

<b>Tab 2</b>	<b>CS/SB 588 by HP, Passidomo;</b> (Similar to CS/CS/H 00249) Drug Overdoses					
970258	A	S	RCS	CJ, Passidomo	Delete L.60 - 85:	04/17 05:27 PM

<b>Tab 3</b>	<b>CS/CS/SB 680 by BI, JU, Baxley (CO-INTRODUCERS) Garcia;</b> (Similar to CS/H 00361) Bail Bonds					
--------------	---	--	--	--	--	--

<b>Tab 4</b>	<b>SB 848 by Rouson;</b> (Similar to H 00177) Suspension of Civil Rights					
600766	A	S		CJ, Rouson	Delete L.13:	04/14 01:28 PM
366112	SA	S		CJ, Rouson	Delete L.10 - 14:	04/17 11:26 AM

<b>Tab 5</b>	<b>SB 934 by Thurston (CO-INTRODUCERS) Perry;</b> (Similar to H 00053) Restoration of Civil Rights					
962638	A	S		CJ, Brandes	Delete L.55 - 96:	03/03 01:23 PM
329812	SA	S		CJ, Brandes	Delete L.54 - 96:	03/06 09:23 AM
836862	A	S		CJ, Thurston	Delete L.79 - 80:	03/03 01:24 PM
352694	A	S		CJ, Thurston	Delete L.105 - 109:	03/03 01:24 PM

<b>Tab 6</b>	<b>SB 970 by Bracy;</b> (Similar to CS/CS/CS/H 01167) Florida Compensation Trust Fund for Survivors of Human Trafficking/Department of Law Enforcement					
149896	D	S	RS	CJ, Bracy	Delete everything after	04/17 05:27 PM
635414	SD	S	RCS	CJ, Bracy	Delete everything after	04/17 05:27 PM

<b>Tab 7</b>	<b>SB 972 by Bracy;</b> (Compare to CS/CS/CS/H 01165) Human Trafficking					
228352	D	S	RS	CJ, Bracy	Delete everything after	04/17 05:27 PM
176364	SD	S	RCS	CJ, Bracy	Delete everything after	04/17 05:27 PM
<del>129704</del>	ASA	S	WD	CJ, Rouson	btw L.5 - 6:	04/17 05:27 PM

<b>Tab 8</b>	<b>SB 1248 by Steube;</b> (Compare to CS/H 06013) Breach of the Peace					
424774	D	S	RCS	CJ, Steube	Delete everything after	04/17 07:47 PM
214914	AA	S	RCS	CJ, Steube	In title, delete L.19:	04/17 07:47 PM

<b>Tab 9</b>	<b>SB 1436 by Clemens;</b> (Identical to H 00731) Controlled Substance Offenses					
--------------	---	--	--	--	--	--

<b>Tab 10</b>	<b>SB 1662 by Clemens;</b> (Identical to H 01403) Cannabis					
---------------	--	--	--	--	--	--

<b>Tab 11</b>	<b>SB 1788 by Bracy;</b> (Similar to CS/H 01417) Public Records/Victim of Human Trafficking					
491246	D	S	RS	CJ, Bracy	Delete everything after	04/17 05:27 PM
744366	SD	S	RCS	CJ, Bracy	Delete everything after	04/17 05:27 PM

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

**CRIMINAL JUSTICE**  
**Senator Bracy, Chair**  
**Senator Baxley, Vice Chair**

**MEETING DATE:** Monday, April 17, 2017  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** Mallory Horne Committee Room, 37 Senate Office Building

**MEMBERS:** Senator Bracy, Chair; Senator Baxley, Vice Chair; Senators Bean, Bradley, Brandes, Clemens, and Rouson

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

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

**Florida Commission on Offender Review**

1	Wyant, David A. ()	06/30/2022	Recommend Confirm Yeas 5 Nays 0
---	--------------------	------------	------------------------------------

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

2	<b>CS/SB 588</b> Health Policy / Passidomo (Similar CS/CS/H 249)	Drug Overdoses; Authorizing certain entities to report controlled substance overdoses to the Department of Health; providing requirements for such reports; providing immunity for persons who make reports in good faith; providing that a failure to report is not a basis for licensure discipline; requiring the department to produce a quarterly report and share the data with specified entities, etc.	Fav/CS Yeas 7 Nays 0
---	--	--	-------------------------

HP 03/27/2017 Fav/CS  
CJ 04/17/2017 Fav/CS  
RC

3	<b>CS/CS/SB 680</b> Banking and Insurance / Judiciary / Baxley (Similar CS/H 361)	Bail Bonds; Revising legislative intent concerning the obligations of a bail bond agent; prohibiting a person or entity that charges a fee for facilitating the release of a defendant through the posting of a cash bond from using the term "bail" in advertisements and printed materials posted in a jail; revising the circumstances under which a surety bond deposited as bail must be forfeited, etc.	Favorable Yeas 7 Nays 0
---	--	---	----------------------------

JU 03/22/2017 Fav/CS  
BI 04/03/2017 Fav/CS  
CJ 04/17/2017 Favorable  
RC

4	<b>SB 848</b> Rouson (Similar H 177, Compare H 189)	Suspension of Civil Rights; Revising provisions related to the suspension of civil rights to apply to persons convicted of certain felonies, etc.	Temporarily Postponed
---	---	---	-----------------------

CJ 04/17/2017 Temporarily Postponed  
JU  
RC

**COMMITTEE MEETING EXPANDED AGENDA**

Criminal Justice

Monday, April 17, 2017, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	<b>SB 934</b> Thurston (Similar H 53, Compare HJR 51, Linked SJR 270)	Restoration of Civil Rights; Citing this act as the "Restoration of Civil Rights Act"; providing for automatic restoration of a former felon's civil rights, other than the right to own, possess, or use firearms, after completion of his or her sentence of incarceration and conditions of supervision; requiring the Secretary of State to develop and implement a program to educate the public about the civil rights of people who have felony convictions, etc.  CJ 03/06/2017 Temporarily Postponed CJ 04/17/2017 Temporarily Postponed JU RC	Temporarily Postponed
6	<b>SB 970</b> Bracy (Similar CS/CS/CS/H 1167, Compare CS/CS/CS/H 1165, Linked S 972)	Florida Compensation Trust Fund for Survivors of Human Trafficking/Department of Law Enforcement; Creating the Florida Compensation Trust Fund for Survivors of Human Trafficking within the Department of Law Enforcement; providing for future review and termination or re-creation of the trust fund, etc.  CJ 04/03/2017 Temporarily Postponed CJ 04/17/2017 Fav/CS JU AP	Fav/CS Yeas 7 Nays 0
7	<b>SB 972</b> Bracy (Compare CS/CS/CS/H 1165, CS/CS/CS/H 1167, CS/H 1417, Linked S 970, S 1788)	Human Trafficking; Citing this act as the "Civil Action Against Human Trafficking of Minors and Survivors Compensation Fund Act"; creating a civil cause of action for minors who are victims of human trafficking; authorizing such minors to recover actual and punitive damages; providing for recovery by a prevailing victim or the Florida Compensation Trust Fund for Survivors of Human Trafficking of attorney fees, investigative expenses, court costs, economic and noneconomic damages, forfeited personal and real property, and other applicable civil penalties, etc.  CJ 04/03/2017 Temporarily Postponed CJ 04/17/2017 Fav/CS JU AP	Fav/CS Yeas 7 Nays 0
8	<b>SB 1248</b> Steube (Compare CS/H 6013)	Breach of the Peace; Deleting provisions that provide criminal penalties for certain conduct constituting a breach of the peace, etc.  CJ 03/21/2017 Temporarily Postponed CJ 04/17/2017 Fav/CS RC	Fav/CS Yeas 6 Nays 1

**COMMITTEE MEETING EXPANDED AGENDA**

Criminal Justice

Monday, April 17, 2017, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	<b>SB 1436</b> Clemens (Identical H 731)	Controlled Substance Offenses; Reducing minimum mandatory sentences for certain trafficking offenses; increasing the threshold amounts for certain trafficking offenses; increasing the sentencing scoresheet multiplier for drug trafficking offenses, etc.  CJ 04/17/2017 Favorable JU ACJ AP	Favorable Yeas 7 Nays 0
10	<b>SB 1662</b> Clemens (Identical H 1403)	Cannabis; Providing that possession of a personal use quantity of cannabis or a cannabis accessory by an adult is a civil violation; providing that such possession by a minor is a civil violation; prohibiting state or local penalties or obligations other than specified penalties or obligations concerning possession of personal use quantities of cannabis or cannabis accessories; specifying that certain violations may not be considered probation or parole violations, etc.  CJ 04/17/2017 Temporarily Postponed JU RC	Temporarily Postponed
11	<b>SB 1788</b> Bracy (Similar CS/H 1417, Compare CS/CS/CS/H 1165, Linked S 972)	Public Records/Victim of Human Trafficking; Providing an exemption from public records requirements for specified redacted and sealed information identifying a victim of human trafficking; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.  CJ 04/03/2017 Temporarily Postponed CJ 04/17/2017 Fav/CS GO AP	Fav/CS Yeas 6 Nays 0

## Other Related Meeting Documents

An electronic copy of the Appearance Request form is available to download from any Senate Committee page on the Senate's website, [www.flssenate.gov](http://www.flssenate.gov).

AMENDED

A black and white copy of this document is not official

1705

STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections

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

*David A. Wyant*

is duly appointed a member of the

**Florida Commission on Offender Review**

for a term beginning on the First day of July, A.D., 2016, until  
the Thirtieth day of June, A.D., 2022 and is subject to be  
confirmed by the Senate during the next regular session of the  
Legislature.

*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Thirteenth day of March, A.D., 2017.*

*Ken Detzner*

Secretary of State



DSDE 99 (3/03)

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

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

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

Amended  
1705



**RICK SCOTT**  
GOVERNOR

17 MAR 10 PM 1:03

DIVISION OF ELECTIONS  
SECRETARY OF STATE

March 2, 2017

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

Dear Secretary Detzner:

Please be advised that the Cabinet and I have amended the the following appointment under provisions of Section 947.02, Florida Statutes:

Mr. David Wyant  
4070 Esplanade Way  
Tallahassee, Florida 32399-2450

as a member of the Commission on Offender Review, filling a vacant seat, subject to confirmation by the Senate. This appointment is effective on July 1, 2016, for a term ending on June 30, 2022.

Sincerely,

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

Rick Scott  
Governor

RS/aa

HAND DELIVERED

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of Leon

RECEIVED  
17 FEB 13 AM 11:29  
DIVISION OF ELECTIONS  
SECRETARY OF STATE

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

Commissioner, Florida Commission on Offender Review

(Title of Office)

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

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

David A. Wyant  
Signature

Sworn to and subscribed before me this 13 day of FEB, 17.

Jeffrey D. Rigdon  
Signature of Officer Administering Oath or of Notary Public

JEFFREY D. RIGDON  
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known  OR Produced Identification

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



JEFFREY D. RIGDON  
MY COMMISSION # FF 177021  
EXPIRES: December 6, 2018  
Bonded Thru Budget Notary Services

## ACCEPTANCE

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

Mailing Address:  Home  Office

4070 Esplanade Way

Street or Post Office Box

Tallahassee, Fl. 32399

City, State, Zip Code

David A. Wyant

Print Name

David A. Wyant  
Signature

The Florida Senate  
**Committee Notice Of Hearing**

IN THE FLORIDA SENATE  
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of  
David A. Wyant  
Florida Commission on Offender Review

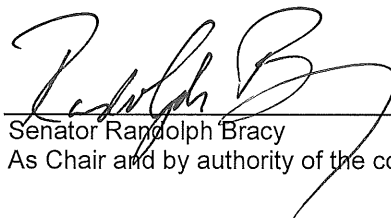
**NOTICE OF HEARING**

TO: Mr. David A. Wyant

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Monday, April 17, 2017, in the Mallory Horne Committee Room, 37 Senate Office Building, commencing at 1:30 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.  
DATED this the 12th day of April, 2017

Committee on Criminal Justice



\_\_\_\_\_  
Senator Randolph Bracy  
As Chair and by authority of the committee

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



THE FLORIDA SENATE

**COMMITTEE WITNESS OATH**

---

**CHAIR:**

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

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

**WITNESS'S NAME:** David A. Wyant

**ANSWER:** I DO

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

**COMMITTEE NAME:** Senate Criminal Justice Committee

**DATE:** April 17, 2017

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

**COMMITTEE:** Committee on Criminal Justice  
**MEETING DATE:** Monday, April 17, 2017  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** Mallory Horne Committee Room, 37 Senate Office Building

---

**TO:** The Honorable Joe Negron, President

**FROM:** Committee on Criminal Justice

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

**Office:** Florida Commission on Offender Review

**Appointee:** Wyant, David A.

**Term:** 7/1/2016-6/30/2022

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

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

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

---

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

---

BILL: CS/CS/SB 588

INTRODUCER: Criminal Justice Committee; Health Policy Committee; and Senator Passidomo

SUBJECT: Drug Overdoses

DATE: April 18, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	<b>Fav/CS</b>
2.	Cellon	Hrdlicka	CJ	<b>Fav/CS</b>
3.			RC	

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/CS/SB 588 requires hospitals with emergency departments to develop best practice policies that focus upon the prevention of unintentional drug overdoses. The bill sets forth suggestions that hospitals may include in the policy.

