state, the sexual offender shall also provide  
 656 to the department ~~pursuant to paragraph (4)(c)~~ the name,  
 657 address, and county of each institution, including each campus  
 658 attended, and the sexual offender's enrollment, volunteer, or  
 659 employment status. The sheriff, the Department of Corrections,  
 660 or the Department of Juvenile Justice shall promptly notify each  
 661 institution of higher education of the sexual offender's  
 662 presence and any change in the sexual offender's enrollment,  
 663 volunteer, or employment status.

664 3. A sexual offender shall report in person to the  
 665 sheriff's office within 48 hours after any change in vehicles  
 666 owned to report those vehicle information changes.

667 (c) Provide any other information determined necessary by

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668 the department, including criminal and corrections records;  
 669 nonprivileged personnel and treatment records; and evidentiary  
 670 genetic markers, when available.

671  
 672 When a sexual offender reports at the sheriff's office, the  
 673 sheriff shall take a photograph, a set of fingerprints, and palm  
 674 prints of the offender and forward the photographs, palm prints,  
 675 and fingerprints to the department, along with the information  
 676 provided by the sexual offender. The sheriff shall promptly  
 677 provide to the department the information received from the  
 678 sexual offender.

679 (4)

680 (e)1. A sexual offender shall register all electronic mail  
 681 addresses and Internet identifiers, and each Internet  
 682 identifier's corresponding website home page or application  
 683 software name, with the department through the department's  
 684 online system or in person at the sheriff's office within 48  
 685 hours after ~~before~~ using such electronic mail addresses and  
 686 Internet identifiers. If the sexual offender is in the custody  
 687 or control, or under the supervision, of the Department of  
 688 Corrections, he or she must report all electronic mail addresses  
 689 and Internet identifiers, and each Internet identifier's  
 690 corresponding website home page or application software name, to  
 691 the Department of Corrections before using such electronic mail  
 692 addresses or Internet identifiers. If the sexual offender is in  
 693 the custody or control, or under the supervision, of the  
 694 Department of Juvenile Justice, he or she must report all  
 695 electronic mail addresses and Internet identifiers, and each  
 696 Internet identifier's corresponding website home page or

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697 application software name, to the Department of Juvenile Justice  
698 before using such electronic mail addresses or Internet  
699 identifiers.

700 2. A sexual offender shall register all changes to home  
701 telephone numbers and cellular telephone numbers, including  
702 added and deleted numbers, all changes to employment  
703 information, and all changes in status related to enrollment,  
704 volunteering, or employment at institutions of higher education,  
705 through the department's online system; in person at the  
706 sheriff's office; in person at the Department of Corrections if  
707 the sexual offender is in the custody or control, or under the  
708 supervision, of the Department of Corrections; or in person at  
709 the Department of Juvenile Justice if the sexual offender is in  
710 the custody or control, or under the supervision, of the  
711 Department of Juvenile Justice. All changes required to be  
712 reported under this subparagraph must be reported within 48  
713 hours after the change.

714 3. The department shall establish an online system through  
715 which sexual offenders may securely access, submit, and update  
716 all changes in status to electronic mail addresses; ~~address and~~  
717 Internet identifiers and each Internet identifier's  
718 corresponding website home page or application software name;  
719 ~~identifier information~~, home telephone numbers and cellular  
720 telephone numbers; ~~r~~ employment information; ~~r~~ and institution of  
721 higher education information.

722 (14)

723 (c) The sheriff's office may determine the appropriate  
724 times and days for reporting by the sexual offender, which must  
725 be consistent with the reporting requirements of this

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726 subsection. Reregistration must include any changes to the  
727 following information:

728 1. Name; social security number; age; race; sex; date of  
729 birth; height; weight; tattoos or other identifying marks; hair  
730 and eye color; address of any permanent residence and address of  
731 any current temporary residence, within the state or out of  
732 state, including a rural route address and a post office box; if  
733 no permanent or temporary address, any transient residence  
734 within the state; address, location or description, and dates of  
735 any current or known future temporary residence within the state  
736 or out of state; all electronic mail addresses or Internet  
737 identifiers and each Internet identifier's corresponding website  
738 home page or application software name ~~required to be provided~~  
739 ~~pursuant to paragraph (4)(e)~~; all home telephone numbers and  
740 cellular telephone numbers ~~required to be provided pursuant to~~  
741 ~~paragraph (4)(e)~~; employment information ~~required to be provided~~  
742 ~~pursuant to paragraph (4)(e)~~; the make, model, color, vehicle  
743 identification number (VIN), and license tag number of all  
744 vehicles owned; fingerprints; palm prints; and photograph. A  
745 post office box may not be provided in lieu of a physical  
746 residential address. The sexual offender shall also produce his  
747 or her passport, if he or she has a passport, and, if he or she  
748 is an alien, shall produce or provide information about  
749 documents establishing his or her immigration status. The sexual  
750 offender shall also provide information about any professional  
751 licenses he or she has.

752 2. If the sexual offender is enrolled or employed, whether  
753 for compensation or as a volunteer, at an institution of higher  
754 education in this state, the sexual offender shall also provide

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755 to the department the name, address, and county of each  
756 institution, including each campus attended, and the sexual  
757 offender's enrollment, volunteer, or employment status.

758 3. If the sexual offender's place of residence is a motor  
759 vehicle, trailer, mobile home, or manufactured home, as defined  
760 in chapter 320, the sexual offender shall also provide the  
761 vehicle identification number; the license tag number; the  
762 registration number; and a description, including color scheme,  
763 of the motor vehicle, trailer, mobile home, or manufactured  
764 home. If the sexual offender's place of residence is a vessel,  
765 live-aboard vessel, or houseboat, as defined in chapter 327, the  
766 sexual offender shall also provide the hull identification  
767 number; the manufacturer's serial number; the name of the  
768 vessel, live-aboard vessel, or houseboat; the registration  
769 number; and a description, including color scheme, of the  
770 vessel, live-aboard vessel, or houseboat.

771 4. Any sexual offender who fails to report in person as  
772 required at the sheriff's office, who fails to respond to any  
773 address verification correspondence from the department within 3  
774 weeks of the date of the correspondence, who fails to report all  
775 electronic mail addresses and all Internet identifiers, and each  
776 Internet identifier's corresponding website home page or  
777 application software name ~~before use~~, or who knowingly provides  
778 false registration information by act or omission commits a  
779 felony of the third degree, punishable as provided in s.  
780 775.082, s. 775.083, or s. 775.084.

781 Section 3. For the purpose of incorporating the amendment  
782 made by this act to section 775.21, Florida Statutes, in a  
783 reference thereto, subsection (2) of section 943.0437, Florida

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784 Statutes, is reenacted to read:

785 943.0437 Commercial social networking websites.—

786 (2) The department may provide information relating to  
787 electronic mail addresses and Internet identifiers, as defined  
788 in s. 775.21, maintained as part of the sexual offender registry  
789 to commercial social networking websites or third parties  
790 designated by commercial social networking websites. The  
791 commercial social networking website may use this information  
792 for the purpose of comparing registered users and screening  
793 potential users of the commercial social networking website  
794 against the list of electronic mail addresses and Internet  
795 identifiers provided by the department.

796 Section 4. For the purpose of incorporating the amendment  
797 made by this act to section 775.21, Florida Statutes, in a  
798 reference thereto, paragraph (c) of subsection (1) of section  
799 944.606, Florida Statutes, is reenacted to read:

800 944.606 Sexual offenders; notification upon release.—

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

802 (c) "Internet identifier" has the same meaning as provided  
803 in s. 775.21.

804 Section 5. For the purpose of incorporating the amendment  
805 made by this act to section 775.21, Florida Statutes, in a  
806 reference thereto, paragraph (e) of subsection (1) of section  
807 944.607, Florida Statutes, is reenacted to read:

808 944.607 Notification to Department of Law Enforcement of  
809 information on sexual offenders.—

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

811 (e) "Internet identifier" has the same meaning as provided  
812 in s. 775.21.

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813 Section 6. For the purpose of incorporating the amendment  
814 made by this act to section 775.21, Florida Statutes, in a  
815 reference thereto, paragraph (c) of subsection (1) of section  
816 985.481, Florida Statutes, is reenacted to read:

817 985.481 Sexual offenders adjudicated delinquent;  
818 notification upon release.—

819 (1) As used in this section:

820 (c) "Internet identifier" has the same meaning as provided  
821 in s. 775.21.

822 Section 7. For the purpose of incorporating the amendment  
823 made by this act to section 775.21, Florida Statutes, in a  
824 reference thereto, paragraph (e) of subsection (1) of section  
825 985.4815, Florida Statutes, is reenacted to read:

826 985.4815 Notification to Department of Law Enforcement of  
827 information on juvenile sexual offenders.—

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

829 (e) "Internet identifier" has the same meaning as provided  
830 in s. 775.21.

831 Section 8. For the purpose of incorporating the amendment  
832 made by this act to section 943.0435, Florida Statutes, in a  
833 reference thereto, paragraph (a) of subsection (3) of section  
834 944.606, Florida Statutes, is reenacted to read:

835 944.606 Sexual offenders; notification upon release.—

836 (3)(a) The department shall provide information regarding  
837 any sexual offender who is being released after serving a period  
838 of incarceration for any offense, as follows:

839 1. The department shall provide: the sexual offender's  
840 name, any change in the offender's name by reason of marriage or  
841 other legal process, and any alias, if known; the correctional

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842 facility from which the sexual offender is released; the sexual  
843 offender's social security number, race, sex, date of birth,  
844 height, weight, and hair and eye color; tattoos or other  
845 identifying marks; address of any planned permanent residence or  
846 temporary residence, within the state or out of state, including  
847 a rural route address and a post office box; if no permanent or  
848 temporary address, any transient residence within the state;  
849 address, location or description, and dates of any known future  
850 temporary residence within the state or out of state; date and  
851 county of sentence and each crime for which the offender was  
852 sentenced; a copy of the offender's fingerprints, palm prints,  
853 and a digitized photograph taken within 60 days before release;  
854 the date of release of the sexual offender; all electronic mail  
855 addresses and all Internet identifiers required to be provided  
856 pursuant to s. 943.0435(4)(e); employment information, if known,  
857 provided pursuant to s. 943.0435(4)(e); all home telephone  
858 numbers and cellular telephone numbers required to be provided  
859 pursuant to s. 943.0435(4)(e); information about any  
860 professional licenses the offender has, if known; and passport  
861 information, if he or she has a passport, and, if he or she is  
862 an alien, information about documents establishing his or her  
863 immigration status. The department shall notify the Department  
864 of Law Enforcement if the sexual offender escapes, absconds, or  
865 dies. If the sexual offender is in the custody of a private  
866 correctional facility, the facility shall take the digitized  
867 photograph of the sexual offender within 60 days before the  
868 sexual offender's release and provide this photograph to the  
869 Department of Corrections and also place it in the sexual  
870 offender's file. If the sexual offender is in the custody of a

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871 local jail, the custodian of the local jail shall register the  
 872 offender within 3 business days after intake of the offender for  
 873 any reason and upon release, and shall notify the Department of  
 874 Law Enforcement of the sexual offender's release and provide to  
 875 the Department of Law Enforcement the information specified in  
 876 this paragraph and any information specified in subparagraph 2.  
 877 that the Department of Law Enforcement requests.