The bill permits the voluntary reporting of a suspected or actual overdose of a controlled substance to the Department of Health (DOH) by basic and advanced life support service providers that treat and release, or transport, a person in response to an emergency call.

The bill defines overdose as:

- A condition, including extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death resulting from the consumption or use of any controlled substance which requires medical attention, assistance, or treatment; or
- Clinical suspicion for drug overdose, such as respiratory depression, unconsciousness, or altered mental status which is not explained by another condition.

If a report is made, it must contain the date and time of the overdose, the address of where the patient was picked up or where the overdose took place, whether an emergency opioid antagonist was administered, and whether the overdose was fatal or non-fatal. Additionally, a report must include the gender and approximate age of the patient and the suspected controlled substances

involved only if permitted by the reporting mechanism. Reporters must use best efforts to make the report within 120 hours.

The DOH must make the data received available to law enforcement, public health, fire rescue, and EMS agencies in each county within 120 hours after receipt. Quarterly, the DOH must provide summarized reports to the Statewide Drug Policy Advisory Council, the Department of Children and Families (DCF), and the Florida Fusion Center, which may be used to maximize the utilization of funding programs for licensed basic and advanced life support service providers, and to disseminate available federal, state and, private funds for local substance abuse treatment services.

The bill makes a reporter exempt from civil or criminal liability for reporting, if the report is made in good faith. It also specifies that the failure to make a report is not grounds for licensure discipline.

The bill is effective October 1, 2017.

## II. Present Situation:

### Substance Abuse

Substance abuse refers to the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.<sup>1</sup> Substance abuse disorders occur when the chronic use of alcohol or drugs causes significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.<sup>2</sup> Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance abuse disorder.<sup>3</sup> Brain imaging studies of persons with substance abuse disorders show physical changes in areas of the brain that are critical to judgment, decision making, learning and memory, and behavior control.<sup>4</sup>

According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, a diagnosis of substance abuse disorder is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.<sup>5</sup> The most common substance abuse disorders in the United States are from the use of alcohol, tobacco, cannabis, stimulants, hallucinogens, and opioids.<sup>6</sup>

---

<sup>1</sup> World Health Organization, *Substance Abuse*, available at [http://www.who.int/topics/substance\\_abuse/en/](http://www.who.int/topics/substance_abuse/en/) (last visited April 7, 2017).

<sup>2</sup> Substance Abuse and Mental Health Services Administration, *Substance Use Disorders*, (last updated October 27, 2015) available at <http://www.samhsa.gov/disorders/substance-use>, (last visited April 7, 2017).

<sup>3</sup> National Institute on Drug Abuse, *Drugs, Brains, and Behavior: The Science of Addiction*, (last updated July 2014) available at <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction> (last visited April 7, 2017).

<sup>4</sup> Id.

<sup>5</sup> *Supra* note 2.

<sup>6</sup> *Supra* note 2.

### ***Opioid Abuse and Overdose***

Opioids are commonly abused, with an estimated 15 million people worldwide suffering from opioid dependence.<sup>7</sup> Drug overdose is now the leading cause of injury-related death in the United States.<sup>8</sup> In 2015, Florida ranked fourth in the nation with 3,228 deaths from drug overdoses,<sup>9</sup> and the presence of at least one prescription drug in a person's body caused 2,530 of those deaths.<sup>10</sup> Statewide, in 2015, heroin caused 733 deaths, fentanyl caused 705, oxycodone caused 565, and hydrocodone caused 236; deaths caused by heroin and fentanyl increased more than 75 percent statewide when compared with 2014.<sup>11</sup>

Drug overdose deaths doubled in Florida from 1999 to 2012.<sup>12</sup> Over the same time period, drug overdose deaths occurred at a rate of 13.2 deaths per 100,000 persons.<sup>13</sup> The crackdown on "pill mills" dispensing prescription opioid drugs, such as oxycodone and hydrocodone, reduced the rate of death attributable to prescription drugs, but may have generated a shift to heroin use, contributing to the rise in heroin addiction.<sup>14</sup>

### ***Emergency Response to Overdose***

Opioid overdose can occur when an individual deliberately misuses a prescription opioid or an illicit drug such as heroin.<sup>15</sup> It can also occur when a patient takes an opioid as directed, but the prescriber miscalculated the opioid dose, an error was made by the dispensing pharmacist, or the patient misunderstood the directions for use.<sup>16</sup> Opioid overdose is life threatening and requires immediate emergency attention.<sup>17</sup>

To treat an opioid overdose, emergency personnel or a physician may administer an opioid antagonist such as Narcan® or Nalaxone. An opioid antagonist is a drug that blocks the effects of exogenously administered opioids. Opioid antagonists are used in opioid overdoses to counteract life-threatening depression of the central nervous system and respiratory system, allowing an

---

<sup>7</sup> World Health Organization, *Information Sheet on Opioid Overdose*, (November 2014) available at [http://www.who.int/substance\\_abuse/information-sheet/en/](http://www.who.int/substance_abuse/information-sheet/en/) (last visited April 7, 2107).

<sup>8</sup> Trust for America's Health, *The Facts Hurt: A State-by-State Injury Prevention Policy Report*, (June 2015) available at <http://healthyamericans.org/reports/injuryprevention15/> (last visited April 7, 2017).

<sup>9</sup> Centers for Disease Control and Prevention, *Drug Overdose Death Data*, (December 16, 2016) available at <https://www.cdc.gov/drugoverdose/data/statedeaths.html>, (last visited April 7, 2017).

<sup>10</sup> Florida Department of Law Enforcement, *Drugs Identified in Deceased Persons by Florida Medical Examiners-2015 Annual Report*, (September 2016) available at <https://www.fdle.state.fl.us/cms/MEC/Publications-and-Forms/Documents/Drugs-in-Deceased-Persons/2015-Annual-Drug-Report.aspx> (last visited April 7, 2017).

<sup>11</sup> *Id.* at p. iii.

<sup>12</sup> Florida Department of Health, *Special Emphasis Report: Drug Poisoning (Overdose) Deaths (1999-2012)*, available at <http://www.floridahealth.gov/statistics-and-data/florida-injury-surveillance-system/documents/CDC-Special-Emphasis-Drug-poisoning-overdose-1999-2012-B-Poston-FINAL.pdf> (last visited on April 7, 2017).

<sup>13</sup> *Id.*

<sup>14</sup> Christopher Ingraham, *Wonkblog: How an "abuse-deterrent" drug created the heroin epidemic*, Washington Post, (January 10, 2017) available at [https://www.washingtonpost.com/news/wonk/wp/2017/01/10/how-an-abuse-deterrent-drug-created-the-heroin-epidemic/?utm\\_term=.5bee5bb67285](https://www.washingtonpost.com/news/wonk/wp/2017/01/10/how-an-abuse-deterrent-drug-created-the-heroin-epidemic/?utm_term=.5bee5bb67285) (last visited April 13, 2017).

<sup>15</sup> Substance Abuse and Mental Health Services Administration, *Opioid Overdose Prevention Toolkit*, (revised January 2016) available at <http://store.samhsa.gov/shin/content/SMA16-4742/SMA16-4742.pdf> (last visited April 7, 2017).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

overdose victim to breathe normally.<sup>18</sup> This occurs because opioid antagonists create a stronger bond with opioid receptors than opioids. This forces the opioids from the opioid receptors and allows the transmission of signals for respiration to resume.<sup>19</sup>

From 2004 through 2009, emergency department visits nationally involving the nonmedical use of pharmaceuticals increased 98.4 percent, from 627,291 visits to 1,244,679 visits.<sup>20</sup> In 2009, almost one million emergency room visits nationally involved illicit drugs, either alone or in combination with other drugs.<sup>21</sup>

From 2008 to 2011, about half of all emergency department visits nationally for both unintentional and self-inflicted drug poisoning involved drugs in the categories of analgesics,<sup>22</sup> antipyretics,<sup>23</sup> and antirheumatics<sup>24</sup> or sedatives, hypnotics, tranquilizers, and other psychotropic agents.<sup>25</sup>

Opiates or related narcotics, including heroin and methadone, accounted for 14 percent of emergency department visits nationally for unintentional drug poisoning from 2008 to 2011.<sup>26</sup> In Florida, there were approximately 21,820 opioid-related emergency department visits in 2014.<sup>27</sup>

### ***Access to Emergency Services and Care***

The Agency for Health Care Administration (AHCA) regulates hospitals under ch. 395, F.S., and the general licensure provisions of part II of ch. 408, F.S. The AHCA must maintain a list of hospitals providing emergency services and care and the services that the hospital is capable of providing.<sup>28</sup>

Emergency services and care means medical screening, examination, and evaluation by a physician, or by authorized personnel under the supervision of a physician, to determine if an emergency medical condition exists and, if it does, the care, treatment, or surgery by a physician necessary to relieve or eliminate the emergency medical condition, within the service capability of the facility.<sup>29</sup>

---

<sup>18</sup> Harm Reduction Coalition, *Understanding Naloxone*, available at <http://harmreduction.org/issues/overdose-prevention/overview/overdose-basics/understanding-naloxone/> (last visited April 7, 2017).

<sup>19</sup> Harm Reduction Coalition, *Guide to Developing and Managing Overdose Prevention and Take-Home Naloxone Projects*, (2012), available at <http://harmreduction.org/issues/overdose-prevention/tools-best-practices/manuals-best-practice/od-manual/> (last visited April 7, 2017).

<sup>20</sup> National Institute on Drug Abuse, *Drug-Related Hospital Emergency Room Visits*, (revised May 2011) available at <https://www.drugabuse.gov/publications/drugfacts/drug-related-hospital-emergency-room-visits> (last visited April 7, 2017).

<sup>21</sup> *Id.*

<sup>22</sup> Analgesics are drugs that produce insensibility to pain.

<sup>23</sup> Antipyretics are drugs that reduce fever.

<sup>24</sup> Antirheumatics are drugs that alleviate or prevent inflammation or pain in muscles, joints, or fibrous tissue.

<sup>25</sup> Albert, M. et al., *Emergency Department Visits for Drug Poisoning: United States, 2008–2011*, NCHS Data Brief No. 196, April 2015, available at <https://www.cdc.gov/nchs/data/databriefs/db196.htm> (last visited April 7, 2017).

<sup>26</sup> *Id.*

<sup>27</sup> Calculated by committee staff from data that Florida had 109.1 opioid-related emergency department visits in 2014 per 100,000 population. See Weiss, A.J., et al., *Opioid-Related Inpatient Stays and Emergency Department Visits by State, 2009–2014*, HCUP Statistical Brief No. 219, (revised January 2017) p. 8, available at <https://www.hcup-us.ahrq.gov/reports/statbriefs/sb219-Opioid-Hospital-Stays-ED-Visits-by-State.pdf> (last visited April 7, 2017).

<sup>28</sup> Section 395.1041(2), F.S.

<sup>29</sup> Section 395.002(9), F.S.

Section 395.1041, F.S., requires all hospitals offering emergency services to provide care to every person presenting to the hospital requesting emergency care regardless of the person's race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay for medical services. A hospital is prohibited from refusing to render emergency services unless a determination is made after screening, examining, and evaluating the patient that he or she is not suffering from an emergency or the hospital does not have the capability or capacity to render emergency services. A hospital must transfer persons requiring care beyond the hospital's capability or capacity to another facility that can provide the needed services. The AHCA may deny, revoke, or suspend the license of a hospital or impose an administrative fine up to \$10,000 for violating s. 395.1041, F.S., or any rules adopted thereunder.<sup>30</sup>

### ***Substance Abuse Prevention – Screening, Brief Intervention, and Referral to Treatment***

Screening, Brief Intervention, and Referral to Treatment (SBIRT) is “an evidence-based practice used to identify, reduce, and prevent problematic use, abuse, and dependence on alcohol and illicit drugs.”<sup>31</sup> SBIRT is “an early intervention approach that targets those with nondependent substance use to provide effective strategies for intervention prior to the need for more extensive or specialized treatment.”<sup>32</sup>

SBIRT consists of three major components:

- Screening – a healthcare professional assesses a patient for risky substance use behaviors using standardized screening tools. Screening can occur in any healthcare setting.
- Brief Intervention – a healthcare professional engages a patient showing risky substance use behaviors in a short conversation, providing feedback and advice.
- Referral to Treatment – a healthcare professional provides a referral to brief therapy or additional treatment to patients who screen in need of additional services.<sup>33</sup>

### **Privacy Rights of Individuals Receiving Substance Abuse Treatment**

#### ***Florida Protections***

Section 397.501, F.S., establishes statutory rights for individuals receiving substance abuse services, including the right to dignity, non-discriminatory services, quality services, confidentiality, counsel, and habeas corpus. In particular it prohibits service providers from disclosing records containing the identity, diagnosis, prognosis, and services provided to any individual without written consent of the individual, with certain exceptions.<sup>34</sup> Service providers

<sup>30</sup> Section 395.1041(5), F.S.

<sup>31</sup> Substance Abuse and Mental Health Services Administration, SAMHSA-HRSA Center for Integrated Health Solutions, *SBIRT: Screening, Brief Intervention, and Referral to Treatment*, available at <http://www.integration.samhsa.gov/clinical-practice/sbirt> (last visited April 17, 2017).

<sup>32</sup> Department of Health and Human Services, Centers for Medicare and Medicaid Services, *Factsheet: Substance (Other Than Tobacco) Abuse Structured Assessment and Brief Intervention (SBIRT) Services*, ICN 904084, (October 2011) available at [http://www.integration.samhsa.gov/sbirt/SBIRT\\_Factsheet\\_ICN904084.pdf](http://www.integration.samhsa.gov/sbirt/SBIRT_Factsheet_ICN904084.pdf) (last visited April 17, 2017).

<sup>33</sup> *Supra* note 31.

<sup>34</sup> Permitted disclosures include disclosure to: health service providers in cases of medical emergency if the information is necessary to provide services to the individual; the DCF for the purposes of scientific research; comply with state-mandated child abuse and neglect reporting; comply with a valid court order; report crimes that occur on program premises or against

who violate these rights are liable for damages, unless they act in good faith, reasonably, and without negligence.

### ***Federal Protections of Personal Health Information***

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) protects personal health information. The U.S. Department of Health and Human Services adopted the privacy rules to address the use and disclosure of an individual's personal health information and create standards for information security.<sup>35</sup> Only certain entities, "covered entities," are subject to HIPAA's provisions. Covered entities are obligated to meet HIPAA's requirements to ensure privacy and confidentiality of personal health information. These "covered entities" include:<sup>36</sup>

- Health plans;
- Health care providers;
- Health care clearinghouses; and
- Business associates of any of the above.

Additionally, federal law restricts the disclosure of alcohol and drug patient records maintained by federally assisted alcohol and drug abuse programs, which identify a patient as an alcohol or drug abuser.<sup>37</sup> Disclosure of patient-identifying information is permitted in certain cases and patients may consent in writing to the disclosure of such information.<sup>38</sup>

### ***Statewide Drug Policy Advisory Council***

The Legislature created the Office of Drug Control and the Drug Policy Advisory Council in the Executive Office of the Governor in 1999.<sup>39</sup> In 2011, the Legislature replaced it with the Statewide Drug Policy Advisory Council (the council) under the DOH.<sup>40</sup> The council, among other things, submits annual reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives with recommendations concerning developing and implementing a state drug control strategy.<sup>41</sup>

The council's 2016 report concluded that a key problem in combating drug overdoses in Florida is that there is "[n]o sustainable process to compile massive amounts of data and information, perform analysis and develop an evidence-based call to action."<sup>42</sup> To improve data collection and

---

staff; federal, state, or local governments for audit purposes; or third party payors providing financial assistance or reimbursement. s. 397.501(7), F.S.

<sup>35</sup> U.S. Department of Health and Human Services, *The HIPPA Privacy Rule*, available at <http://www.hhs.gov/ocr/privacy/hipaa/administrative/privacyrule/> (last visited on April 7, 2017).

<sup>36</sup> U.S. Department of Health and Human Services, *Covered Entities and Business Associates*, available at <http://www.hhs.gov/ocr/privacy/hipaa/understanding/coverentities/> (last visited on April 7, 2017).

<sup>37</sup> 42 CFR Part 2 (2017).

<sup>38</sup> Permitted disclosures include disclosure: to comply with state-mandated child abuse and neglect reporting; to report the cause of death; to comply with a valid court order; in cases of medical emergency; for the purposes of scientific research; to report crimes that occur on program premises or against staff; to entities having administrative control; to qualified service organizations; and to outside auditors, evaluators, central registries, and researchers.

<sup>39</sup> Former s. 397.332, F.S., created by s. 3, ch. 99-187, Laws of Fla.

<sup>40</sup> Section 397.333, F.S., created by s. 8, ch. 2011-51, Laws of Fla.

<sup>41</sup> Section 397.333(3), F.S.

<sup>42</sup> Florida Department of Health, *Statewide Drug Policy Advisory Council 2016 Annual Report*, (December 1, 2016) p. 4, available at <http://www.floridahealth.gov/provider-and-partner-resources/dpac/DPAC-Annual-Report-2016-FINAL.pdf>, (last visited April 7, 2017).



surveillance, the council recommended that the DOH collaborate with other agencies, organizations, and institutions to create a comprehensive statewide strategy addressing fentanyl and heroin overdoses in the state.<sup>43</sup>

## **DOH Data Systems**

### ***Florida Injury Surveillance Data System***

The DOH's Injury Surveillance Data System is a passive data reporting mechanism that utilizes data resources from other agencies and systems, including:

- Vital records (death certificates);
- Hospital discharge data;
- Emergency department discharge data;
- Motor vehicle crash records;
- Behavioral Risk Factor Surveillance System;
- Youth Risk Behavior Surveillance System;
- Child Death Review;
- Uniform Crime Reporting System; and
- Emergency medical services.<sup>44</sup>

The Injury Surveillance Data System is used to monitor the frequency of fatal and non-fatal injuries; determine the risk factors for these injuries; evaluate the completeness, timeliness, and quality of data sources; provide information to Florida's injury prevention community for program planning and evaluation; and provide a foundation for injury prevention strategies.<sup>45</sup> One of the injury mechanisms it receives information on is poisoning, which includes drug overdoses;<sup>46</sup> however, the system is not currently set up to actively receive data regarding overdoses.<sup>47</sup>

### ***Emergency Medical Services Tracking and Reporting System (EMSTARS)***

The DOH maintains<sup>48</sup> the Emergency Medical Services Tracking and Reporting System (EMSTARS) to collect data on pre-hospital emergency care from EMS providers. This system allows for the collection and analysis of incident level data from EMS agencies for benchmarking and quality improvement initiatives.<sup>49</sup> Participation in EMSTARS, and the

---

<sup>43</sup> Id. at p. 14.

<sup>44</sup> Florida Department of Health, *Florida Injury Surveillance Data System*, available at <http://www.floridahealth.gov/statistics-and-data/florida-injury-surveillance-system/index.html> (last visited April 7, 2017).

<sup>45</sup> Id.

<sup>46</sup> Florida Department of Health, *External Cause of Injury Intent and Mechanism Classifications and Descriptions* (September 8, 2008), available at <http://www.floridahealth.gov/statistics-and-data/florida-injury-surveillance-system/documents/icd-code-explanations.pdf>, (last visited April 7, 2017).

<sup>47</sup> Florida Department of Health, *2017 Agency Legislative Bill Analysis: HB 249* (similar to SB 588), (January 17, 2017) p. 6.

<sup>48</sup> "In 2004, the [DOH] signed a memorandum of understanding to participate in a national project that would standardize data collection for EMS agencies nationwide. The National Emergency Medical Services Information System (NEMSIS) is the national repository used to aggregate and analyze prehospital data from all participating states." Florida's Prehospital EMS Tracking and Reporting System, *About EMSTARS*, available at <http://www.floridaemstars.com/about.htm> (last visited April 13, 2017).

<sup>49</sup> Florida Department of Health, *The Basic Facts: Prehospital EMS Tracking and Reporting System*, p. 1, available at [http://www.floridaemstars.com/docs/EMSTARSFactSheet\\_102314.pdf](http://www.floridaemstars.com/docs/EMSTARSFactSheet_102314.pdf) (last visited April 7, 2017).

transmission of electronic incident level data from EMS providers<sup>50</sup> to the DOH, is voluntary.<sup>51</sup> However, the complete provision of incident level data, and full participation in EMSTARS, fulfills EMS provider prehospital reporting requirements.<sup>52</sup> The data collected by EMSTARS includes:

- All NHTSA “national” data elements for demographic data and EMS event data;
- Other selected elements identified by participants and other stakeholders;
- Demographic elements for the provider agency, its personnel, and patients;
- Incident and unit times;
- Situation and scene information;
- Patient care information including vital signs, injury assessment, trauma score, and intervention and procedural information; and
- Outcome and disposition information.<sup>53</sup>

Additionally, EMSTARS collects minimal data elements for overdoses if EMS administers an emergency opioid antagonist.<sup>54</sup> There are currently two versions of EMSTARS in use by EMS providers permitted by Rule 64J-1.014, F.A.C., versions 1.4.1 and 3.0. The more recent version allows EMS providers to capture the additional information about the patient, including his or her gender, as well as alcohol and drug use indicators.<sup>55</sup>

The electronic patient care records submitted by licensed EMS agencies to EMSTARS are confidential and exempt pursuant to s. 401.30(4), F.S.

#### ***Washington/ Baltimore High Intensity Drug Trafficking Overdose Detection Mapping Application Program (HIDTA)***

The Washington/ Baltimore High Intensity Drug Trafficking Area (HIDTA) is a federal grant program administered by the White House Office of National Drug Control Policy, that provides resources to assist federal, state, local, and tribal agencies coordinate activities addressing drug trafficking.<sup>56</sup> HIDTA created an app, known as the Overdose Detection Mapping Application Program, which allows EMS agencies to report overdose incidents, which will then be transmitted to the app in real time with an electronic map showing the location, date, time, and incident type.<sup>57</sup> It does not allow EMS agencies to report on the patient’s age or gender or the suspected controlled substance involved in the overdose.

---

<sup>50</sup> There are 147 participating EMS agencies. Florida Department of Health, *Florida EMS Agencies Participating in EMSTARS*, available at <http://www.floridaemstars.com/docs/partagencies.pdf> (last visited April 7, 2017).

<sup>51</sup> *Supra* note 43 at p. 2.

<sup>52</sup> *Id.* See Rule 64J-1.014(1), F.A.C.

<sup>53</sup> *Id.* at p. 3.

<sup>54</sup> *Supra* note 41.

<sup>55</sup> See Florida’s Prehospital EMS Tracking and Reporting System, *Quick Links: FL Data Dictionary v.3.0 and FL Data Dictionary v.1.4*, available at <http://www.floridaemstars.com/index.htm> (last visited April 7, 2017).

<sup>56</sup> Washington/Baltimore High Intensity Drug Trafficking Area, available at <http://www.hidta.org/> (last visited April 7, 2017).

<sup>57</sup> See Emily Daniels, *Berkeley County signs off on an overdose app agreement*, *The Journal*, (December 16, 2016) available at <http://www.journal-news.net/news/local-news/2016/12/berkeley-county-signs-off-on-overdose-app-agreement/> (last visited April 13, 2017).

## Emergency Medical Technicians and Paramedics

An emergency medical technician (EMT) is a person who is certified by the DOH to perform basic life support.<sup>58</sup> A paramedic is a person who is certified by the DOH to perform basic and advanced life support.<sup>59</sup> EMTs and paramedics are regulated by the DOH, under part III of ch. 401, F.S. EMTs and paramedics care for sick or injured patients in an emergency medical setting and often work closely with police and firefighters during an emergency situation.<sup>60</sup> Some of the typical duties of an EMT or paramedic are:

- Responding to 911 calls for emergency medical assistance;
- Assessing a patient's condition and determining a course of treatment;
- Helping transfer patients to the emergency department of a healthcare facility and reporting observations and treatment to the emergency department staff; and
- Creating a patient care report, documenting the medical care given to the patient.<sup>61</sup>

Currently, there are 35,315 certified EMTs and 29,731 certified paramedics in Florida.<sup>62</sup>

## Current Overdose Prevention Statutes

Section 893.21, F.S., was created in 2012 to provide that a person experiencing a drug-related overdose, or a person lending aid by seeking medical help, may not be charged, prosecuted, or penalized for possession of a controlled substance if the evidence for the charge is obtained as a result of the need for medical attention.

In 2015, s. 381.887, F.S., was created to encourage health care practitioners to prescribe and dispense emergency opioid antagonists to patients or caregivers. Section 381.887(4), F.S., gives emergency responders, including law enforcement officers, paramedics, and emergency technicians, the authority to possess, store, and administer opioid antagonists.

## III. Effect of Proposed Changes:

### Legislative Findings, Intent, and Goals (Section 1)

The bill makes the following legislative findings:

- Substance abuse and drug overdose are major health problems that affect the lives of many people and multiple service systems, leading to profoundly disturbing consequences;

<sup>58</sup> Sections 401.23(11), F.S.; s. 401.23(7), F.S., defines “basic life support” as the assessment or treatment through the use of techniques described in the Emergency Medical Technician-Basic National Standard Curriculum or the National EMS Education Standards of the U.S. Department of Transportation.

<sup>59</sup> Section 401.23(17), F.S.; s. 401.23(1), F.S., defines “advanced life support” as the assessment or treatment by a qualified person through the use of techniques such as endotracheal intubation, the administration of drugs or intravenous fluids, telemetry, cardiac monitoring, cardiac defibrillation, and other techniques described in the Emergency Medical Technician-Paramedic National Standard Curriculum or the National EMS Education Standards of the U.S. Department of Transportation.

<sup>60</sup> U.S. Department of Labor, Bureau of Labor Statistics, *EMTs and Paramedics: What EMTs and Paramedics Do*, Occupational Outlook Handbook, available at <http://www.bls.gov/ooh/Healthcare/EMTs-and-paramedics.htm#tab-2> (last visited April 7, 2017).

<sup>61</sup> Id.

<sup>62</sup> Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan: Fiscal Year 2015-2016 – Table 1*, available at <http://mqawebteam.com/annualreports/1516/#12> (last visited April 7, 2017).

- These overdoses are a crisis and stress financial, health care, and public safety resources; and
- A central database that could quickly help address this problem does not currently exist.