878 2. The department may provide any other information deemed  
 879 necessary, including criminal and corrections records,  
 880 nonprivileged personnel and treatment records, when available.

881 Section 9. For the purpose of incorporating the amendment  
 882 made by this act to section 943.0435, Florida Statutes, in  
 883 references thereto, paragraph (a) of subsection (4), subsection  
 884 (9), and paragraph (c) of subsection (13) of section 944.607,  
 885 Florida Statutes, are reenacted to read:

886 944.607 Notification to Department of Law Enforcement of  
 887 information on sexual offenders.—

888 (4) A sexual offender, as described in this section, who is  
 889 under the supervision of the Department of Corrections but is  
 890 not incarcerated shall register with the Department of  
 891 Corrections within 3 business days after sentencing for a  
 892 registrable offense and otherwise provide information as  
 893 required by this subsection.

894 (a) The sexual offender shall provide his or her name; date  
 895 of birth; social security number; race; sex; height; weight;  
 896 hair and eye color; tattoos or other identifying marks; all  
 897 electronic mail addresses and Internet identifiers required to  
 898 be provided pursuant to s. 943.0435(4)(e); employment  
 899 information required to be provided pursuant to s.

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900 943.0435(4)(e); all home telephone numbers and cellular  
 901 telephone numbers required to be provided pursuant to s.  
 902 943.0435(4)(e); the make, model, color, vehicle identification  
 903 number (VIN), and license tag number of all vehicles owned;  
 904 permanent or legal residence and address of temporary residence  
 905 within the state or out of state while the sexual offender is  
 906 under supervision in this state, including any rural route  
 907 address or post office box; if no permanent or temporary  
 908 address, any transient residence within the state; and address,  
 909 location or description, and dates of any current or known  
 910 future temporary residence within the state or out of state. The  
 911 sexual offender shall also produce his or her passport, if he or  
 912 she has a passport, and, if he or she is an alien, shall produce  
 913 or provide information about documents establishing his or her  
 914 immigration status. The sexual offender shall also provide  
 915 information about any professional licenses he or she has. The  
 916 Department of Corrections shall verify the address of each  
 917 sexual offender in the manner described in ss. 775.21 and  
 918 943.0435. The department shall report to the Department of Law  
 919 Enforcement any failure by a sexual predator or sexual offender  
 920 to comply with registration requirements.

921 (9) A sexual offender, as described in this section, who is  
 922 under the supervision of the Department of Corrections but who  
 923 is not incarcerated shall, in addition to the registration  
 924 requirements provided in subsection (4), register and obtain a  
 925 distinctive driver license or identification card in the manner  
 926 provided in s. 943.0435(3), (4), and (5), unless the sexual  
 927 offender is a sexual predator, in which case he or she shall  
 928 register and obtain a distinctive driver license or

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929 identification card as required under s. 775.21. A sexual  
 930 offender who fails to comply with the requirements of s.  
 931 943.0435 is subject to the penalties provided in s. 943.0435(9).  
 932 (13)

933 (c) The sheriff's office may determine the appropriate  
 934 times and days for reporting by the sexual offender, which must  
 935 be consistent with the reporting requirements of this  
 936 subsection. Reregistration must include any changes to the  
 937 following information:

938 1. Name; social security number; age; race; sex; date of  
 939 birth; height; weight; tattoos or other identifying marks; hair  
 940 and eye color; address of any permanent residence and address of  
 941 any current temporary residence, within the state or out of  
 942 state, including a rural route address and a post office box; if  
 943 no permanent or temporary address, any transient residence;  
 944 address, location or description, and dates of any current or  
 945 known future temporary residence within the state or out of  
 946 state; all electronic mail addresses and Internet identifiers  
 947 required to be provided pursuant to s. 943.0435(4)(e); all home  
 948 telephone numbers and cellular telephone numbers required to be  
 949 provided pursuant to s. 943.0435(4)(e); employment information  
 950 required to be provided pursuant to s. 943.0435(4)(e); the make,  
 951 model, color, vehicle identification number (VIN), and license  
 952 tag number of all vehicles owned; fingerprints; palm prints; and  
 953 photograph. A post office box may not be provided in lieu of a  
 954 physical residential address. The sexual offender shall also  
 955 produce his or her passport, if he or she has a passport, and,  
 956 if he or she is an alien, shall produce or provide information  
 957 about documents establishing his or her immigration status. The

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958 sexual offender shall also provide information about any  
 959 professional licenses he or she has.

960 2. If the sexual offender is enrolled or employed, whether  
 961 for compensation or as a volunteer, at an institution of higher  
 962 education in this state, the sexual offender shall also provide  
 963 to the department the name, address, and county of each  
 964 institution, including each campus attended, and the sexual  
 965 offender's enrollment, volunteer, or employment status.

966 3. If the sexual offender's place of residence is a motor  
 967 vehicle, trailer, mobile home, or manufactured home, as defined  
 968 in chapter 320, the sexual offender shall also provide the  
 969 vehicle identification number; the license tag number; the  
 970 registration number; and a description, including color scheme,  
 971 of the motor vehicle, trailer, mobile home, or manufactured  
 972 home. If the sexual offender's place of residence is a vessel,  
 973 live-aboard vessel, or houseboat, as defined in chapter 327, the  
 974 sexual offender shall also provide the hull identification  
 975 number; the manufacturer's serial number; the name of the  
 976 vessel, live-aboard vessel, or houseboat; the registration  
 977 number; and a description, including color scheme, of the  
 978 vessel, live-aboard vessel or houseboat.

979 4. Any sexual offender who fails to report in person as  
 980 required at the sheriff's office, who fails to respond to any  
 981 address verification correspondence from the department within 3  
 982 weeks of the date of the correspondence, who fails to report all  
 983 electronic mail addresses or Internet identifiers before use, or  
 984 who knowingly provides false registration information by act or  
 985 omission commits a felony of the third degree, punishable as  
 986 provided in s. 775.082, s. 775.083, or s. 775.084.



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987 Section 10. For the purpose of incorporating the amendment  
 988 made by this act to section 943.0435, Florida Statutes, in a  
 989 reference thereto, paragraph (a) of subsection (3) of section  
 990 985.481, Florida Statutes, is reenacted to read:

991 985.481 Sexual offenders adjudicated delinquent;  
 992 notification upon release.—

993 (3) (a) The department shall provide information regarding  
 994 any sexual offender who is being released after serving a period  
 995 of residential commitment under the department for any offense,  
 996 as follows:

997 1. The department shall provide the sexual offender's name,  
 998 any change in the offender's name by reason of marriage or other  
 999 legal process, and any alias, if known; the correctional  
 1000 facility from which the sexual offender is released; the sexual  
 1001 offender's social security number, race, sex, date of birth,  
 1002 height, weight, and hair and eye color; tattoos or other  
 1003 identifying marks; the make, model, color, vehicle  
 1004 identification number (VIN), and license tag number of all  
 1005 vehicles owned; address of any planned permanent residence or  
 1006 temporary residence, within the state or out of state, including  
 1007 a rural route address and a post office box; if no permanent or  
 1008 temporary address, any transient residence within the state;  
 1009 address, location or description, and dates of any known future  
 1010 temporary residence within the state or out of state; date and  
 1011 county of disposition and each crime for which there was a  
 1012 disposition; a copy of the offender's fingerprints, palm prints,  
 1013 and a digitized photograph taken within 60 days before release;  
 1014 the date of release of the sexual offender; all home telephone  
 1015 numbers and cellular telephone numbers required to be provided

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1016 pursuant to s. 943.0435(4) (e); all electronic mail addresses and  
 1017 Internet identifiers required to be provided pursuant to s.  
 1018 943.0435(4) (e); information about any professional licenses the  
 1019 offender has, if known; and passport information, if he or she  
 1020 has a passport, and, if he or she is an alien, information about  
 1021 documents establishing his or her immigration status. The  
 1022 department shall notify the Department of Law Enforcement if the  
 1023 sexual offender escapes, absconds, or dies. If the sexual  
 1024 offender is in the custody of a private correctional facility,  
 1025 the facility shall take the digitized photograph of the sexual  
 1026 offender within 60 days before the sexual offender's release and  
 1027 also place it in the sexual offender's file. If the sexual  
 1028 offender is in the custody of a local jail, the custodian of the  
 1029 local jail shall register the offender within 3 business days  
 1030 after intake of the offender for any reason and upon release,  
 1031 and shall notify the Department of Law Enforcement of the sexual  
 1032 offender's release and provide to the Department of Law  
 1033 Enforcement the information specified in this subparagraph and  
 1034 any information specified in subparagraph 2. which the  
 1035 Department of Law Enforcement requests.

1036 2. The department may provide any other information  
 1037 considered necessary, including criminal and delinquency  
 1038 records, when available.

1039 Section 11. For the purpose of incorporating the amendment  
 1040 made by this act to section 943.0435, Florida Statutes, in  
 1041 references thereto, paragraph (a) of subsection (4), subsection  
 1042 (9), and paragraph (b) of subsection (13) of section 985.4815,  
 1043 Florida Statutes, are reenacted to read:

1044 985.4815 Notification to Department of Law Enforcement of

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1045 information on juvenile sexual offenders.-

1046 (4) A sexual offender, as described in this section, who is  
1047 under the supervision of the department but who is not committed  
1048 shall register with the department within 3 business days after  
1049 adjudication and disposition for a registrable offense and  
1050 otherwise provide information as required by this subsection.