The bill sets out the intent of the Legislature to:

- Require the collaboration of local, regional, and state agencies; service systems; and program offices to address the needs of the public;
- Establish a comprehensive system addressing the problems associated with drug overdoses;
- Reduce duplicative requirements across local, county, state, and health care agencies;
- Maximize the efficiency of financial, public education, health professional, and public safety resources so that these resources may be concentrated on areas and groups in need; and
- Maximize the use of funding programs for the dissemination of available federal, state, and private funds through contractual agreements with community based organizations or units of state or local government that deliver local substance abuse services.

The goals of the Legislature for the bill are identified as:

- Discouraging substance abuse and overdoses by quickly identifying the type of drug involved, the age of the individual involved, and the areas where drug overdoses pose a potential risk to the public, schools, workplaces, and communities; and
- Providing a central data point so that data can be shared between the health care community and municipal, county, and state agencies to quickly identify needs and provide short and long term solutions while protecting and respecting the rights of individuals.

### **Hospital Best Practices to Promote Prevention of Drug Overdoses (Section 2)**

The bill amends s. 395.1041, F.S., to require a hospital with an emergency department to develop a best practices policy related to unintentional drug overdoses. The goal of the policy is to connect patients that experience unintentional drug overdoses with substance abuse treatment services.

The bill allows a hospital to determine what should be included in its best practices policy. However, the bill expressly states that the policy may include, but is not limited to, the following:

- A process for obtaining patient consent to disclose to the patient's next of kin and the primary care physician or practitioner who prescribed a controlled substance to the patient that the patient overdosed, her or his location, and the nature of the substance or controlled substance involved in the overdose.
- A process for providing information to the patient or the patient's next of kin regarding licensed substance abuse treatment providers and voluntary and involuntary commitment procedures for mental health or substance abuse treatment.
- Controlled substance prescribing guidelines for emergency department health care practitioners.
- The use of licensed or certified behavioral health professionals or peer specialists in emergency departments to encourage the patient to voluntarily seek substance abuse treatment.
- The use of Screening, Brief Intervention, and Referral to Treatment protocols in the emergency department.

Hospitals that fail to develop a best practices policy to reduce readmissions for unintentional drug overdoses are subject to discipline by AHCA.<sup>63</sup>

### **Overdose Reporting (Section 3)**

The bill creates s. 401.253, F.S., which permits EMTs and paramedics, who provide basic and advanced life support services on an emergency call, to report to the DOH a suspected or actual controlled substances overdose. The bill defines “overdose” as:

- A condition which includes, but is not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death from the consumption or use of a controlled substance that requires medical attention, assistance, or treatment; or
- Clinical suspicion of a drug overdose such as respiratory depression, unconsciousness, or an altered mental state which is not explained by another condition.

An EMT or paramedic who treats and releases an individual, or treats and transports an individual to a medical facility, in response to an emergency call for a suspected or actual overdose of a controlled substance, may voluntarily report. If the EMT or paramedic reports, he or she must use best efforts to do so within 120 hours. The report must contain:

- The date and time of the overdose;
- The address of where the patient was picked up or where the overdose took place;
- Whether an emergency opioid antagonist was administered; and
- Whether the overdose was fatal or non-fatal.

Additionally, the report must include the approximate age and gender of the patient and the suspected controlled substances involved in the overdose only if permitted by the reporting mechanism.

The bill requires reporters to use EMSTARS, the Washington/Baltimore High Intensity Drug Trafficking Overdose Detection Mapping Application Program, or other program identified by the DOH in rule.

Anyone who files a report in good faith is not subject to civil or criminal liability for making the report. The bill also specifies that the failure to make a report is not grounds for licensure discipline.

### ***Use of Report***

The bill encourages reporting to the DOH within 120 hours. Within 120 hours of receiving the data, the DOH must make it available to law enforcement, public health, fire rescue, and EMS agencies in each county.

Additionally, the DOH must report quarterly to the Statewide Drug Policy Advisory Council, the DCF, and the Florida Fusion Center,<sup>64</sup> summarizing the data received. The council, the DCF, and

---

<sup>63</sup> Section 395.1041(5), F.S.

<sup>64</sup> The Fusion Center, housed within the Florida Department of Law Enforcement, is a collaborative effort of state and federal agencies working with local partners to share resources, expertise, and/or information to better identify, detect, prevent,

the DOH may use the reports to maximize the utilization of funding programs for basic and advanced life support service providers, and to disseminate available federal, state and, private funds for local substance abuse treatment services. The quarterly report must also be available to law enforcement, public health, fire rescue, and EMS agencies in each county.

The bill is effective 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:

Any costs to the DOH to implement the provisions of this bill are indeterminate at this time.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The information collected by the DOH, and being made available to law enforcement, public health, fire rescue and emergency medical services agencies in each county may require a separate bill for a public records exception to protect the information from being obtained by other third parties.

The bill requires the DOH to adopt by rule the programs to which overdose reports must be made.

#### **VIII. Statutes Affected:**

This bill amends section 395.1041 of the Florida Statutes.

This bill creates section 401.253 of the Florida Statutes.

This bill creates an undesignated section of Florida law.

#### **IX. Additional Information:**

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

##### **CS/CS by Criminal Justice on April 17, 2017:**

The CS:

- Requires, in s. 395.1041, F.S., that hospitals with an emergency department develop a best practices policy, which may include the use of Screening, Brief Intervention, and Referral to Treatment protocols in the emergency department, to promote the prevention of drug overdoses.
- Reorganizes the term “overdose” as used in s. 401.253, F.S.

##### **CS by Health Policy on March 27, 2017:**

The CS:

- Deletes mandatory reporting requirements for certain health care professionals, institutions, and their employees;
- Limits reporting to basic and advanced life support services who respond to an emergency call for a suspected or actual overdose;
- Makes reporting voluntary, and encourages reporting within 120 hours;
- Specifies the data elements to be reported;
- Deletes criminal penalties for failure to report;
- Provides that the failure to report is not grounds for licensure discipline;
- Reassigns the responsibility for receiving the reported data to the DOH rather than the county’s chief law enforcement officer;
- Authorizes the DOH to identify the reporting system in rule; and
- Requires the DOH to disseminate raw data received within 120 hours to specified entities and a summary report quarterly.

- B. **Amendments:**

None.



970258

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2017	.	
	.	
	.	
	.	

---

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

**Senate Amendment (with title amendment)**

Delete lines 60 - 85

and insert:

Section 2. Subsection (6) of section 395.1041, Florida Statutes, is amended to read:

395.1041 Access to emergency services and care.—

(6) RIGHTS OF PERSONS BEING TREATED.—

(a) A hospital providing emergency services and care to a person who is being involuntarily examined under the provisions





970258

11 of s. 394.463 shall adhere to the rights of patients specified  
12 in part I of chapter 394 and the involuntary examination  
13 procedures provided in s. 394.463, regardless of whether the  
14 hospital, or any part thereof, is designated as a receiving or  
15 treatment facility under part I of chapter 394 and regardless of  
16 whether the person is admitted to the hospital.

17 (b) Each hospital with an emergency department shall  
18 develop a best practices policy to promote the prevention of  
19 unintentional drug overdoses. The policy may include, but is not  
20 limited to:

21 1. A process to obtain the patient's consent to notify the  
22 patient's next of kin, and each physician or health care  
23 practitioner who prescribed a controlled substance to the  
24 patient, regarding the patient's overdose, her or his location,  
25 and the nature of the substance or controlled substance involved  
26 in the overdose.

27 2. A process for providing the patient or the patient's  
28 next of kin with information about licensed substance abuse  
29 treatment services, voluntary admission procedures under part IV  
30 of chapter 397, involuntary admission procedures under part V of  
31 chapter 397, and involuntary commitment procedures under chapter  
32 394.

33 3. Guidelines for emergency department health care  
34 practitioners authorized to prescribe controlled substances to  
35 reduce the risk of opioid use, misuse, and addiction.

36 4. The use of licensed or certified behavioral health  
37 professionals or peer specialists in the emergency department to  
38 encourage the patient to seek substance abuse treatment.

39 5. The use of Screening, Brief Intervention, and Referral



970258

40 to Treatment protocols in the emergency department.

41 Section 3. Section 401.253, Florida Statutes, is created to  
42 read:

43 401.253 Reporting of controlled substance overdoses.-

44 (1) (a) A basic life support service or advanced life  
45 support service that treats and releases, or transports to a  
46 medical facility, a person in response to an emergency call for  
47 a suspected or actual overdose of a controlled substance may  
48 report such incidents to the department. Such reports must be  
49 made using the Emergency Medical Services Tracking and Reporting  
50 System, or other appropriate method with secure access,  
51 including, but not limited to, the Washington/Baltimore High  
52 Intensity Drug Trafficking Area's Overdose Detection Mapping  
53 Application Program or other program identified by the  
54 department in rule. If a basic life support service or advanced  
55 life support service reports such incidents, it shall use best  
56 efforts to make the report to the department within 120 hours.

57 (b) The data collected by the department shall be made  
58 available within 120 hours to law enforcement, public health,  
59 fire rescue, and emergency medical service agencies in each  
60 county.

61 (c) For purposes of this section, the term "overdose"  
62 means:

63 1. A condition, including, but not limited to, extreme  
64 physical illness, decreased level of consciousness, respiratory  
65 depression, coma, or death resulting from the consumption or use  
66 of any controlled substance which requires medical attention,  
67 assistance, or treatment; or

68 2. Clinical suspicion of drug



970258

69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80

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

And the title is amended as follows:

Delete line 3

and insert:

legislative findings and intent; amending s. 395.1041,  
F.S.; requiring a hospital with an emergency  
department to develop a best practices policy to  
promote the prevention of unintentional drug  
overdoses; authorizing the policy to include certain  
processes, guidelines, uses of professionals or  
specialists, and protocols; creating s. 401.253

By the Committee on Health Policy; and Senator Passidomo

588-02962-17

2017588c1

A bill to be entitled

An act relating to drug overdoses; providing legislative findings and intent; creating s. 401.253, F.S.; authorizing certain entities to report controlled substance overdoses to the Department of Health; defining the term "overdose"; providing requirements for such reports; providing immunity for persons who make reports in good faith; providing that a failure to report is not a basis for licensure discipline; requiring the department to produce a quarterly report and share the data with specified entities; providing for use of such data; providing an effective date.

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

Section 1. (1) The Legislature finds that substance abuse and drug overdose are major health problems that affect the lives of many people and multiple service systems and that lead to such profoundly disturbing consequences as permanent injury or death. Heroin, opiates, illegal drugs, and accidental overdoses are a crisis and stress the financial, health care, and public safety resources because there are no central databases that can quickly help address this problem. Quick data collection will allow all agencies to focus on specific age groups, areas, criminal behavior, and needed public education and prevention with the maximum utilization of resources. Further, it is the intent of the Legislature to require the collaboration of local, regional, and state agencies, service

Page 1 of 5

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

588-02962-17

2017588c1

systems, and program offices to address the needs of the public; to establish a comprehensive system addressing the problems associated with drug overdoses; and to reduce duplicative requirements across local, county, state, and health care agencies.

(2) It is the goal of the Legislature in this act to:

(a) Discourage substance abuse and accidental or intentional overdoses by quickly identifying the type of drug involved, whether prescription or illegal, the age of the individual involved, and the areas where drug overdoses pose a potential risk to the public, schools, workplaces, and communities.

(b) Provide a central data point so that data can be shared between the health care community and municipal, county, and state agencies to quickly identify needs and provide short- and long-term solutions while protecting and respecting the rights of individuals.

(3) It is the intent of the Legislature in this act to maximize:

(a) The efficiency of financial, public education, health professional, and public safety resources so that these resources may be concentrated on areas and groups in need.

(b) The utilization of funding programs for the dissemination of available federal, state, and private funds through contractual agreements with licensed basic life support service providers, advanced life support service providers, community-based organizations, or units of state or local government that deliver local substance abuse services in accordance with the intent of this act and s. 397.321(4),

Page 2 of 5

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

588-02962-17

2017588c1

59 Florida Statutes.

60 Section 2. Section 401.253, Florida Statutes, is created to  
61 read:

62 401.253 Reporting of controlled substance overdoses.—

63 (1) (a) A basic life support service or advanced life  
64 support service that treats and releases, or transports to a  
65 medical facility, a person in response to an emergency call for  
66 a suspected or actual overdose of a controlled substance may  
67 report such incidents to the department. Such reports must be  
68 made using the Emergency Medical Services Tracking and Reporting  
69 System, or other appropriate method with secure access,  
70 including, but not limited to, the Washington/Baltimore High  
71 Intensity Drug Trafficking Area's Overdose Detection Mapping  
72 Application Program or other program identified by the  
73 department in rule. If a basic life support service or advanced  
74 life support service reports such incidents, it shall use best  
75 efforts to make the report to the department within 120 hours.

76 (b) The data collected by the department shall be made  
77 available within 120 hours to law enforcement, public health,  
78 fire rescue, and emergency medical service agencies in each  
79 county.

80 (c) For purposes of this section, the term "overdose" means  
81 a condition, including, but not limited to, extreme physical  
82 illness, decreased level of consciousness, respiratory  
83 depression, coma, or death resulting from the consumption or use  
84 of any controlled substance which requires medical attention,  
85 assistance, or treatment, or clinical suspicion for drug  
86 overdose, such as respiratory depression, unconsciousness, or  
87 altered mental status, without other conditions to explain the

Page 3 of 5

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

588-02962-17

2017588c1

88 clinical condition.

89 (2) (a) A report of an overdose of a controlled substance  
90 under this section must include:

91 1. The date and time of overdose.

92 2. The approximate address of where the person was picked  
93 up or where the overdose took place.

94 3. Whether an emergency opioid antagonist, as defined in s.  
95 381.887, was administered.

96 4. Whether the overdose was fatal or nonfatal.

97 (b) A report of an overdose of a controlled substance under  
98 this section must also include, if the reporting mechanism  
99 permits:

100 1. The gender and approximate age of the person receiving  
101 attention or treatment.

102 2. The suspected controlled substance involved in the  
103 overdose.

104 (3) A basic life support service or advanced life support  
105 service that reports information to or from the department  
106 pursuant to this section in good faith is not subject to civil  
107 or criminal liability for making the report.

108 (4) Failure to report an overdose under this section is not  
109 grounds for disciplinary action or penalties pursuant to s.  
110 401.411(1)(a).

111 (5) The department shall produce a quarterly report to the  
112 Statewide Drug Policy Advisory Council, the Department of  
113 Children and Families, and the Florida Fusion Center summarizing  
114 the raw data received pursuant to this section. Such reports  
115 shall also be made immediately available to the county-level  
116 agencies described in paragraph (1)(b). The Statewide Drug

Page 4 of 5

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

588-02962-17

2017588c1

117 Policy Advisory Council, the Department of Children and  
118 Families, and the department may use these reports to maximize  
119 the utilization of funding programs for licensed basic life  
120 support service providers or advanced life support service  
121 providers, and for the dissemination of available federal,  
122 state, and private funds for local substance abuse services in  
123 accordance with s. 397.321(4).

124 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)

4/17/17

Meeting Date

588

Bill Number (if applicable)

Topic Drug Overdoses

Amendment Barcode (if applicable)

Name Rocco Salvatori

Job Title Firefighter

Address 343 W Madison St

Phone 850-224-7333

Street

Tallahassee

FL

32301

Email RoccoSalvatori@icloud.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing Florida Professional Firefighters

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

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

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

4/17/2017

SB 588

*Meeting Date*

*Bill Number (if applicable)*

Topic Drug Overdoses

*Amendment Barcode (if applicable)*

Name Jill Gran

Job Title Policy Director

Address 2868 Mahan Drive

Phone 850-878-2196

*Street*

Tallahassee FL 32308

Email jill@myfbha.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Behavioral Health Association

Appearing at request of Chair:  Yes  No

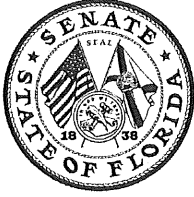
Lobbyist registered with Legislature:  Yes  No

*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

## Committee Agenda Request

**To:** Senator Randolph Bracy, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** March 28, 2017

---

I respectfully request that **Senate Bill #588**, relating to Drug Overdoses, be placed on the:

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

A handwritten signature in black ink, appearing to read "K. Passidomo", with a horizontal line extending to the right.

---

Senator Kathleen Passidomo  
Florida Senate, District 28

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

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

---

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

---

BILL: CS/CS/SB 680

INTRODUCER: Banking and Insurance Committee; Judiciary Committee; and Senators Baxley and Garcia

SUBJECT: Bail Bonds

DATE: April 14, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
3.	<u>Sumner</u>	<u>Hrdlicka</u>	<u>CJ</u>	<u>Favorable</u>
4.	_____	_____	<u>RC</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/CS/SB 680 amends several provisions related to bail. Under the bill, a bond is a commitment by the bail bond agent to ensure that the defendant appears at all criminal proceedings *for which the surety bond is posted*.

**Bail Advertising in Jail**

The bill prohibits any person or entity that charges a fee for facilitating the release of a defendant through the posting of a *cash bond* from using the term “bail” in any advertisement for services or in any of the printed materials posted in a jail. Such advertisements or printed materials must disclose that the services do not facilitate a *surety bail bond*.

**Forfeiture and Discharge of a Bond**

This bill creates additional circumstances under which a court must discharge the forfeiture of a bail bond and amends circumstances currently provided in law. Specifically, the additional circumstances include that the bond must be discharged if, within 60 days after the scheduled appearance, the defendant is confined in an immigration detention facility, is deported, or is deceased; and if the defendant becomes incarcerated and the state refuses to seek the extradition

of the defendant within 30 days after a surety agent's request if the agent agrees to pay all costs and expenses to return the defendant.

The bill revises an existing ground in which a court is required to discharge a forfeiture of a bail bond. Under existing law, the forfeiture must be discharged or the proceeds remitted if the defendant surrenders or is arrested. Under the bill, a forfeiture must be discharged only if the surrender or arrest occurs within 60 days after the required court appearance and if a hold is placed on the defendant to return him or her to the court.

### **Remission of a Bond**

Current law also authorizes a bail bond agent to seek the remission or return of all or a portion of the proceeds of a bail bond which has been forfeited to the court when a defendant surrenders or is apprehended within a certain number of days after forfeiture. Current law grants the court discretion to order a remission of "up to" a certain percent of the amount of money forfeited, depending on the number of days between the forfeiture and the return of the defendant. This bill removes discretion from the court and instead orders remission based on the maximum percentages available under current law.

### **Cancellation of a Bond**

Current law requires the court to order a bail bond cancelled within 10 business days after the conditions of the bond are met. This bill provides that the conditions of the bond are met if the bond has not been declared forfeited within the 36 months since the original bond was posted.

The fiscal impact of the bill is indeterminate at this time. The provisions of the bill may have a negative impact on fees collected by the clerks of court related to criminal surety bail bonds. See Section V. Fiscal Impact Statement.

## **II. Present Situation:**

### **Bail**

Bail is a common monetary condition of pretrial release, governed by ch. 903, F.S. For the defendant to be released from jail, a court may require bail by a defendant to provide security, such as cash or a bond, that he or she will return for trial and any other required court appearances.<sup>1</sup> As an alternative to posting the entire bail amount, a defendant may provide a criminal surety bail bond<sup>2</sup> executed by a bail bond agent. Generally, the defendant pays the bail bond agent a nonrefundable fee equal to 10 percent of the bond amount set by the court. If the defendant does not appear in court, the bail bond agent is responsible for paying the entire amount of the bond.<sup>3</sup> This contract acts as an insurance policy against the risk that the defendant will not abide by the conditions of his or her release.

---

<sup>1</sup> "Bail," Black's Law Dictionary (3rd Pocket Edition). The purpose of a bail bond is to guarantee the defendant's presence in court to face criminal charges. *Universal Bail Bonds v. State*, 929 So. 2d 697, 699 (Fla. 3d DCA 2006).

<sup>2</sup> Sections 903.011 and 903.105, F.S.

<sup>3</sup> Office of Program Policy Analysis & Gov't Accountability, *County Pretrial Release Programs: Calendar Year 2015*, Report No. 16-10 (Dec. 2016), at 2.

## Determination of Pretrial Release

Setting bail for a defendant at an initial appearance is a way for the court to ensure the presence of the defendant at subsequent court hearings without keeping him or her incarcerated.<sup>4</sup> This is consistent with the requirements of the Florida Constitution which provide a constitutional right to pretrial release in Art. I, s. 14:

Unless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or violation of municipal or county ordinance shall be entitled to pretrial release on reasonable conditions.

However, the court must balance the constitutional right to pretrial release with other considerations:

If no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained.<sup>5</sup>

Therefore, in determining whether to release a defendant on bail and the actual amount of bail, the court must include in its considerations:

- The nature and circumstances of the offense charged;
- The weight of the evidence against the defendant;
- The defendant's family ties, length of residence in the community, employment history, financial resources, and mental condition;
- The defendant's past and present conduct, including convictions, previous flight to avoid prosecution, or failure to appear at court proceedings;
- The nature and probability of danger which the defendant's release poses to the community;
- The source of funds used to post bail or procure an appearance bond, and any connection of such funds to criminal activity;
- Whether the defendant is already on release pending resolution of another criminal proceeding or on probation, parole, or other release pending completion of a sentence;
- The nature and probability of intimidation and danger to victims;
- Whether there is probable cause to believe that the defendant committed a new crime while on pretrial release; and
- Any other factors relevant to the court.<sup>6</sup>

At the time of determining bail, the court will establish conditions of pretrial release. The court must impose as a condition of pretrial release that the defendant refrain from criminal activity.

---

<sup>4</sup> Section 903.011(1), F.S.

<sup>5</sup> Art. I, s. 14, FLA. CONST. Section 903.046(1), F.S., provides that the purpose of a bail determination is to ensure the appearance of the defendant at subsequent proceedings, while protecting the community from unreasonable danger from the defendant.

<sup>6</sup> Section 903.046(2), F.S.

Also, the court may issue an order of no contact, prohibiting the defendant from having any contact with the victim.<sup>7</sup>

If the court includes a monetary requirement of bail in its order of pretrial release, a registered bail bond agent<sup>8</sup> may satisfy the bail requirement through the posting of a criminal surety bail bond.<sup>9</sup>

### **Qualifications as a Bail Bond Agent**

To qualify as a bail bond agent, a person must:

- Be at least 18 years old and possess a high school diploma or its equivalent;
- Meet citizen or legal alien requirements;
- Have certain ties to the state, including locating the business in the state;
- Provide at least three sworn letters of recommendation from residents of the counties in which the person intends to operate;
- Not have been convicted of or plead guilty or no contest to a felony, a crime involving moral turpitude, or a crime punishable by incarceration in prison; and
- Have passed any required examination.<sup>10</sup>

If the Department of Financial Services (DFS) finds that a person meets the conditions to serve as a bail bond agent, the DFS will issue a license to him or her.<sup>11</sup> To operate, a bail bond agent must register with the sheriff's office and the clerk of the circuit court in the county in which he or she lives, and then may register in the same manner in any other county in which he or she desires to operate.<sup>12</sup>

### **Bail Advertising in Jails**

A bail bond agent licensed under ch. 648, F.S., is prohibited from directly or indirectly soliciting business in or on the grounds of a jail, prison, or other place where prisoners are confined, or in or on the grounds of any court.<sup>13</sup> A bail bond agent is allowed to post print advertising in a jail, but such advertising is "strictly limited to a listing in a telephone directory and the posting of the bail bond agent's or agency's name, address, and telephone number in a designated location within the jail."<sup>14</sup> A finding by the DFS that the bail bond agent has failed to comply with the solicitation requirements can be subject to a fine of \$5,000 for each act of improper solicitation.<sup>15</sup>

---

<sup>7</sup> Section 903.047(1), F.S.

<sup>8</sup> Section 903.045, F.S., provides, in part, "It is the public policy of this state and the intent of the Legislature that a criminal surety bail bond, executed by a bail bond agent ... shall be construed as a commitment by and an obligation upon the bail bond agent to ensure that the defendant appears at all subsequent criminal proceedings and otherwise fulfills all conditions of the bond."

<sup>9</sup> Section 903.011, F.S.

<sup>10</sup> Section 648.34(2), F.S.

<sup>11</sup> Section 648.27, F.S.

<sup>12</sup> Section 648.42, F.S.

<sup>13</sup> Section 648.44(1)(b), F.S. "The term "solicitation" includes the distribution of business cards, print advertising, or other written or oral information directed to prisoners or potential indemnitors, unless a request is initiated by the prisoner or a potential indemnitor."

<sup>14</sup> *Id.*

<sup>15</sup> Section 648.525, F.S.

Additionally, a bail bond agency is prohibited from advertising or holding itself out to be a bail bond or surety company.<sup>16</sup>

## **Forfeiture, Discharge, Remission, and Cancellation of a Bond**

### ***Forfeiture and Discharge of a Bond***

If a defendant on pretrial release fails to appear at a scheduled court appearance or breaches a bond in anyway, any bond posted is forfeited.<sup>17</sup> If the bond is forfeited, the clerk of the court will mail or electronically send a notice to the bail bond agent within 5 days after forfeiture. The bail bond agent must pay the forfeiture within 60 days of the date the notice was mailed or electronically sent.<sup>18</sup>

However, the court will discharge a forfeiture within 60 days of:

- Determining that it was impossible for the defendant to appear due to circumstances beyond the defendant's control.
- Determining that, at the time of the required appearance, the defendant was:
  - Adjudicated insane and confined in an institution or hospital; or
  - Incarcerated.
- The defendant surrendering or being arrested, if the delay has not compromised the ability of the state to prosecute the defendant.<sup>19</sup>

If the defendant is arrested and returned to the county of jurisdiction prior to the court entering a judgment, upon affirmation of the sheriff or chief correctional officer, the clerk of the court must discharge the forfeiture of the bond. However, the bail bond agent must pay the costs and expenses incurred in returning the defendant to the county.<sup>20</sup>

### ***Remission of a Bond***

If a court has ordered the forfeiture of a bond and the amount of the forfeiture has been paid to the clerk of the court, a bail bond agent may still recoup some or all of the original bond through a remission. If the defendant surrenders or is apprehended within 90 days after forfeiture, the court must direct remission of up to 100 percent of a forfeiture if the bail bond agent apprehended and surrendered the defendant or if the bail bond agent substantially procured the return of the defendant.<sup>21</sup> Percentages of up to less than 100 percent of a forfeiture are provided beyond 90 days after forfeiture, so that if the defendant surrenders or is returned to the county within:

- 180 days after forfeiture, up to 95 percent is remitted;
- 270 days after forfeiture, up to 90 percent is remitted;
- 1 year after forfeiture, up to 85 percent is remitted; or
- 2 years after forfeiture, up to 50 percent is remitted.<sup>22</sup>

---

<sup>16</sup> Section 648.44(6), F.S.