1051 (a) The sexual offender shall provide his or her name; date  
1052 of birth; social security number; race; sex; height; weight;  
1053 hair and eye color; tattoos or other identifying marks; the  
1054 make, model, color, vehicle identification number (VIN), and  
1055 license tag number of all vehicles owned; permanent or legal  
1056 residence and address of temporary residence within the state or  
1057 out of state while the sexual offender is in the care or custody  
1058 or under the jurisdiction or supervision of the department in  
1059 this state, including any rural route address or post office  
1060 box; if no permanent or temporary address, any transient  
1061 residence; address, location or description, and dates of any  
1062 current or known future temporary residence within the state or  
1063 out of state; all home telephone numbers and cellular telephone  
1064 numbers required to be provided pursuant to s. 943.0435(4)(e);  
1065 all electronic mail addresses and Internet identifiers required  
1066 to be provided pursuant to s. 943.0435(4)(e); and the name and  
1067 address of each school attended. The sexual offender shall also  
1068 produce his or her passport, if he or she has a passport, and,  
1069 if he or she is an alien, shall produce or provide information  
1070 about documents establishing his or her immigration status. The  
1071 offender shall also provide information about any professional  
1072 licenses he or she has. The department shall verify the address  
1073 of each sexual offender and shall report to the Department of

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1074 Law Enforcement any failure by a sexual offender to comply with  
1075 registration requirements.

1076 (9) A sexual offender, as described in this section, who is  
1077 under the care, jurisdiction, or supervision of the department  
1078 but who is not incarcerated shall, in addition to the  
1079 registration requirements provided in subsection (4), register  
1080 in the manner provided in s. 943.0435(3), (4), and (5), unless  
1081 the sexual offender is a sexual predator, in which case he or  
1082 she shall register as required under s. 775.21. A sexual  
1083 offender who fails to comply with the requirements of s.  
1084 943.0435 is subject to the penalties provided in s. 943.0435(9).

1085 (13)

1086 (b) The sheriff's office may determine the appropriate  
1087 times and days for reporting by the sexual offender, which must  
1088 be consistent with the reporting requirements of this  
1089 subsection. Reregistration must include any changes to the  
1090 following information:

1091 1. Name; social security number; age; race; sex; date of  
1092 birth; height; weight; hair and eye color; tattoos or other  
1093 identifying marks; fingerprints; palm prints; address of any  
1094 permanent residence and address of any current temporary  
1095 residence, within the state or out of state, including a rural  
1096 route address and a post office box; if no permanent or  
1097 temporary address, any transient residence; address, location or  
1098 description, and dates of any current or known future temporary  
1099 residence within the state or out of state; passport  
1100 information, if he or she has a passport, and, if he or she is  
1101 an alien, information about documents establishing his or her  
1102 immigration status; all home telephone numbers and cellular

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1103 telephone numbers required to be provided pursuant to s.  
 1104 943.0435(4)(e); all electronic mail addresses and Internet  
 1105 identifiers required to be provided pursuant to s.  
 1106 943.0435(4)(e); name and address of each school attended;  
 1107 employment information required to be provided pursuant to s.  
 1108 943.0435(4)(e); the make, model, color, vehicle identification  
 1109 number (VIN), and license tag number of all vehicles owned; and  
 1110 photograph. A post office box may not be provided in lieu of a  
 1111 physical residential address. The offender shall also provide  
 1112 information about any professional licenses he or she has.

1113 2. If the sexual offender is enrolled or employed, whether  
 1114 for compensation or as a volunteer, at an institution of higher  
 1115 education in this state, the sexual offender shall also provide  
 1116 to the department the name, address, and county of each  
 1117 institution, including each campus attended, and the sexual  
 1118 offender's enrollment, volunteer, or employment status.

1119 3. If the sexual offender's place of residence is a motor  
 1120 vehicle, trailer, mobile home, or manufactured home, as defined  
 1121 in chapter 320, the sexual offender shall also provide the  
 1122 vehicle identification number; the license tag number; the  
 1123 registration number; and a description, including color scheme,  
 1124 of the motor vehicle, trailer, mobile home, or manufactured  
 1125 home. If the sexual offender's place of residence is a vessel,  
 1126 live-aboard vessel, or houseboat, as defined in chapter 327, the  
 1127 sexual offender shall also provide the hull identification  
 1128 number; the manufacturer's serial number; the name of the  
 1129 vessel, live-aboard vessel, or houseboat; the registration  
 1130 number; and a description, including color scheme, of the  
 1131 vessel, live-aboard vessel, or houseboat.

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1132 4. Any sexual offender who fails to report in person as  
 1133 required at the sheriff's office, who fails to respond to any  
 1134 address verification correspondence from the department within 3  
 1135 weeks after the date of the correspondence, or who knowingly  
 1136 provides false registration information by act or omission  
 1137 commits a felony of the third degree, punishable as provided in  
 1138 ss. 775.082, 775.083, and 775.084.

1139 Section 12. For the purpose of incorporating the amendments  
 1140 made by this act to sections 775.21 and 943.0435, Florida  
 1141 Statutes, in references thereto, subsection (1) of section  
 1142 794.056, Florida Statutes, is reenacted to read:

1143 794.056 Rape Crisis Program Trust Fund.—

1144 (1) The Rape Crisis Program Trust Fund is created within  
 1145 the Department of Health for the purpose of providing funds for  
 1146 rape crisis centers in this state. Trust fund moneys shall be  
 1147 used exclusively for the purpose of providing services for  
 1148 victims of sexual assault. Funds credited to the trust fund  
 1149 consist of those funds collected as an additional court  
 1150 assessment in each case in which a defendant pleads guilty or  
 1151 nolo contendere to, or is found guilty of, regardless of  
 1152 adjudication, an offense provided in s. 775.21(6) and (10)(a),  
 1153 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.  
 1154 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.  
 1155 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.  
 1156 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;  
 1157 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.  
 1158 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.  
 1159 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.  
 1160 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.

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1161 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),  
 1162 (13), and (14)(c); or s. 985.701(1). Funds credited to the trust  
 1163 fund also shall include revenues provided by law, moneys  
 1164 appropriated by the Legislature, and grants from public or  
 1165 private entities.

1166 Section 13. For the purpose of incorporating the amendments  
 1167 made by this act to sections 775.21 and 943.0435, Florida  
 1168 Statutes, in references thereto, paragraph (g) of subsection (3)  
 1169 of section 921.0022, Florida Statutes, is reenacted to read:

1170 921.0022 Criminal Punishment Code; offense severity ranking  
 1171 chart.—

1172 (3) OFFENSE SEVERITY RANKING CHART  
 1173 (g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to

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1179 elude law enforcement officer  
 who is in a patrol vehicle with  
 siren and lights activated.

327.35(3)(c)2. 3rd Vessel BUI resulting in serious  
 bodily injury.

402.319(2) 2nd Misrepresentation and  
 negligence or intentional act  
 resulting in great bodily harm,  
 permanent disfiguration,  
 permanent disability, or death.

409.920 3rd Medicaid provider fraud;  
 (2)(b)1.a. \$10,000 or less.

409.920 2nd Medicaid provider fraud; more  
 than \$10,000, but less than  
 \$50,000.

456.065(2) 3rd Practicing a health care  
 profession without a license.

456.065(2) 2nd Practicing a health care  
 profession without a license  
 which results in serious bodily  
 injury.

458.327(1) 3rd Practicing medicine without a

	591-03322-17		2017684c1	
			license.	
1186	459.013(1)	3rd	Practicing osteopathic medicine without a license.	
1187	460.411(1)	3rd	Practicing chiropractic medicine without a license.	
1188	461.012(1)	3rd	Practicing podiatric medicine without a license.	
1189	462.17	3rd	Practicing naturopathy without a license.	
1190	463.015(1)	3rd	Practicing optometry without a license.	
1191	464.016(1)	3rd	Practicing nursing without a license.	
1192	465.015(2)	3rd	Practicing pharmacy without a license.	
1193	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.	
1194	467.201	3rd	Practicing midwifery without a license.	
1195				

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	468.366	3rd	Delivering respiratory care services without a license.	
1196	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.	
1197	483.901(7)	3rd	Practicing medical physics without a license.	
1198	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.	
1199	484.053	3rd	Dispensing hearing aids without a license.	
1200	494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.	
1201	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.	
1202	560.125(5)(a)	3rd	Money services business by	

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	591-03322-17		2017684c1	
			unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.	
1203	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.	
1204	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.	
1205	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.	
1206	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.	
1207	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.	

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1208	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).	
1209	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).	
1210	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).	
1211	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.	
1212	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.	
1213	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.	
1214	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.	

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1215	784.048(7)	3rd	Aggravated stalking; violation of court order.
1216	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
1217	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
1218	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
1219	784.081(1)	1st	Aggravated battery on specified official or employee.
1220	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
1221	784.083(1)	1st	Aggravated battery on code inspector.
1222	787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
1223	787.06(3)(e)2.	1st	Human trafficking using

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	591-03322-17		2017684c1
			coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
1224	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
1225	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
1226	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
1227	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
1228	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
1229	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting

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	591-03322-17		2017684c1	
				to commit a felony.
1230	790.23	1st,PBL		Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
1231	794.08(4)	3rd		Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
1232	796.05(1)	1st		Live on earnings of a prostitute; 2nd offense.
1233	796.05(1)	1st		Live on earnings of a prostitute; 3rd and subsequent offense.
1234	800.04(5)(c)1.	2nd		Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
1235	800.04(5)(c)2.	2nd		Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age

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	591-03322-17		2017684c1	
				or older.
1236	800.04(5)(e)	1st		Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
1237	806.01(2)	2nd		Maliciously damage structure by fire or explosive.
1238	810.02(3)(a)	2nd		Burglary of occupied dwelling; unarmed; no assault or battery.
1239	810.02(3)(b)	2nd		Burglary of unoccupied dwelling; unarmed; no assault or battery.
1240	810.02(3)(d)	2nd		Burglary of occupied conveyance; unarmed; no assault or battery.
1241	810.02(3)(e)	2nd		Burglary of authorized emergency vehicle.
1242	812.014(2)(a)1.	1st		Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law

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			enforcement officer; property	
			stolen while causing other	
			property damage; 1st degree	
			grand theft.	
1243	812.014(2)(b)2.	2nd	Property stolen, cargo valued	
			at less than \$50,000, grand	
			theft in 2nd degree.	
1244	812.014(2)(b)3.	2nd	Property stolen, emergency	
			medical equipment; 2nd degree	
			grand theft.	
1245	812.014(2)(b)4.	2nd	Property stolen, law	
			enforcement equipment from	
			authorized emergency vehicle.	
1246	812.0145(2)(a)	1st	Theft from person 65 years of	
			age or older; \$50,000 or more.	
1247	812.019(2)	1st	Stolen property; initiates,	
			organizes, plans, etc., the	
			theft of property and traffics	
			in stolen property.	
1248	812.131(2)(a)	2nd	Robbery by sudden snatching.	
1249	812.133(2)(b)	1st	Carjacking; no firearm, deadly	
			weapon, or other weapon.	