<sup>17</sup> Section 903.26(2)(b), F.S. Forfeiture means that the conditions of the bond were "breached."

<sup>18</sup> Section 903.26(2)(a), F.S.

<sup>19</sup> Section 903.26(5), F.S.

<sup>20</sup> Section 903.26(8), F.S.

<sup>21</sup> Section 903.28(2), F.S.

<sup>22</sup> Section 903.28, F.S.

### ***Cancellation of a Bond***

The conditions of the bond are met at the time that a case is disposed of by a court entering an order of an adjudication of guilt or innocence, an acquittal, or a withholding of an adjudication of guilt. Within 10 business days after the conditions of a bond are met, or the forfeiture discharged or remitted, the court must order the bond cancelled.<sup>23</sup>

### **III. Effect of Proposed Changes:**

#### **Bail Advertising in Jails (Section 1, amending s. 903.045, F.S.)**

The bill prohibits any person not a licensed bail bond agent pursuant to ch. 648, F.S., a corporation, company, or other entity that charges a fee or premium to facilitate the release of a defendant from jail through the posting of a *cash bond* from using the term “bail” in any advertisements or printed materials posted in a jail. Such advertisements or printed materials must disclose that the services do not facilitate a *surety bail bond*.

The bill also amends this section to state that the bond is a commitment by the bail bond agent to ensure that the defendant appears at all criminal proceedings *for which the surety bond is posted*. This limits the obligation of the bail bond agent to “ensuring the defendant appears at the criminal proceedings related directly to the surety bond that was posted. It would not apply to other charges against the defendant that had a different surety bond posted for the charges.”<sup>24</sup>

#### **Forfeiture, Discharge, Remission, and Cancellation of a Bond**

##### ***Forfeiture and Discharge of a Bond (Section 2, amending s. 903.26, F.S.)***

This bill provides additional grounds for a court to discharge or release a bail bond agent from the obligation to pay the amount of a forfeited bond to a court.

As discussed above in the Present Situation, current law requires a court to discharge a forfeiture within 60 days of:

- Determining that circumstances beyond the defendant’s control made it impossible for the defendant to appear.
- Determining that, at the time of the required appearance, the defendant was:
  - Adjudicated insane and confined in an institution or hospital; or
  - Incarcerated.
- The defendant surrendering or being arrested, if the delay has not compromised the ability of the state to prosecute the defendant.

The bill requires a court to discharge a forfeiture within 60 days of:

- Determining that circumstances beyond the defendant’s control made it impossible for the defendant to appear *not just on the original required date to appear but also within 60 days after the required appearance*.

<sup>23</sup> Section 903.31(1), F.S.

<sup>24</sup> Department of Financial Services, *2017 Agency Bill Analysis HB 361*, February 19, 2017.

- Determining that, at the time of the required appearance *or within 60 days after the required appearance*, the defendant was:
  - Confined in an institution or hospital;<sup>25</sup>
  - *Incarcerated in any county, state, or federal, or immigration detention facility;*
  - *Deported;* or
  - *Deceased.*
- The defendant surrendering or being arrested *on the original required date to appear or within 60 days after the required appearance in any county, state, or federal jail or prison, and a hold being placed to return the defendant to the jurisdiction of the court.*
- *Determining that the state is unwilling to seek extradition of a fugitive defendant within 30 days after a bail bond agent requests extradition, provided that the agent agrees to pay all costs and the expenses incurred to return the defendant to the county, up to the penal amount of the bond.*

Additionally, the bill provides that *if the defendant posts a new bond for the case at issue* prior to the court entering a judgment, upon affirmation of the sheriff or chief correctional officer, the clerk of the court must discharge the forfeiture of the bond. Under the bill, the clerk of the court shall discharge the bond without further *hearing* or order by the court if the defendant posts a new bond or the defendant is arrested and returned to the county.

The bill also replaces references to a “breach” of a bond with a “forfeiture” of a bond, and states instead that if there is a “failure of the defendant to appear as required” instead of a “breach of the bond,” then the court will declare the bond forfeited. By changing the references, courts will be precluded from ordering the forfeiture of a bond if a defendant breaches a condition of pretrial release other than the failure to appear at as required.

### ***Remission of a Bond (Section 3, amending s. 903.28, F.S.)***

As discussed above in the Present Situation, current law authorizes a bail bond agent to recoup a bond that has been forfeited through a remission, in instances in which a defendant surrenders or is apprehended within a certain number of days after forfeiture. The court has discretion to order a remission of “up to” a certain percent of the amount of money forfeited, depending on the number of days between the forfeiture and the return of the defendant.

This bill removes discretion from the court and instead orders remission based on those fixed percentages in existing law. If the defendant surrenders or is apprehended within:

- 90 days after forfeiture, 100 percent is remitted;
- 180 days after forfeiture, 95 percent is remitted;
- 270 days after forfeiture, 90 percent is remitted;
- 1 year after forfeiture, 85 percent is remitted; or
- 2 years after forfeiture, 50 percent is remitted.

---

<sup>25</sup> The bill removes the requirement that the person be adjudicated insane.



***Cancellation of a Bond (Section 4, amending s. 903.31, F.S.)***

Current law requires the court to order the bond cancelled within 10 business days after the conditions of a bond are met. This bill provides that the conditions of the bond have been met if 36 months have passed since the defendant posted the original bond.

The bill also provides that the original appearance bond does not guarantee placement in a court-ordered program, including a residential mental health facility. Current law states that the original appearance bond does not guarantee deferred sentences, appearance during or after a presentence investigation, appearance during or after appeals, conduct during or appearance after admission to a pretrial intervention program, payment of fines, or attendance at educational or rehabilitation facilities the court otherwise provides in a judgment.

**Effective Date**

The bill takes effect July 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:**

Bail bond and surety companies will financially benefit from this bill, due to the additional grounds authorized for a discharge of a forfeiture, remission of fixed percentages of a forfeiture, and the cancellation of a bond if 36 months have passed from the original posting of the bond.

**C. Government Sector Impact:**

The clerks of court receive funding from a variety of sources, including the fine and forfeiture fund, which the clerk of the circuit court in each county is required to establish

for use in “performing court-related functions.”<sup>26</sup> The fine and forfeiture fund has many funding sources, one of which is the proceeds of forfeited bail bonds.<sup>27</sup>

To the extent that the bill reduces forfeitures of bail bonds or requires the remission of forfeited amounts, the bill may reduce the funding of the clerks of court for their court-related functions.<sup>28</sup>

## **VI. Technical Deficiencies:**

None.

## **VII. Related Issues:**

None.

## **VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 903.045, 903.26, 903.28, and 903.31.

## **IX. Additional Information:**

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

### **CS/CS by Banking and Insurance on April 3, 2017:**

The committee substitute:

- Prohibits any person not licensed pursuant to ch. 648, F.S., a corporation, company, or other entity that charges a fee or premium to facilitate the release of an accused defendant from jail through the posting of a cash bail bond, from using the term “bail” in any advertisements or printed materials posted in a jail. Such advertisements and printed materials must disclose their services do not facilitate a surety bail bond.
- Does not require a person, corporation, company, or other entity that charges a fee or premium to facilitate the release of an accused defendant from jail through the posting of a cash or surety bail bond to be licensed under ch. 648, F.S.
- Does not repeal s. 903.26(6), F.S., which states: “The discharge of a forfeiture shall not be ordered for any reason other than as specified herein.”

### **CS by Judiciary on March 22, 2017:**

The CS provides that to qualify for a discharge of a forfeiture:

- Based on the surrender or arrest of the defendant, the surrender or arrest may be at any county, state, or federal jail or prison, upon a hold being placed to return the defendant to the county; or

<sup>26</sup> Section 142.01, F.S.

<sup>27</sup> Section 142.01(1)(d), F.S.

<sup>28</sup> See s. 142.01(1)(d), F.S.

- Based on a determination that the state is unwilling to extradite a fugitive defendant, the number of days after which the surety agent requests extradition is increased from 10 to 30 days, and the surety agent must pay all costs and expenses incurred to return the defendant, not just transportation costs.

B. Amendments:

None.

By the Committees on Banking and Insurance; and Judiciary; and  
Senators Baxley and Garcia

597-03356-17

2017680c2

1 A bill to be entitled  
2 An act relating to bail bonds; amending s. 903.045,  
3 F.S.; revising legislative intent concerning the  
4 obligations of a bail bond agent; revising the  
5 commitments and obligations of a bail bond agent;  
6 prohibiting a person or entity that charges a fee for  
7 facilitating the release of a defendant through the  
8 posting of a cash bond from using the term "bail" in  
9 advertisements and printed materials posted in a jail;  
10 requiring a certain disclaimer in such materials;  
11 deleting a provision relating to circumstances that  
12 constitute a breach by the bail bond agent; amending  
13 s. 903.26, F.S.; revising the circumstances under  
14 which a surety bond deposited as bail must be  
15 forfeited; revising the circumstances that require a  
16 forfeiture to be discharged; amending s. 903.28, F.S.;  
17 revising the amount of forfeiture to be remitted under  
18 specified conditions; amending s. 903.31, F.S.;  
19 specifying that certain provisions concerning  
20 cancellation of a bond do not apply if the bond is  
21 forfeited within a specified period after it has been  
22 posted; providing that an original appearance bond  
23 does not guarantee placement in a court-ordered  
24 program; providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

27  
28 Section 1. Section 903.045, Florida Statutes, is amended to  
29 read:

Page 1 of 9

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

597-03356-17

2017680c2

30 903.045 Nature of criminal surety bail bonds.—It is the  
31 public policy of this state and the intent of the Legislature  
32 that a criminal surety bail bond, executed by a bail bond agent  
33 licensed pursuant to chapter 648 in connection with the pretrial  
34 or appellate release of a criminal defendant, shall be construed  
35 as a commitment by and an obligation upon the bail bond agent to  
36 ensure that the defendant appears at all ~~subsequent~~ criminal  
37 proceedings for which the surety bond is posted. A person not  
38 licensed under chapter 648, a corporation, company, or other  
39 entity that charges a fee to facilitate the release of an  
40 accused defendant from jail through the posting of a cash bond  
41 may not use the term "bail" in any advertisement for such  
42 services or in any of its printed materials posted in a jail,  
43 and any such materials must include a disclaimer stating that  
44 the service is not to facilitate a surety bail bond and  
45 otherwise fulfills all conditions of the bond. The failure of a  
46 defendant to appear at any subsequent criminal proceeding or the  
47 breach by the defendant of any other condition of the bond  
48 constitutes a breach by the bail bond agent of this commitment  
49 and obligation.

50 Section 2. Subsections (2), (5), (7), and (8) of section  
51 903.26, Florida Statutes, are amended to read:

52 903.26 Forfeiture of the bond; when and how directed;  
53 discharge; how and when made; effect of payment.—

54 (2) (a) If there is a failure of the defendant to appear as  
55 required ~~breach of the bond~~, the court shall declare the bond  
56 and any bonds or money deposited as bail forfeited. The clerk of  
57 the court shall mail or electronically transmit a notice to the  
58 surety agent and surety company within 5 days after the

Page 2 of 9

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

597-03356-17

2017680c2

59 forfeiture. A certificate signed by the clerk of the court or  
 60 the clerk's designee, certifying that the notice required herein  
 61 was mailed or electronically transmitted on a specified date and  
 62 accompanied by a copy of the required notice, shall constitute  
 63 sufficient proof that such mailing or electronic transmission  
 64 was properly accomplished as indicated therein. If such mailing  
 65 or electronic transmission was properly accomplished as  
 66 evidenced by such certificate, the failure of the surety agent,  
 67 of a company, or of a defendant to receive such notice shall not  
 68 constitute a defense to such forfeiture and shall not be grounds  
 69 for discharge, remission, reduction, set aside, or continuance  
 70 of such forfeiture. The forfeiture shall be paid within 60 days  
 71 after ~~of~~ the date the notice was mailed or electronically  
 72 transmitted.

73 (b) Failure of the defendant to appear at the time, date,  
 74 and place of required appearance shall result in forfeiture of  
 75 the bond. Such forfeiture shall be automatically entered by the  
 76 clerk upon such failure to appear, and the clerk shall follow  
 77 the procedures ~~outlined~~ in paragraph (a). However, the court may  
 78 determine, in its discretion, in the interest of justice, that  
 79 an appearance by the defendant on the same day as required does  
 80 not warrant forfeiture of the bond; and the court may direct the  
 81 clerk to set aside any such forfeiture which may have been  
 82 entered. Any appearance by the defendant later than the required  
 83 day constitutes forfeiture of the bond, and the court shall not  
 84 preclude entry of such forfeiture by the clerk.

85 (c) If there is a forfeiture breach of the bond, the clerk  
 86 shall provide, upon request, a certified copy of the warrant or  
 87 capias to the bail bond agent or surety company.