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1250	817.034(4)(a)1.	1st	Communications fraud, value	
			greater than \$50,000.	
1251	817.234(8)(a)	2nd	Solicitation of motor vehicle	
			accident victims with intent to	
			defraud.	
1252	817.234(9)	2nd	Organizing, planning, or	
			participating in an intentional	
			motor vehicle collision.	
1253	817.234(11)(c)	1st	Insurance fraud; property value	
			\$100,000 or more.	
1254	817.2341	1st	Making false entries of	
	(2)(b) & (3)(b)		material fact or false	
			statements regarding property	
			values relating to the solvency	
			of an insuring entity which are	
			a significant cause of the	
			insolvency of that entity.	
1255	817.535(2)(a)	3rd	Filing false lien or other	
			unauthorized document.	
1256	817.611(2)(b)	2nd	Traffic in or possess 15 to 49	
			counterfeit credit cards or	
			related documents.	

1257	591-03322-17		2017684c1
	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
1258	825.103(3)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.
1259	827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
1260	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
1261	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
1262	838.015	2nd	Bribery.
1263	838.016	2nd	Unlawful compensation or reward for official behavior.
1264	838.021(3)(a)	2nd	Unlawful harm to a public

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	591-03322-17		2017684c1
			servant.
1265	838.22	2nd	Bid tampering.
1266	843.0855(2)	3rd	Impersonation of a public officer or employee.
1267	843.0855(3)	3rd	Unlawful simulation of legal process.
1268	843.0855(4)	3rd	Intimidation of a public officer or employee.
1269	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
1270	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
1271	872.06	2nd	Abuse of a dead human body.
1272	874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
1273	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs,

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	591-03322-17		2017684c1	
				manages, or supervises criminal gang-related activity.
1274	893.13(1)(c)1.	1st		Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
1275	893.13(1)(e)1.	1st		Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
1276	893.13(4)(a)	1st		Use or hire of minor; deliver to minor other controlled substance.
1277	893.135(1)(a)1.	1st		Trafficking in cannabis, more

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				than 25 lbs., less than 2,000 lbs.
1278	893.135 (1)(b)1.a.	1st		Trafficking in cocaine, more than 28 grams, less than 200 grams.
1279	893.135 (1)(c)1.a.	1st		Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
1280	893.135 (1)(c)2.a.	1st		Trafficking in hydrocodone, 14 grams or more, less than 28 grams.
1281	893.135 (1)(c)2.b.	1st		Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
1282	893.135 (1)(c)3.a.	1st		Trafficking in oxycodone, 7 grams or more, less than 14 grams.
1283	893.135 (1)(c)3.b.	1st		Trafficking in oxycodone, 14 grams or more, less than 25 grams.
1284	893.135(1)(d)1.	1st		Trafficking in phencyclidine, more than 28 grams, less than

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				200 grams.
1285	893.135(1)(e)1.	1st		Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
1286	893.135(1)(f)1.	1st		Trafficking in amphetamine, more than 14 grams, less than 28 grams.
1287	893.135 (1)(g)1.a.	1st		Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
1288	893.135 (1)(h)1.a.	1st		Trafficking in gamma- hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
1289	893.135 (1)(j)1.a.	1st		Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
1290	893.135 (1)(k)2.a.	1st		Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
1291	893.1351(2)	2nd		Possession of place for trafficking in or manufacturing

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				of controlled substance.
1292	896.101(5)(a)	3rd		Money laundering, financial transactions exceeding \$300 but less than \$20,000.
1293	896.104(4)(a)1.	3rd		Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
1294	943.0435(4)(c)	2nd		Sexual offender vacating permanent residence; failure to comply with reporting requirements.
1295	943.0435(8)	2nd		Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
1296	943.0435(9)(a)	3rd		Sexual offender; failure to comply with reporting requirements.
1297	943.0435(13)	3rd		Failure to report or providing false information about a sexual offender; harbor or

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 conceal a sexual offender.  
 1298 943.0435 (14) 3rd Sexual offender; failure to  
 report and reregister; failure  
 to respond to address  
 verification; providing false  
 registration information.  
 1299 944.607 (9) 3rd Sexual offender; failure to  
 comply with reporting  
 requirements.  
 1300 944.607 (10) (a) 3rd Sexual offender; failure to  
 submit to the taking of a  
 digitized photograph.  
 1301 944.607 (12) 3rd Failure to report or providing  
 false information about a  
 sexual offender; harbor or  
 conceal a sexual offender.  
 1302 944.607 (13) 3rd Sexual offender; failure to  
 report and reregister; failure  
 to respond to address  
 verification; providing false  
 registration information.  
 1303 985.4815 (10) 3rd Sexual offender; failure to  
 submit to the taking of a

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 digitized photograph.  
 1304 985.4815 (12) 3rd Failure to report or providing  
 false information about a  
 sexual offender; harbor or  
 conceal a sexual offender.  
 1305 985.4815 (13) 3rd Sexual offender; failure to  
 report and reregister; failure  
 to respond to address  
 verification; providing false  
 registration information.  
 1306  
 1307 Section 14. For the purpose of incorporating the amendments  
 1308 made by this act to sections 775.21 and 943.0435, Florida  
 1309 Statutes, in references thereto, section 938.085, Florida  
 1310 Statutes, is reenacted to read:  
 1311 938.085 Additional cost to fund rape crisis centers.—In  
 1312 addition to any sanction imposed when a person pleads guilty or  
 1313 nolo contendere to, or is found guilty of, regardless of  
 1314 adjudication, a violation of s. 775.21(6) and (10) (a), (b), and  
 1315 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;  
 1316 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.  
 1317 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.  
 1318 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.  
 1319 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.  
 1320 796.07(2) (a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.  
 1321 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.  
 1322 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.

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1323 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and  
1324 (14)(c); or s. 985.701(1), the court shall impose a surcharge of  
1325 \$151. Payment of the surcharge shall be a condition of  
1326 probation, community control, or any other court-ordered  
1327 supervision. The sum of \$150 of the surcharge shall be deposited  
1328 into the Rape Crisis Program Trust Fund established within the  
1329 Department of Health by chapter 2003-140, Laws of Florida. The  
1330 clerk of the court shall retain \$1 of each surcharge that the  
1331 clerk of the court collects as a service charge of the clerk's  
1332 office.

1333 Section 15. This act shall take effect upon becoming a law.

# THE FLORIDA SENATE

**COMMITTEES:**

Governmental Oversight and Accountability, *Chair*  
Criminal Justice, *Vice Chair*  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Appropriations Subcommittee on Health and  
Human Services  
Transportation

**SELECT COMMITTEE:**

Joint Select Committee on Collective Bargaining

**JOINT COMMITTEE:**

Joint Legislative Auditing Committee

**SENATOR DENNIS BAXLEY**

12th District

April 4, 2017

The Honorable Senator Aaron Bean  
306 Senate Office Building  
Tallahassee, Florida 32399

Dear Chairman Bean,

I respectfully request you place Senate Bill 684 Internet Identifiers on your next available agenda.

This bill requires sexual offenders and predators to register their internet identifiers and email addresses.

I appreciate your favorable consideration.

Onward & Upward,

*Dennis K. Baxley*

Dennis Baxley  
Senator, District 12

DKB/dd

cc: Tim Sadberry, Staff Director

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

**JOE NEGRON**  
President of the Senate

**ANITERE FLORES**  
President Pro Tempore

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

April 18, 2017  
Meeting Date

684  
Bill Number (if applicable)

Topic Internet Identifiers

Amendment Barcode (if applicable)

Name Chief Frank Fabrizio

Job Title Chief of Police

Address 2636 Mitcham Drive

Phone 850-219-3631

Street

Tallahassee FL 32308

Email bhoward@fpca.com

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.



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/18/17

Meeting Date

684

Bill Number (if applicable)

Topic INTERNET IDENTIFIERS

Amendment Barcode (if applicable)

Name JASON JONES

Job Title GENERAL COUNSEL

Address P. O. BOX 1489

Phone 880 410-7676

Street

TALLAHASSEE

FL

32302

Email JASON.JONES@FDLE.STATE.FL.US

City

State

Zip

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.*

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

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

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

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

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BILL: PCS/CS/SB 766 (597786)

INTRODUCER: Criminal Justice Committee and Senator Rodriguez

SUBJECT: Payment Card Offenses

DATE: April 19, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Hrdlicka</u>	<u>CJ</u>	<b>Fav/CS</b>
2.	<u>Harkness</u>	<u>Sadberry</u>	<u>ACJ</u>	<b>Recommend: Fav/CS</b>
3.	_____	_____	<u>AP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/CS/SB 766 addresses the unlawful practice of “skimming” (fraudulently obtaining private information from someone’s payment card). Specifically, the bill:

- Modifies the offense of fraudulent use of a scanning device to also punish fraudulent use of a skimming device, and specifies that information unlawfully accessed includes information encoded on a computer chip or other storage mechanism of a payment card.
- Modifies the offense of fraudulent use of a reencoder to indicate that the reencoder places information encoded on the computer chip, magnetic strip or stripe, or other storage mechanism of a payment card onto a computer chip, magnetic strip or stripe, or other storage mechanism of a different card.
- Provides that it is a third degree felony to knowingly possess, sell, or deliver a skimming device, provides that this offense does not apply to specified officials, and provides that this offense is also subject to the Florida Contraband Forfeiture Act.

The Criminal Justice Impact Conference (CJIC) estimates the bill will have a “positive insignificant” prison bed impact (an increase of 10 or fewer prison beds). See Section V. Fiscal Impact.

The bill takes effect October 1, 2017.

## II. Present Situation:

### Skimming

The practice of “skimming” involves obtaining private information from someone’s payment card used in an otherwise normal transaction, such as using an ATM.<sup>1</sup> A person engaging in this practice can obtain a victim’s card number in different ways, including photocopying receipts, copying a PIN code, or using an electronic scanning device or reencoder to swipe and store a victim’s payment card numbers or transfer the data or information to another card.<sup>2</sup> Skimming can occur at a restaurant or bar where the skimmer has possession of the victim’s card out of his or her immediate view.<sup>3</sup> Similarly, skimming can also occur at gas stations when a third-party cardreading device is installed either outside or inside a fuel dispenser<sup>4</sup> or other card-swiping terminal.<sup>5</sup>

### Florida Law on Unlawful Use of a Scanning Device or Reencoder

Section 817.625(2), F.S., provides that it a crime to use:

- A scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card without the permission of the authorized user of the payment card and with the intent to defraud the authorized user, the issuer of the authorized user’s payment card, or a merchant.
- A reencoder to place information encoded on the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different card without the permission of the authorized user of the payment card from which the information is being reencoded and with the intent to defraud the authorized user, the issuer of the authorized user’s payment card, or a merchant.

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<sup>1</sup> “Taking a Trip to the ATM?” (July 14, 2011), Federal Bureau of Investigation, available at <https://www.fbi.gov/news/stories/atm-skimming> (last visited on March 24, 2017). See also *Arnauta v. State*, 125 So.3d 1028, 1029 (Fla. 4th DCA 2013) (noting, in part, that charges were filed against the defendant after police discovered that the defendant had used an ATM skimming device to withdraw money from customer accounts and after police searched the defendant’s residence, storage units and vehicle, and discovered a multitude of ATM parts, molds, ATM keypads, circuit boards, blank bank credit cards, magnetic strips, and bank card readers/writers).

<sup>2</sup> Feinberg, Ashley, “The Evolution of ATM Skimmers” (August 27, 2014), *Gizmodo*, available at <http://gizmodo.com/the-terrifying-evolution-of-atm-skimmers-1626794130> (last visited on March 24, 2017).

<sup>3</sup> Denny, Dawn, “Cashier Linked to Credit Card Skimming Scam, Police Say” (May 20, 2014), *KXAN*, available at <http://kxan.com/2014/05/20/restaurant-cashier-linked-to-credit-card-skimming-scam-police-say/> (last visited on March 24, 2017).

<sup>4</sup> Jacobson, Susan, “State Finds 103 Credit-Card Skimmers in 3-month Inspection of Gas Pumps” (May 19, 2015), *Orlando Sentinel*, available at <http://www.orlandosentinel.com/business/os-gas-pump-skimmers-20150519-story.html> (last visited on March 24, 2017).

<sup>5</sup> Musil, Steven, “13 Indicted in \$2M Gas Station Card-Skimming Scheme” (January 22, 2014), *CNET*, available at <https://www.cnet.com/news/13-indicted-in-2m-gas-station-card-skimming-scheme/> (last visited on March 24, 2017).

A first violation of s. 817.625(2), F.S., is a third degree felony;<sup>6</sup> a second or subsequent violation of this subsection is a second-degree felony.<sup>7</sup> A violation of s. 817.625(2), F.S., is also subject to the Florida Contraband Forfeiture Act (ss. 932.07 – 932.7062, F.S.).<sup>8</sup>

Section 817.625, F.S., provides the following definitions of relevant terms:

- “Scanning device” means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card.
- “Reencoder” means an electronic device that places encoded information from the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different payment card.
- “Payment card” means a credit card, charge card, debit card, or any other card that is issued to an authorized card user and that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant.
- “Merchant” means a person who receives from an authorized user of a payment card, or someone the person believes to be an authorized user, a payment card or information from a payment card, or what the person believes to be a payment card or information from a payment card, as the instrument for obtaining, purchasing, or receiving goods, services, money, or anything else of value from the person.<sup>9</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 817.625(2)(a)1., F.S., which currently punishes fraudulent use of a scanning device. The bill modifies this offense to also punish fraudulent use of a skimming device. It also specifies that information unlawfully accessed includes information encoded on a computer chip or other storage mechanism of a payment card.

Section 817.625(2)(a)2., F.S., which currently punishes fraudulent use of a reencoder, is modified to indicate that the reencoder places information encoded on a computer chip, magnetic strip or stripe, or other storage mechanism of a payment card onto a computer chip, magnetic strip or stripe, or other storage mechanism of a different card. The current offense does not mention the terms “computer chip” and “other storage mechanism.”

As previously noted, a first violation of s. 817.625(2)(a)1., F.S., or s. 817.625(2)(a)2., F.S., is a third degree felony; a second or subsequent violation is a second degree felony. A violation is also subject to the Florida Contraband Forfeiture Act (ss. 932.07 – 932.7062, F.S.).

Section 817.625(2)(c), F.S., is created, which makes it a third degree felony to knowingly possess, sell, or deliver a skimming device. This paragraph does not apply to the following individuals while acting within the scope of their official duties:

- An employee, officer, or agent of:

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<sup>6</sup> Section 817.625(2)(a), F.S. A third degree felony is punishable by up to 5 years in state prison, a fine of up to \$5,000, or both. Sections 775.082 and 775.083, F.S. This offense is ranked as a Level 4 offense in s. 921.0022(3)(d), F.S., of the Criminal Punishment Code (Code) offense severity ranking chart.

<sup>7</sup> Section 817.625(2)(b), F.S. A second degree felony is punishable by up to 15 years in state prison, a fine of up to \$10,000, or both. Sections 775.082 and 775.083, F.S. This offense is ranked as a Level 5 offense in s. 921.0022(3)(e), F.S.

<sup>8</sup> Section 817.625(2)(b), F.S.

<sup>9</sup> Section 817.625(a) – (d), F.S.

- A law enforcement agency or criminal prosecuting authority for the state or the federal government;
- The state courts system as defined in s. 25.382, F.S., or the federal court system; or
- An executive branch agency in this state.
- A financial or retail security investigator employed by a merchant.

A person who commits a violation of paragraph (2)(c) is also subject to the Florida Contraband Forfeiture Act (ss. 932.07 – 932.7062, F.S.).

The bill makes the following changes regarding definitions of relevant terms:

- Expands the current definition of “scanning device” to include information encoded on a computer chip or other storage mechanism, or from another device that directly reads the information from a payment card.
- Expands the current definition of “reencoder” to include information encoded on a computer chip or other storage mechanism.
- Provides that the terms “scanning device” and “reencoder” do not include a skimming device.
- Defines “skimming device” as a self-contained device that:
  - Is designed to read and store in the device’s internal memory information encoded on the computer chip, magnetic strip or stripe, or other storage mechanism of a payment card or from another device that directly reads the information from a payment card; and
  - Is incapable of processing the payment card information stored for the purpose of obtaining, purchasing, or receiving goods, services, money, or anything else of value from a merchant.

**Section 2** amends s. 921.0022, F.S., the Criminal Punishment Code offense severity ranking chart, to rank the new skimming device offense (s. 817.625(2)(c), F.S.) in Level 4. The bill also makes technical conforming changes to the description of s. 817.625(2)(a), F.S., in the chart.

**Section 3** provides that the bill takes effect October 1, 2017.

#### **IV. Constitutional Issues:**

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

None.

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

None.

##### **C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC) met on March 2, 2017 and determined the bill will have a “positive insignificant” prison bed impact (an increase of 10 or fewer prison beds).<sup>10</sup>

**VI. Technical Deficiencies:**

None

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 817.625 and 921.0022.

**IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**Recommended CS/CS by Appropriations Subcommittee on Criminal Justice and Civil Justice on April 18, 2017:**

The committee substitute:

- Removes specific reference to a subparagraph that refers to payment card information that a skimming device reads and stores on a skimming device.

**CS by Criminal Justice on April 3, 2017:**

The committee substitute:

- Modifies the offense of fraudulent use a scanning device to also punish fraudulent use of a skimming device, and specifies that information unlawfully accessed includes information encoded on a computer chip or other storage mechanism of a payment card.

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<sup>10</sup> Office of Economic and Demographic Research, The Florida Legislature, *Criminal Justice Impact Conference, SB 766* (Mar. 2, 2017).

- Modifies the offense of fraudulent use of a reencoder to indicate that the reencoder places information encoded on a computer chip, magnetic strip or stripe, or other storage mechanism of a payment card onto the computer chip, magnetic strip or stripe, or other storage mechanism of a different card.
- Provides that it is a third degree felony to knowingly possess, sell, or deliver a skimming device, provides that this offense does not apply to specified officials, provides that this offense is also subject to the Florida Contraband Forfeiture Act, and ranks this offense in Level 4 of the Code offense severity ranking chart.
- Modifies the current definitions of “scanning device” and “reencoder” and defines “skimming device.”

B. Amendments:

---

None. This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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977030

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/19/2017	.	
	.	
	.	
	.	

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

**Senate Amendment**

Delete line 54  
and insert:  
for the purpose of obtaining,



By the Committee on Criminal Justice; and Senator Rodriguez

591-03355-17

2017766c1

A bill to be entitled

An act relating to payment card offenses; amending s. 817.625, F.S.; revising definitions; revising terminology; revising the offenses of using a scanning device or reencoder with the intent to defraud; prohibiting the use of a skimming device with intent to defraud; prohibiting the possession, sale, or delivery of a skimming device; providing criminal penalties; amending s. 921.0022, F.S.; ranking the offense of possessing, selling, or delivering a skimming device on level 4 of the offense severity ranking chart; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 817.625, Florida Statutes, is amended to read:

817.625 Use of scanning device, skimming device, or reencoder to defraud; possession of skimming device; penalties.-

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

(d)(a) "Scanning device" means a scanner, reader, or any other electronic device that may be ~~is~~ used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the computer chip, magnetic strip or stripe, or other storage mechanism of a payment card or from another device that directly reads the information from a payment card. The term does not include a skimming device.