Page 3 of 9

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

597-03356-17

2017680c2

88 (5) The court shall discharge a forfeiture within 60 days  
 89 upon:

90 (a) A determination that it was impossible for the  
 91 defendant to appear as required or within 60 days after the date  
 92 of the required appearance due to circumstances beyond the  
 93 defendant's control. The potential adverse economic consequences  
 94 of appearing as required may ~~shall~~ not be considered as  
 95 constituting a ground for such a determination;

96 (b) A determination that, at the time of the required  
 97 appearance or within 60 days after the date of the required  
 98 appearance, the defendant was adjudicated insane and confined in  
 99 an institution or hospital; ~~or~~ was confined in any county,  
 100 state, federal, or immigration detention facility; was deported;  
 101 or is deceased a jail or prison;

102 (c) Surrender or arrest of the defendant at the time of the  
 103 required appearance or within 60 days after the date of the  
 104 required appearance in any county, state, or federal jail or  
 105 prison and upon a hold being placed to return the defendant to  
 106 the jurisdiction of the court if the delay has not thwarted the  
 107 proper prosecution of the defendant. If the forfeiture has been  
 108 before discharge, the court shall direct remission of the  
 109 forfeiture. The court shall condition a discharge or remission  
 110 on the payment of costs and the expenses incurred by an official  
 111 in returning the defendant to the jurisdiction of the court; or

112 (d) A determination that the state is unwilling to seek  
 113 extradition of the fugitive defendant within 30 days after a  
 114 request by the surety agent to do so, and contingent upon the  
 115 surety agent's consent to pay all costs and the expenses  
 116 incurred by an official in returning the defendant to the

Page 4 of 9

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

597-03356-17

2017680c2

117 jurisdiction of the court, up to the penal amount of the bond.

118 (7) The payment by a surety of a forfeiture under ~~the~~  
119 ~~provisions of~~ this law shall have the same effect on the bond as  
120 payment of a judgment.

121 (8) If the defendant is arrested and returned to the county  
122 of jurisdiction of the court or has posted a new bond for the  
123 case at issue before ~~prior to~~ judgment, the clerk, upon  
124 affirmation by the sheriff or the chief correctional officer,  
125 shall, without further hearing or order of the court, discharge  
126 the forfeiture of the bond. However, if the surety agent fails  
127 to pay the costs and expenses incurred in returning the  
128 defendant to the county of jurisdiction, the clerk shall not  
129 discharge the forfeiture of the bond. If the surety agent and  
130 the sheriff fail to agree on the amount of said costs, then the  
131 court, after notice to the sheriff and the state attorney, shall  
132 determine the amount of the costs.

133 Section 3. Subsections (2), (3), (4), (5), and (6) of  
134 section 903.28, Florida Statutes, are amended to read:

135 903.28 Remission of forfeiture; conditions.-

136 (2) If the defendant surrenders or is apprehended within 90  
137 days after forfeiture, the court, on motion at a hearing upon  
138 notice having been given to the clerk of the circuit court and  
139 the state attorney as required in subsection (8), shall direct  
140 remission of ~~up to, but not more than,~~ 100 percent of a  
141 forfeiture if the surety apprehended and surrendered the  
142 defendant or if the apprehension or surrender of the defendant  
143 was substantially procured or caused by the surety, or the  
144 surety has substantially attempted to procure or cause the  
145 apprehension or surrender of the defendant, and the delay has

Page 5 of 9

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

597-03356-17

2017680c2

146 not thwarted the proper prosecution of the defendant. In  
147 addition, remission shall be granted when the surety did not  
148 substantially participate or attempt to participate in the  
149 apprehension or surrender of the defendant when the costs of  
150 returning the defendant to the jurisdiction of the court have  
151 been deducted from the remission and when the delay has not  
152 thwarted the proper prosecution of the defendant.

153 (3) If the defendant surrenders or is apprehended within  
154 180 days after forfeiture, the court, on motion at a hearing  
155 upon notice having been given to the clerk of the circuit court  
156 and the state attorney as required in subsection (8), shall  
157 direct remission of ~~up to, but not more than,~~ 95 percent of a  
158 forfeiture if the surety apprehended and surrendered the  
159 defendant or if the apprehension or surrender of the defendant  
160 was substantially procured or caused by the surety, or the  
161 surety has substantially attempted to procure or cause the  
162 apprehension or surrender of the defendant, and the delay has  
163 not thwarted the proper prosecution of the defendant. In  
164 addition, remission shall be granted when the surety did not  
165 substantially participate or attempt to participate in the  
166 apprehension or surrender of the defendant when the costs of  
167 returning the defendant to the jurisdiction of the court have  
168 been deducted from the remission and when the delay has not  
169 thwarted the proper prosecution of the defendant.

170 (4) If the defendant surrenders or is apprehended within  
171 270 days after forfeiture, the court, on motion at a hearing  
172 upon notice having been given to the clerk of the circuit court  
173 and the state attorney as required in subsection (8), shall  
174 direct remission of ~~up to, but not more than,~~ 90 percent of a

Page 6 of 9

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

597-03356-17

2017680c2

175 forfeiture if the surety apprehended and surrendered the  
 176 defendant or if the apprehension or surrender of the defendant  
 177 was substantially procured or caused by the surety, or the  
 178 surety has substantially attempted to procure or cause the  
 179 apprehension or surrender of the defendant, and the delay has  
 180 not thwarted the proper prosecution of the defendant. In  
 181 addition, remission shall be granted when the surety did not  
 182 substantially participate or attempt to participate in the  
 183 apprehension or surrender of the defendant when the costs of  
 184 returning the defendant to the jurisdiction of the court have  
 185 been deducted from the remission and when the delay has not  
 186 thwarted the proper prosecution of the defendant.

187 (5) If the defendant surrenders or is apprehended within 1  
 188 year after forfeiture, the court, on motion at a hearing upon  
 189 notice having been given to the clerk of the circuit court and  
 190 the state attorney as required in subsection (8), shall direct  
 191 remission of ~~up to, but not more than,~~ 85 percent of a  
 192 forfeiture if the surety apprehended and surrendered the  
 193 defendant or if the apprehension or surrender of the defendant  
 194 was substantially procured or caused by the surety, or the  
 195 surety has substantially attempted to procure or cause the  
 196 apprehension or surrender of the defendant, and the delay has  
 197 not thwarted the proper prosecution of the defendant. In  
 198 addition, remission shall be granted when the surety did not  
 199 substantially participate or attempt to participate in the  
 200 apprehension or surrender of the defendant when the costs of  
 201 returning the defendant to the jurisdiction of the court have  
 202 been deducted from the remission and when the delay has not  
 203 thwarted the proper prosecution of the defendant.

Page 7 of 9

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

597-03356-17

2017680c2

204 (6) If the defendant surrenders or is apprehended within 2  
 205 years after forfeiture, the court, on motion at a hearing upon  
 206 notice having been given to the clerk of the circuit court and  
 207 the state attorney as required in subsection (8), shall direct  
 208 remission of ~~up to, but not more than,~~ 50 percent of a  
 209 forfeiture if the surety apprehended and surrendered the  
 210 defendant or if the apprehension or surrender of the defendant  
 211 was substantially procured or caused by the surety, or the  
 212 surety has substantially attempted to procure or cause the  
 213 apprehension or surrender of the defendant, and the delay has  
 214 not thwarted the proper prosecution of the defendant. In  
 215 addition, remission shall be granted when the surety did not  
 216 substantially participate or attempt to participate in the  
 217 apprehension or surrender of the defendant when the costs of  
 218 returning the defendant to the jurisdiction of the court have  
 219 been deducted from the remission and when the delay has not  
 220 thwarted the proper prosecution of the defendant.

221 Section 4. Section 903.31, Florida Statutes, is amended to  
 222 read:

223 903.31 Canceling the bond.—

224 (1) Within 10 business days after the conditions of a bond  
 225 have been satisfied or the forfeiture discharged or remitted,  
 226 the court shall order the bond canceled and, if the surety has  
 227 attached a certificate of cancellation to the original bond, the  
 228 clerk of the court shall mail or electronically furnish an  
 229 executed certificate of cancellation to the surety without cost.  
 230 An adjudication of guilt or innocence ~~or~~ an acquittal, if a  
 231 period of 36 months has passed since the original bond was  
 232 posted, or a withholding of an adjudication of guilt shall

Page 8 of 9

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

597-03356-17

2017680c2

233 satisfy the conditions of the bond. The original appearance bond  
234 shall expire 36 months after such bond has been posted for the  
235 release of the defendant from custody. This subsection does not  
236 apply to cases in which a bond has been declared forfeited  
237 before the 36-month expiration.

238 (2) The original appearance bond does not guarantee a  
239 deferred sentence; sentences; appearance during or after a  
240 presentence investigation;; appearance during or after appeals;;  
241 conduct during or appearance after admission to a pretrial  
242 intervention program; placement in a court-ordered program,  
243 including a residential mental health facility;; payment of  
244 fines;; or attendance at educational or rehabilitation  
245 facilities the court otherwise provides in the judgment. If the  
246 original appearance bond has been forfeited or revoked, the bond  
247 shall not be reinstated without approval from the surety on the  
248 original bond.

249 (3) If in any case where no formal charges are ~~have been~~  
250 brought against the defendant within 365 days after arrest, the  
251 court shall order the bond canceled unless good cause is shown  
252 by the state.

253 Section 5. This act shall take effect July 1, 2017.



THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/2017  
Meeting Date

680  
Bill Number (if applicable)

Topic Bail Agency

Amendment Barcode (if applicable)

Name Shawn Foster

Job Title Lobbyist

Address 5957 Riviera Lane  
Street

Phone 727-808-4131

New Port Richey, FL 34655  
City State Zip

Email foster@scgroup.us

Speaking:  For  Against  Information

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

Representing Florida Bail Agents 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)

4/17/17

Meeting Date

680

Bill Number (if applicable)

Topic Buil Bonds

Amendment Barcode (if applicable)

Name Kelly Malette

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

Address 104 W. Jefferson Street  
Street

Phone (880) 224-3427

Tallahassee, R 32301  
City State Zip

Email kelly@rbookpa.com

Speaking:  For  Against  Information

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

Representing Palmetto Surety

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

**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 Randolph Bracy  
213 Senate Office Building  
Tallahassee, Florida 32399

Dear Chairman Bracy,

I respectfully request you place Senate Bill 680 Bail Bonds on your next available agenda.

The bill creates flexibility for judges and bail bond agents to remedy and resolve breaches of a bond. To the extent that a greater number of bonds are reinstated after forfeiture, and to the extent that signing onto bonds is more affordable for the bail bond agent, this may increase the number of arrestees that can post bail, thereby reducing the need for jail beds.

I appreciate your favorable consideration.

Onward & Upward,

*Dennis K. Baxley*

Dennis Baxley  
Senator, District 12

DKB/dd

cc: Jennifer Hrdlicka, 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**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

---

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

---

BILL: SB 848

INTRODUCER: Senator Rouson

SUBJECT: Suspension of Civil Rights

DATE: April 14, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Hrdlicka	CJ	<b>Pre-meeting</b>
2.			JU	
3.			RC	

---

**I. Summary:**

SB 848 revises s. 944.242, F.S., by making the automatic suspension of civil rights only apply to persons who are convicted of a life or capital felony or a forcible felony defined in s. 776.08, F.S.

The bill attempts to change the parameters for the suspension of civil rights to certain types of felonies, which may conflict with the language of the Florida Constitution which does not distinguish the types of felonies that are subject to the automatic suspension of civil rights. See Section IV. Constitutional Issues.

**II. Present Situation:**

**Civil Rights**

The civil rights of a convicted felon are automatically suspended until restored by pardon or restoration of civil rights.<sup>1</sup> The Florida Constitution specifies only the loss of the right to vote and the right to hold public office as consequences of a felony conviction.<sup>2</sup> Other civil rights that are lost in accordance with statute include the right to serve on a jury<sup>3</sup> and the right to possess a firearm.<sup>4</sup>

The power to pardon, restore civil rights, commute punishment, or remit fines and forfeitures is granted by the Florida Constitution to the Governor with the consent of at least two Cabinet members.<sup>5</sup> Section 940.05, F.S., provides that any person convicted of a felony may be entitled

---

<sup>1</sup> Section 944.292, F.S.

<sup>2</sup> Article VI, s. 4, Fla. Const.

<sup>3</sup> Section 40.013, F.S.

<sup>4</sup> Sections 790.06(2)(d) and (k) and 790.23, F.S.

<sup>5</sup> Article IV, s. 8(a), Fla. Const. See also s. 940.01, F.S.

to the restoration of all the rights of citizenship enjoyed by him or her before conviction<sup>6</sup> if the person has:

- Received a full pardon from the Board of Executive Clemency;
- Served the maximum term of the sentence imposed upon him or her; or
- Been granted his or her final release by the Florida Commission on Offender Review.