(c)(b) "Reencoder" means an electronic device that places

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encoded information from the computer chip, magnetic strip or stripe, or other storage mechanism of a payment card onto the computer chip, magnetic strip or stripe, or other storage mechanism of a different payment card. The term does not include a skimming device.

(b)(e) "Payment card" means a credit card, charge card, debit card, or any other card that is issued to an authorized card user and that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant.

(a)(d) "Merchant" means a person who receives from an authorized user of a payment card, or someone the person believes to be an authorized user, a payment card or information from a payment card, or what the person believes to be a payment card or information from a payment card, as the instrument for obtaining, purchasing, or receiving goods, services, money, or anything else of value from the person.

(e) "Skimming device" means a self-contained device that:

1. Is designed to read and store in the device's internal memory information encoded on the computer chip, magnetic strip or stripe, or other storage mechanism of a payment card or from another device that directly reads the information from a payment card; and

2. Is incapable of processing the payment card information stored under subparagraph 1. for the purpose of obtaining, purchasing, or receiving goods, services, money, or anything else of value from a merchant.

(2) (a) It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for a person

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59 to use:

60 1. A scanning device or skimming device to access, read,

61 obtain, memorize, or store, temporarily or permanently,

62 information encoded on the computer chip, magnetic strip or

63 stripe, or other storage mechanism of a payment card without the

64 permission of the authorized user of the payment card and with

65 the intent to defraud the authorized user, the issuer of the

66 authorized user's payment card, or a merchant.

67 2. A reencoder to place information encoded on the computer

68 chip, magnetic strip or stripe, or other storage mechanism of a

69 payment card onto the computer chip, magnetic strip or stripe,

70 or other storage mechanism of a different card without the

71 permission of the authorized user of the card from which the

72 information is being reencoded and with the intent to defraud

73 the authorized user, the issuer of the authorized user's payment

74 card, or a merchant.

75 (b) A Any person who violates subparagraph (a)1. or

76 subparagraph (a)2. a second or subsequent time commits a felony

77 of the second degree, punishable as provided in s. 775.082, s.

78 775.083, or s. 775.084.

79 (c) It is a felony of the third degree, punishable as

80 provided in s. 775.082, s. 775.083, or s. 775.084, for a person

81 to knowingly possess, sell, or deliver a skimming device. This

82 paragraph does not apply to the following individuals while

83 acting within the scope of their official duties:

84 1. An employee, officer, or agent of:

85 a. A law enforcement agency or criminal prosecuting

86 authority for the state or the federal government;

87 b. The state courts system as defined in s. 25.382 or the

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88 federal court system; or

89 c. An executive branch agency in this state.

90 2. A financial or retail security investigator employed by

91 a merchant.

92 ~~(d) (e) A Any~~ person who commits a violation of this

93 ~~subsection is violates subparagraph (a)1. or subparagraph (a)2.~~

94 ~~shall also be subject to the provisions of ss. 932.701-932.7062.~~

95 Section 2. Paragraphs (d) and (e) of subsection (3) of

96 section 921.0022, Florida Statutes, are amended to read:

97 921.0022 Criminal Punishment Code; offense severity ranking

98 chart.-

99 (3) OFFENSE SEVERITY RANKING CHART

100 (d) LEVEL 4

101

Florida Statute	Felony Degree	Description
316.1935(3) (a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
499.0051(1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.

102

103

104

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	499.0051(5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
105			
	517.07(1)	3rd	Failure to register securities.
106			
	517.12(1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
107			
	784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
108			
	784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
109			
	784.075	3rd	Battery on detention or commitment facility staff.
110			
	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
111			
	784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
112			
	784.081(3)	3rd	Battery on specified official or employee.
113			

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	784.082(3)	3rd	Battery by detained person on visitor or other detainee.
114			
	784.083(3)	3rd	Battery on code inspector.
115			
	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
116			
	787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
117			
	787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
118			
	787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
119			
	787.07	3rd	Human smuggling.
120			
	790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.

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121 790.115(2)(b) 3rd Possessing electric weapon or  
device, destructive device, or  
other weapon on school  
property.

122 790.115(2)(c) 3rd Possessing firearm on school  
property.

123 800.04(7)(c) 3rd Lewd or lascivious exhibition;  
offender less than 18 years.

124 810.02(4)(a) 3rd Burglary, or attempted  
burglary, of an unoccupied  
structure; unarmed; no assault  
or battery.

125 810.02(4)(b) 3rd Burglary, or attempted  
burglary, of an unoccupied  
conveyance; unarmed; no assault  
or battery.

126 810.06 3rd Burglary; possession of tools.

127 810.08(2)(c) 3rd Trespass on property, armed  
with firearm or dangerous  
weapon.

128 812.014(2)(c)3. 3rd Grand theft, 3rd degree \$10,000

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129 or more but less than \$20,000.

812.014 3rd Grand theft, 3rd degree, a  
(2)(c)4.-10. will, firearm, motor vehicle,  
livestock, etc.

130 812.0195(2) 3rd Dealing in stolen property by  
use of the Internet; property  
stolen \$300 or more.

131 817.563(1) 3rd Sell or deliver substance other  
than controlled substance  
agreed upon, excluding s.  
893.03(5) drugs.

132 817.568(2)(a) 3rd Fraudulent use of personal  
identification information.

133 817.625(2)(a) 3rd Fraudulent use of scanning  
device, skimming device, or  
reencoder.

134 817.625(2)(c) 3rd Possession, sale, or delivery  
of skimming device.

135 828.125(1) 2nd Kill, maim, or cause great  
bodily harm or permanent  
breeding disability to any  
registered horse or cattle.

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136	591-03355-17		2017766c1
	837.02(1)	3rd	Perjury in official proceedings.
137	837.021(1)	3rd	Make contradictory statements in official proceedings.
138	838.022	3rd	Official misconduct.
139	839.13(2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
140	839.13(2) (c)	3rd	Falsifying records of the Department of Children and Families.
141	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
142	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
143	843.15(1) (a)	3rd	Failure to appear while on bail for felony (bond estreatment or bond jumping).

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144	591-03355-17		2017766c1
	847.0135(5) (c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
145	874.05(1) (a)	3rd	Encouraging or recruiting another to join a criminal gang.
146	893.13(2) (a)1.	2nd	Purchase of cocaine (or other s. 893.03(1) (a), (b), or (d), (2) (a), (2) (b), or (2) (c)4. drugs).
147	914.14(2)	3rd	Witnesses accepting bribes.
148	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
149	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
150	918.12	3rd	Tampering with jurors.
151	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
152			

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153	(e) LEVEL 5		
154			
	Florida Statute	Felony Degree	Description
155	316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
156	316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
157	316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
158	322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
159	327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
160	379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or

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			supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.
161	379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
162	379.407(5)(b)3.	3rd	Possession of 100 or more undersized spiny lobsters.
163	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
164	440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
165	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.

166	591-03355-17		2017766c1
	440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
167	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
168	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
169	790.01(2)	3rd	Carrying a concealed firearm.
170	790.162	2nd	Threat to throw or discharge destructive device.
171	790.163(1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
172	790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
173	790.23	2nd	Felons in possession of

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	591-03355-17		2017766c1
			firearms, ammunition, or electronic weapons or devices.
174	796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.
175	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
176	800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
177	806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
178	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
179	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
180	812.019(1)	2nd	Stolen property; dealing in or trafficking in.

Page 14 of 19

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

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181 812.131(2)(b) 3rd Robbery by sudden snatching.

182 812.16(2) 3rd Owning, operating, or  
conducting a chop shop.

183 817.034(4)(a)2. 2nd Communications fraud, value  
\$20,000 to \$50,000.

184 817.234(11)(b) 2nd Insurance fraud; property value  
\$20,000 or more but less than  
\$100,000.

185 817.2341(1), 3rd Filing false financial  
(2)(a) & (3)(a) statements, making false  
entries of material fact or  
false statements regarding  
property values relating to the  
solvency of an insuring entity.

186 817.568(2)(b) 2nd Fraudulent use of personal  
identification information;  
value of benefit, services  
received, payment avoided, or  
amount of injury or fraud,  
\$5,000 or more or use of  
personal identification  
information of 10 or more  
persons.

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

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187 817.611(2)(a) 2nd Traffic in or possess 5 to 14  
counterfeit credit cards or  
related documents.

188 817.625(2)(b) 2nd Second or subsequent fraudulent  
use of scanning device,  
skimming device, or reencoder.

189 825.1025(4) 3rd Lewd or lascivious exhibition  
in the presence of an elderly  
person or disabled adult.

190 827.071(4) 2nd Possess with intent to promote  
any photographic material,  
motion picture, etc., which  
includes sexual conduct by a  
child.

191 827.071(5) 3rd Possess, control, or  
intentionally view any  
photographic material, motion  
picture, etc., which includes  
sexual conduct by a child.

192 839.13(2)(b) 2nd Falsifying records of an  
individual in the care and  
custody of a state agency  
involving great bodily harm or

Page 16 of 19

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



	591-03355-17		2017766c1	
				death.
193	843.01	3rd		Resist officer with violence to person; resist arrest with violence.
194	847.0135(5)(b)	2nd		Lewd or lascivious exhibition using computer; offender 18 years or older.
195	847.0137	3rd		Transmission of pornography by
196	(2) & (3)			electronic device or equipment.
	847.0138	3rd		Transmission of material
	(2) & (3)			harmful to minors to a minor by electronic device or equipment.
197	874.05(1)(b)	2nd		Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
198	874.05(2)(a)	2nd		Encouraging or recruiting person under 13 years of age to join a criminal gang.
199	893.13(1)(a)1.	2nd		Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d),

Page 17 of 19

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

	591-03355-17		2017766c1	
				(2)(a), (2)(b), or (2)(c)4. drugs).
200	893.13(1)(c)2.	2nd		Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
201	893.13(1)(d)1.	1st		Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of university.
202	893.13(1)(e)2.	2nd		Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8.,

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

591-03355-17

2017766c1

(2) (c) 9., (3), or (4) within  
 1,000 feet of property used for  
 religious services or a  
 specified business site.

203

893.13(1)(f)1.      1st      Sell, manufacture, or deliver  
 cocaine (or other s.  
 893.03(1)(a), (1)(b), (1)(d),  
 or (2)(a), (2)(b), or (2)(c)4.  
 drugs) within 1,000 feet of  
 public housing facility.

204

893.13(4)(b)      2nd      Use or hire of minor; deliver  
 to minor other controlled  
 substance.

205

893.1351(1)      3rd      Ownership, lease, or rental for  
 trafficking in or manufacturing  
 of controlled substance.

206

207

Section 3. This act shall take effect October 1, 2017.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

April 18, 2017  
Meeting Date

766  
Bill Number (if applicable)

Topic Payment Card offenses

Amendment Barcode (if applicable)

Name Chief Frank Fabrizio

Job Title Chief of Police

Address 2636 Mitcham Drive

Phone 850-219-3631

Street

Tallahassee FL 32308

Email bhoward@fpcra.com

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

4/18/17

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

766

Meeting Date

Bill Number (if applicable)

Topic Payment Card Offenses

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title VP & General Counsel

Address 227 S. Adams St.

Phone 222-4082

Street

Tallahassee

FL

32301

Email samantha@prf.org

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information

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

Representing Florida Retail Federation

Appearing at request of Chair: [ ] Yes [x] 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.)

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

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BILL: SB 1564

INTRODUCER: Senator Garcia

SUBJECT: Domestic Violence

DATE: April 17, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Jones</u>	<u>Hrdlicka</u>	<u>CJ</u>	<b>Favorable</b>
2.	<u>McAuliffe</u>	<u>Sadberry</u>	<u>ACJ</u>	<b>Recommend: Favorable</b>
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 1564 amends s. 741.283, F.S., to increase the penalties for both first-time and subsequent domestic violence offenders who intentionally cause bodily harm to another person and are adjudicated guilty. The bill also enhances the penalties if the domestic violence offense took place in front of a child, under 16 years of age, who is a family or household member of the victim or the perpetrator.

Section 775.08435, F.S., is amended to add an additional circumstance in which a court is prohibited from withholding the adjudication of a defendant. The bill prohibits a court from withholding adjudication for a third degree felony that is a crime of domestic violence unless certain conditions are met.

The bill creates s. 741.30(1)(g), F.S., to prohibit attorney's fees from being awarded in any injunction proceeding for protection against domestic violence.

Under this bill, counties may incur additional costs associated with the minimum sentences for certain offenders. See Section V. Fiscal Impact Statement

The bill is effective October 1, 2017.

**II. Present Situation:**

Domestic violence affects thousands of individuals and families in Florida. In 2015, there were 107,666 domestic violence offenses reported to law enforcement.<sup>1</sup>

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<sup>1</sup> Florida Department of Law Enforcement, *Domestic Violence*, available at <http://www.fdle.state.fl.us/cms/FSAC/Crime-Trends/Domestic-Violence.aspx> (last visited March 29, 2017).

Section 741.28(2), F.S., defines domestic violence as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. A family or household member includes:

- Spouses;
- Former spouses;
- Persons related by blood or marriage;
- Persons who are presently residing together as if a family or who have resided together in the past as if a family in the same single family dwelling unit; and
- Persons who are parents of a child in common, regardless of whether they have been married.<sup>2</sup>

### **Criminal Penalties for Domestic Violence Offenses**

Florida law requires certain mandatory penalties related to domestic violence offenses. Section 741.281, F.S., requires a court to sentence any person convicted<sup>3</sup> of a domestic violence crime to a minimum term of one year probation with the condition that the person attend a batterer's intervention program.<sup>4</sup>

Section 741.325, F.S., requires batterer's intervention programs be based on a psychoeducational model that addresses tactics of power and control by one person over another. A batterer's intervention program must be at least 29 weeks in length and include 24 weekly sessions, and include appropriate intake, assessment, and orientation programming.<sup>5</sup>

In addition to the mandatory probation and the batterer's intervention program, certain domestic violence offenses require a defendant serve jail time. If a person is adjudicated guilty of a domestic violence offense and intentionally caused bodily harm to another person, a court must sentence the person to a minimum of five days in the county jail.<sup>6</sup>

### **Withholding Adjudication of Guilt**

Section 775.08435, F.S., prohibits a court from withholding adjudication of guilt in certain felony cases. A court may not withhold adjudication of guilt for a defendant on:

- A capital, life, or first degree felony<sup>7</sup> offense.

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<sup>2</sup> The family or household members must be currently residing or have in the past resided together in the same single dwelling unit; this excludes persons who have a child in common. Section 741.28(3), F.S.

<sup>3</sup> This provision applies to any person found guilty of, having an adjudication withheld on, or pleading nolo contendere to a crime of domestic violence. Section 741.281, F.S.

<sup>4</sup> Section 741.281, F.S., allows a court to use its discretion to impose a batterer's intervention program if the court states on the record to why such a program would be inappropriate. The court must also impose a batterer's intervention program as a condition of probation unless the court determines that the person does not qualify for such a program.

<sup>5</sup> Section 741.325(1), F.S.

<sup>6</sup> The court is not required to order five days in the county jail when the court orders an offender to a period of incarceration in a state correction facility. Section 741.283, F.S.

<sup>7</sup> A first degree felony is punishable by up to 30 years imprisonment and up to a \$10,000 fine. Sections 775.082 and 775.083, F.S.

- A second degree felony<sup>8</sup> offense unless:
  - The state attorney makes a written request to withhold adjudication; or
  - The court makes written findings that a withhold of adjudication is reasonably justified based on the circumstances or mitigating factors in s. 921.0026, F.S.<sup>9</sup>
- A third degree felony<sup>10</sup> offense if the defendant has a prior withholding of adjudication for a felony offense that did not arise from the same criminal episode as the current felony offense unless:
  - The state attorney requests in writing that adjudication be withheld; or
  - The court makes written findings that a withholding of adjudication is reasonably justified based on the circumstances or mitigating factors in s. 921.0026, F.S.<sup>11</sup>

A court may not withhold adjudication when a defendant has committed a second degree felony and has a prior withhold of adjudication from a different offense, or when the defendant committed a third degree felony and has two or more prior withholdings of adjudication from a different offense.<sup>12</sup>

### **Domestic Violence Injunctions**

Section 741.30, F.S., provides a cause of action for an injunction for protection against domestic violence. Any person who is a family or household member and who either is the victim of domestic violence or has reasonable cause to believe he or she is in imminent danger of becoming a victim of any act of domestic violence, may petition for an injunction for the protection against domestic violence.<sup>13</sup>

After reviewing the petition, if a court finds there is an immediate and present danger of domestic violence, the court may grant a temporary injunction, pending a full hearing.<sup>14</sup> Following a hearing, if the court determines the petitioner is the victim of domestic violence or is in imminent danger of becoming a victim of domestic violence, the court may enter an injunction.<sup>15</sup>

### ***Attorney's fees for Domestic Violence Injunction Hearings***

Section 741.30, F.S., does not address the award of attorney's fees related to domestic violence injunction hearings. Florida courts are in conflict regarding whether s. 57.105, F.S., allows a court to order attorney fees incurred in domestic violence injunction proceedings.<sup>16</sup> The Third

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<sup>8</sup> A second degree felony is punishable by up to 15 years imprisonment and up to a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>9</sup> Section 921.0026, F.S., provides 14 statutory mitigating circumstances a court may consider when sentencing a defendant for a felony offense.

<sup>10</sup> A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine. Sections 775.082, 775.083, and 775.084, F.S.

<sup>11</sup> Section 775.08435(1), F.S.

<sup>12</sup> Section 775.08435(1), F.S.

<sup>13</sup> Section 741.30(1), F.S.

<sup>14</sup> Section 741.30(5)(a), F.S.

<sup>15</sup> Section 741.30(6), F.S.

<sup>16</sup> Section 57.105, F.S., authorizes a court to award reasonable attorney's fees when the court finds the losing party or the losing party's attorney should have known that a claim or defense presented to the court or at trial was either: 1) not

District Court of Appeal held there is no statutory authority to award attorney's fees as sanctions in a domestic violence injunction case.<sup>17</sup> Whereas, the First District Court of Appeal held that there is no statutory prohibition against an award of attorney's fees pursuant s. 57.105, F.S., for domestic violence injunction hearings.<sup>18</sup>

### III. Effect of Proposed Changes:

#### Criminal Penalties for Domestic Violence Offenses

Section 1 amends s. 741.281, F.S., to require a court to order the defendant to both attend *and complete* a batterer's intervention program as a condition of probation. A failure to complete a batterer's intervention program may result in a violation of probation.

Section 2 also amends s. 741.283, F.S., to increase the penalties for both first-time and subsequent domestic violence offenders who intentionally cause bodily harm to another person and are adjudicated guilty. The section requires a court to order a defendant to serve the following time in a county jail:

- 10 days for a first offense;
- 15 days for a second offense; and
- 20 days for a third or subsequent offense.

The penalties are further enhanced if the domestic violence offense took place in front of a child, under 16 years of age, who is a family or household member of the victim or the perpetrator. The bill requires a court to order a defendant to serve the following time in a county jail:

- 15 days for a first offense;
- 20 days for a second offense; and
- 30 days for a third or subsequent offense.<sup>19</sup>

#### Withholding Adjudication of Guilt

Section 4 amends s. 775.08435, F.S., to limit the authority of a court withholding the adjudication of a defendant. A court may not withhold adjudication for a third degree felony that is a crime of domestic violence unless:

- The state attorney makes a written request for the adjudication to be withheld; or
- The court makes written findings that the withholding of adjudication is reasonably justified based on the circumstances or mitigating factors in s. 921.0026, F.S.

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supported by the material facts necessary to establish the claim or defense; or 2) would not be supported by the application of then-existing law to those material facts.

<sup>17</sup> *Ratigan v. Stone*, 947 So. 2d 607, 608 (Fla. 3d DCA 2007).

<sup>18</sup> *Hall v. Lopez*, 2016 41 Fla. L. Weekly D 1763 (Fla. 1st DCA 2016).

<sup>19</sup> The mandatory jail time does not apply if the court sentences a defendant to a nonsuspended period of incarceration in a state correctional facility.



**Domestic Violence Injunctions*****Attorney's fees for Domestic Violence Injunction Hearings***

Section 3 amends s. 741.30, F.S., to prohibit attorney's fees from being awarded in any injunction proceeding for protection against domestic violence.

The bill is effective October 1, 2017.

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

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

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

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

Under this bill, counties may incur additional costs associated with the minimum sentences for certain offenders. The Criminal Justice Impact Conference found that the bill will have no state prison bed impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 741.281, 741.283, 741.30, and 775.08435.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

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

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By Senator Garcia

36-01426A-17

20171564\_\_

A bill to be entitled

An act relating to domestic violence; amending s. 741.281, F.S.; specifying that a person must complete a batterers' intervention program ordered as a condition of probation in certain circumstances; amending s. 741.283, F.S.; increasing the minimum terms of imprisonment for domestic violence; providing enhanced minimum terms in certain circumstances; amending s. 741.30, F.S.; prohibiting the award of attorney fees in specified domestic violence proceedings; amending s. 775.08435, F.S.; prohibiting the withholding of adjudication for specified domestic violence offenses; providing exceptions; providing an effective date.

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

Section 1. Section 741.281, Florida Statutes, is amended to read:

741.281 Court to order batterers' intervention program attendance.—If a person is found guilty of, has adjudication withheld on, or pleads nolo contendere to a crime of domestic violence, as defined in s. 741.28, that person shall be ordered by the court to a minimum term of 1 year's probation and the court shall order that the defendant attend and complete a batterers' intervention program as a condition of probation. The court must impose the condition of the batterers' intervention program for a defendant under this section, but the court, in its discretion, may determine not to impose the condition if it

Page 1 of 4

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

36-01426A-17

20171564\_\_

states on the record why a batterers' intervention program might be inappropriate. The court must impose the condition of the batterers' intervention program for a defendant placed on probation unless the court determines that the person does not qualify for the batterers' intervention program pursuant to s. 741.325. The imposition of probation under this section does not preclude the court from imposing any sentence of imprisonment authorized by s. 775.082.

Section 2. Section 741.283, Florida Statutes, is amended to read:

741.283 Minimum term of imprisonment for domestic violence.—

(1) (a) Except as provided in paragraph (b), if a person is adjudicated guilty of a crime of domestic violence, as defined in s. 741.28, and the person has intentionally caused bodily harm to another person, the court shall order the person to serve a minimum of 10 5 days in the county jail for a first offense, 15 days for a second offense, and 20 days for a third or subsequent offense as part of the sentence imposed, unless the court sentences the person to a nonsuspended period of incarceration in a state correctional facility.

(b) If a person is adjudicated guilty of a crime of domestic violence, as defined in s. 741.28, and the person has intentionally caused bodily harm to another person, and the crime of domestic violence takes place in the presence of a child under 16 years of age who is a family or household member, as defined in s. 741.28, of the victim or the perpetrator, the court shall order the person to serve a minimum of 15 days in the county jail for a first offense, 20 days for a second

Page 2 of 4

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

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59 offense, and 30 days for a third or subsequent offense as part  
 60 of the sentence imposed, unless the court sentences the person  
 61 to a nonsuspended period of incarceration in a state  
 62 correctional facility.

63 (2) This section does not preclude the court from  
 64 sentencing the person to probation, community control, or an  
 65 additional period of incarceration.

66 Section 3. Paragraphs (g), (h), (i), and (j) of subsection  
 67 (1) of section 741.30, Florida Statutes, are redesignated as  
 68 paragraphs (h), (i), (j), and (k), respectively, and a new  
 69 paragraph (g) is added to that subsection, to read:

70 741.30 Domestic violence; injunction; powers and duties of  
 71 court and clerk; petition; notice and hearing; temporary  
 72 injunction; issuance of injunction; statewide verification  
 73 system; enforcement; public records exemption.—

74 (1) There is created a cause of action for an injunction  
 75 for protection against domestic violence.

76 (g) Notwithstanding any other law, attorney fees may not be  
 77 awarded in any proceeding under this section.

78 Section 4. Paragraph (c) of subsection (1) of section  
 79 775.08435, Florida Statutes, is redesignated as paragraph (d),  
 80 and a new paragraph (c) is added to that subsection, to read:

81 775.08435 Prohibition on withholding adjudication in felony  
 82 cases.—

83 (1) Notwithstanding the provisions of s. 948.01, the court  
 84 may not withhold adjudication of guilt upon the defendant for:

85 (c) A third degree felony that is a crime of domestic  
 86 violence, as defined in s. 741.28, unless:

87 1. The state attorney requests in writing that adjudication

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88 be withheld; or

89 2. The court makes written findings that the withholding of  
 90 adjudication is reasonably justified based on circumstances or  
 91 factors in accordance with s. 921.0026.

92 Section 5. This act shall take effect October 1, 2017.

**The Florida Senate**  
State Senator René García  
36<sup>th</sup> District

**Please reply to:**

**District Office:**

1490 West 68 Street  
Suite # 201  
Hialeah, FL. 33014  
Phone# (305) 364-3100

April 4<sup>th</sup>, 2017

The Honorable Aaron Bean  
Chairman, Appropriations Subcommittee on Criminal and Civil Justice  
201 The Capitol  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Dear Senator Bean,

Please have this letter serve as my formal request to have **SB 1564: Domestic Violence**, be heard during the next scheduled Appropriations Subcommittee on Criminal and Civil Justice Meeting. Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,



State Senator René García  
District 36

CC: Tim Sadberry  
Lisa Roberts

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

1564

Bill Number (if applicable)

Meeting Date

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name JESS McCARTY

Job Title ASS'T COUNTY ATTORNEY

Address 111 NW 1ST ST 2810

Phone 305-979-7110

Street

MIAMI

33128

City

State

Zip

Email JESS.McCARTY@MIAMIDADE-604

Speaking:  For  Against  Information

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

Representing MIAMI-DADE COUNTY

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/18/17

Meeting Date

SB 1564

Bill Number (if applicable)

Topic Domestic Violence

Amendment Barcode (if applicable)

Name Leisa Wiseman

Job Title Director Communications & Govt. Affairs

Address 425 office Plaza Drive

Phone 850/425-2749

Street

Tallahassee FL 32301

Email wiseman-leisa@fladv.org

City

State

Zip

Speaking:  For  Against  Information

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

Representing Florida Coalition Against Domestic Violence

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.

# CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Appropriations Subcommittee on Criminal and Civil Justice

Judge:

Started: 4/18/2017 1:32:19 PM

Ends: 4/18/2017 1:57:30 PM

Length: 00:25:12

1:32:18 PM Sen. Bean (Chair)  
1:33:16 PM S 684  
1:33:26 PM Sen. Baxley  
1:33:57 PM Sen. Bean  
1:34:10 PM Sen. Baxley  
1:34:14 PM Sen. Bean  
1:34:32 PM Jason Jones, General Counsel, Florida Department of Law Enforcement (waives in support)  
1:34:50 PM Chief Frank Fabrizio, Chief of Police, The Florida Police Chiefs Association (waives in support)  
1:35:43 PM Sen. Bracy (Chair)  
1:35:49 PM S 476  
1:35:51 PM Sen. Bean  
1:37:51 PM Sen. Bracy  
1:38:08 PM Jason Jones, General Counsel, Florida Department of Law Enforcement (waives in support)  
1:38:13 PM Chief Frank Fabrizio, Chief of Police, The Florida Police Chiefs Association (waives in support)  
1:38:21 PM Sen. Clemens  
1:38:34 PM Sen. Bracy  
1:38:41 PM Sen. Bean  
1:38:54 PM Sen. Bracy  
1:39:14 PM Sen. Bean (Chair)  
1:40:41 PM Recording Paused  
1:42:40 PM Recording Resumed  
1:42:43 PM Sen. Bean  
1:42:52 PM S 1564  
1:42:54 PM Sen. Garcia  
1:43:38 PM Sen. Bean  
1:43:46 PM Sen. Bracy  
1:44:06 PM Sen. Garcia  
1:44:51 PM Sen. Bracy  
1:45:23 PM Sen. Garcia  
1:45:50 PM Sen. Bean  
1:46:07 PM Leisa Wiseman, Director of Communications and Government Affairs, Florida Coalition Against Domestic Violence (waives in support)  
1:46:14 PM Jess McCarty, Assistant County Attorney, Miami-Dade County (waives in support)  
1:46:24 PM Sen. Clemens  
1:46:43 PM Sen. Bean  
1:46:48 PM Sen. Garcia  
1:46:52 PM Sen. Bean  
1:47:44 PM S 766  
1:47:53 PM Sen. Rodriguez  
1:48:15 PM Sen. Bean  
1:48:23 PM Sen. Rodriguez  
1:48:32 PM Sen. Bean  
1:48:40 PM Sen. Rodriguez  
1:48:46 PM Sen. Bean  
1:48:51 PM Am. 977030  
1:49:04 PM Sen. Rodriguez  
1:49:13 PM Sen. Bean  
1:49:31 PM S 766 (cont.)  
1:49:43 PM Samantha Padgett, Vice President and General Counsel, Florida Retail Foundation (waives in support)  
1:49:49 PM Chief Frank Fabrizio, Chief of Police, The Florida Police Chiefs Association (waives in support)  
1:50:08 PM Sen. Clemens  
1:50:30 PM Sen. Rodriguez



<b>1:51:15 PM</b>	Sen. Bean
<b>1:51:20 PM</b>	Sen. Clemens
<b>1:51:59 PM</b>	Sen. Bean
<b>1:52:04 PM</b>	Sen. Baxley
<b>1:52:38 PM</b>	Sen. Bean
<b>1:52:42 PM</b>	Sen. Rodriguez
<b>1:53:36 PM</b>	Sen. Bean
<b>1:54:57 PM</b>	Sen. Bracy
<b>1:55:12 PM</b>	Sen. Clemens
<b>1:55:39 PM</b>	Sen. Bean
<b>1:55:55 PM</b>	Sen. Baxley
<b>1:57:04 PM</b>	Sen. Bean