The Governor and Cabinet sit as the Board of Executive Clemency (Clemency Board) and the Office of Executive Clemency assists in the acceptance, review, and recommendation of applications for clemency.<sup>7</sup> The Rules of Executive Clemency set forth the eligibility and requirements for an individual to seek a full or conditional pardon, restore civil rights, commute punishment, or remit fines and forfeitures.<sup>8</sup> An individual seeking clemency submits an application to the Office of Executive Clemency and the application is forwarded to the Florida Commission on Offender Review for investigation, report, and recommendation.<sup>9</sup>

Eligibility for restoration of civil rights without a hearing is for less serious offenses and requires that five years have passed since the date of completion of all sentences and conditions of supervision imposed. The person may not have pending criminal charges and must have paid all restitution, be a citizen of the United States, and, if convicted in a court other than a Florida court, be a legal resident of Florida.<sup>10</sup> The person also is not eligible for restoration of civil rights if he or she committed one of a number of crimes, such as murder, sexual battery, or kidnapping.<sup>11</sup>

Eligibility for restoration of civil rights with a hearing requires that seven years have passed since the date of completion of all sentences and conditions of supervision imposed for all felony convictions. The person must have paid all restitution and be a citizen of the United States and, if convicted in a court other than a Florida court, be a legal resident of Florida.<sup>12</sup>

## Felonies

The Florida Constitution defines a “felony” as “any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or by imprisonment in the state penitentiary.”<sup>13</sup> Felonies are classified, for the purpose of sentence and for any other purpose specifically provided by statute into the following categories:

- Capital felony – generally punishable by life imprisonment or a death sentence as provided in s. 921.141, F.S.;<sup>14</sup>

---

<sup>6</sup> Restoration does not relieve a person of “registration and notification requirements or any other obligations and restrictions imposed by law upon sexual predators or sexual offenders.” Rules of Executive Clemency 4.I.(G). Additionally, the Rules of Executive Clemency require a separate application to restore the rights to possess, own, or use a firearm. Rules of Executive Clemency 4.I.(F) and (G) and 5(D) and (E).

<sup>7</sup> Rules of Executive Clemency 2(B).

<sup>8</sup> Rules of Executive Clemency 4. Article IV, s. 8, Fla. Const.

<sup>9</sup> Rules of Executive Clemency 6(A) and 7. See also s. 940.03, F.S.

<sup>10</sup> Rules of Executive Clemency 9(A).

<sup>11</sup> Rules of Executive Clemency 9(A)4.

<sup>12</sup> Rule of Executive Clemency 10(A).

<sup>13</sup> Article X, s. 10, Fla. Const.

<sup>14</sup> Section 775.082, F.S.

- Life felony – generally punishable by a term for life, or imprisonment for a term of years not exceeding life imprisonment;<sup>15</sup>
- Felony of the first degree – generally punishable by a term of imprisonment not exceeding 30 years;<sup>16</sup>
- Felony of the second degree – generally punishable by a term of imprisonment not exceeding 15 years;<sup>17</sup> and
- Felony of the third degree – generally punishable by a term of imprisonment not exceeding 5 years.<sup>18</sup>

“Forcible felony” is defined as treason, murder, manslaughter, sexual battery, carjacking, home-invasion robbery, robbery, burglary, arson, kidnapping, aggravated assault, aggravated battery, aggravated stalking, aircraft piracy, unlawful throwing, placing or discharging of a destructive device or bomb, and any other felony which involves the use or threat of physical force or violence against any individual.<sup>19</sup>

### III. Effect of Proposed Changes:

The bill revises s. 944.242, F.S., by making the automatic suspension of civil rights only apply to persons who are convicted of a life or capital felony or a forcible felony defined in s. 776.08, F.S. The bill is effective July 1, 2017.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

#### D. Other Constitutional Issues:

Article VI, Section 4(a) of the Florida Constitution states that:

No person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability.

<sup>15</sup> Section 775.082(3)(a), F.S.

<sup>16</sup> Section 775.082(3)(b), F.S.

<sup>17</sup> Section 775.082(3)(d), F.S.

<sup>18</sup> Section 775.082(3)(e), F.S.

<sup>19</sup> Section 776.08, F.S.

Article X, Section 10 of the Florida Constitution defines a “felony” as “any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or by imprisonment in the state penitentiary.”

The language of the constitution should be interpreted naturally, to give effect to the ordinary meaning of words and phrases. Courts must interpret words and phrases in accordance with their “plain meaning” unless certain that the framers intended a different meaning.<sup>20</sup>

The bill attempts to change the parameters for the suspension of civil rights to certain types of felonies. This would conflict with the language of the Florida Constitution which does not distinguish the types of felonies that are subject to the automatic suspension of civil rights. Under the Florida Constitution, civil rights are suspended until such rights are restored by a full pardon, conditional pardon, or restoration of civil rights granted pursuant to Article IV, Section 8 of the Florida Constitution.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 944.292 of the Florida Statutes.

---

<sup>20</sup> See *State ex rel. West v. Butler*, 69 So. 771, 777 (Fla. 1915); *Shelby Mutual Insurance Co. v. Smith*, 556 So. 2d 393, 395 (Fla. 1990).

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

---

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

---





600766

LEGISLATIVE ACTION

Senate

.  
. .  
. .  
. .  
. .

House

---

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

**Senate Amendment (with title amendment)**

Delete line 13

and insert:

(1) Upon conviction of:

(a) A felony not described in paragraph (b), the civil rights of the person convicted may not be suspended.

(b) A life or capital felony as or a

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



11 And the title is amended as follows:  
12       Delete line 3  
13 and insert:  
14       amending s. 944.292, F.S.; prohibiting the suspension  
15       of civil rights of a person convicted of certain  
16       felonies; revising provisions related



366112

LEGISLATIVE ACTION

Senate

.  
. .  
. .  
. .  
. .

House

---

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

1       **Senate Substitute for Amendment (600766) (with title**  
2 **amendment)**

3  
4       Delete lines 10 - 14  
5 and insert:

6       Section 1. Paragraph (c) is added to subsection (2) of  
7 section 97.041, Florida Statutes, to read:

8       97.041 Qualifications to register or vote.—

9       (2) The following persons, who might be otherwise  
10 qualified, are not entitled to register or vote:



366112

11           (c) A person who has been convicted of a felony and is  
12 incarcerated.

13           Section 2. Subsection (1) of section 944.292, Florida  
14 Statutes, is amended to read:

15           944.292 Suspension of civil rights.—

16           (1) Upon conviction of:

17           (a) A felony not described in paragraph (b), the civil  
18 rights of the person convicted may not be suspended.

19           (b) A life or capital felony or a forcible felony as  
20 defined in s. 776.08 as defined in s. 10, Art. X

21  
22 ===== T I T L E   A M E N D M E N T =====

23 And the title is amended as follows:

24           Delete lines 2 - 3

25 and insert:

26           An act relating to civil rights; amending s. 97.041,  
27 F.S.; prohibiting a person convicted of a felony and  
28 incarcerated from registering or voting; amending s.  
29 944.292, F.S.; prohibiting the suspension of civil  
30 rights of a person convicted of certain felonies;  
31 revising provisions related

By Senator Rouson

19-01381-17

2017848\_\_

1                   A bill to be entitled  
2           An act relating to suspension of civil rights;  
3           amending s. 944.292, F.S.; revising provisions related  
4           to the suspension of civil rights to apply to persons  
5           convicted of certain felonies; providing an effective  
6           date.

7  
8   Be It Enacted by the Legislature of the State of Florida:

9  
10           Section 1. Subsection (1) of section 944.292, Florida  
11   Statutes, is amended to read:

12           944.292 Suspension of civil rights.-

13           (1) Upon conviction of a life or capital felony ~~as or a~~  
14 ~~forcible felony as defined in s. 776.08 defined in s. 10, Art. X~~  
15 ~~of the State Constitution~~, the civil rights of the person  
16 convicted shall be suspended in Florida until such rights are  
17 restored by a full pardon, conditional pardon, or restoration of  
18 civil rights granted pursuant to s. 8, Art. IV of the State  
19 Constitution.

20           Section 2. This act shall take effect July 1, 2017.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4-17-17

Meeting Date

SB 848

Bill Number (if applicable)

Topic Suspension of Civil Rights

Amendment Barcode (if applicable)

Name JAN RUBINO

Job Title Volunteer

Address 726 English Ave.  
Street

Phone (850) 224-9262

Tallahassee Fla. 32303  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing FLORIDA LEAGUE OF WOMEN VOTERS

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)

April 17, 2017

*Meeting Date*

SB 848

*Bill Number (if applicable)*

Topic Suspension of Civil Rights

*Amendment Barcode (if applicable)*

Name Honorable Andy Thomas

Job Title Public Defender, 2nd Circuit

Address 301 South Monroe Street, Suite 401

Phone 850-606-1000

*Street*

Tallahassee

FL

32301

Email andy.thomas@flpd2.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/17  
Meeting Date

848  
Bill Number (if applicable)

Topic Suspension of Civil Rights

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title

Address 104 S. Monroe Street

Phone 850-425-1340

Tallahassee FL 32301  
City State Zip

Email Tcglobby@aol.com

Speaking:  For  Against  Information

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

Representing FL State Conference of NAACP Branches

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)

6/17/17  
Meeting Date

SB 848  
Bill Number (if applicable)

Topic Suspension Civil Rights

Amendment Barcode (if applicable)

Name KARA GROSS

Job Title LEGISLATIVE COUNSEL

Address 4500 BISCAYNE BLVD  
Street

Phone 784-363-4496

MIAMI FL  
City State Zip

Email KGROSS@ACLUFLORIDA

Speaking:  For  Against  Information

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

Representing ACLU of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Randolph Bracy, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** March 6, 2017

---

I respectfully request that **Senate Bill #848**, relating to Suspension of Civil Rights, be placed on the:

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

A handwritten signature in cursive script that reads "Darryl Rouson".

---

Senator Darryl Rouson  
Florida Senate, District 19

Cc: Senator Dennis Baxley, VC; Jennifer Hrdlicka, SD; Sue Arnold, AA

File signed original with committee office

S-020 (03/2004)

Rec'd  
3/22



The Florida Senate

## Committee Agenda Request



**To:** Senator Randolph Bracy, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** March 20, 2017

---

I respectfully request that **Senate Bill #848**, relating to Suspension of Civil Rights, be placed on the:

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

A handwritten signature in cursive that reads "Darryl Rouson".

---

Senator Darryl Rouson  
Florida Senate, District 19

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

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

---

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

---

BILL: SB 934

INTRODUCER: Senator Thurston

SUBJECT: Restoration of Civil Rights

DATE: March 3, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Hrdlicka	CJ	<b>Pre-meeting</b>
2.			JU	
3.			RC	

---

**I. Summary:**

SB 934 may be cited as the “Restoration of Civil Rights Act.” The bill provides that a person convicted of a felony (except for crimes excluded by the bill) shall have his or her civil rights restored upon completion of his or her sentence. “Completion of sentence” occurs when a person is released from incarceration upon expiration of his or her sentence and has completed all other terms and conditions of the sentence or subsequent supervision. It also occurs if a person has not been incarcerated for the felony but has completed all terms and conditions of supervision.

Persons convicted of any of the following offenses are ineligible for automatic restoration of civil rights:

- Murder;
- Aggravated manslaughter of a child;
- Sexual battery;
- Incest;
- Sexual performance by a child; or
- Selling or buying minors.

A person is also ineligible for automatic restoration of civil rights if he or she was convicted of treason or if his or her impeachment has resulted in conviction.

However, the bill does not impair the ability of a person convicted of a felony to apply for executive clemency.

The bill requires a court to provide a defendant certain notice about restoration of civil rights before accepting a guilty plea or imposing a sentence for a felony.

The Secretary of State is required to develop and implement a program to educate members of the public, attorneys, judges, election officials, and corrections officials, including parole and probation officers, about the requirements of this bill.

The bill applies retroactively to all persons who are eligible for restoration of civil rights under the bill, regardless of whether such persons were convicted or discharged from sentence before the effective date of the bill.

The bill takes effect on the effective date of SJR 270 or another amendment to the State Constitution which authorizes, or removes impediments to, enactment of this bill by the Legislature.

## II. Present Situation:

The civil rights of a convicted felon are suspended until restored by pardon or restoration of civil rights.<sup>1</sup> The Florida Constitution specifies only the loss of the right to vote and the right to hold public office as consequences of a felony conviction.<sup>2</sup> Other civil rights that are lost in accordance with statute include the right to serve on a jury<sup>3</sup> and the right to possess a firearm.<sup>4</sup>

The power to pardon, restore civil rights, commute punishment, or remit fines and forfeitures is granted by the Florida Constitution to the Governor with the consent of at least two Cabinet members.<sup>5</sup> Section 940.05, F.S., provides that any person convicted of a felony may be entitled to the restoration of all the rights of citizenship enjoyed by him or her before conviction<sup>6</sup> if the person has:

- Received a full pardon from the Board of Executive Clemency;
- Served that maximum term of the sentence imposed upon him or her; or
- Been granted his or her final release by the Florida Commission on Offender Review.

The Governor and Cabinet sit as the Board of Executive Clemency (Clemency Board) and the Office of Executive Clemency assists in the acceptance, review, and recommendation of applications for clemency.<sup>7</sup> The Rules of Executive Clemency set forth the eligibility and requirements for an individual to seek a full or conditional pardon, restore civil rights, commute punishment, or remit fines and forfeitures.<sup>8</sup> An individual seeking clemency submits an application to the Office of Executive Clemency and the application is forwarded to the Florida Commission on Offender Review for investigation, report, and recommendation.<sup>9</sup>

---

<sup>1</sup> Section 944.292, F.S.

<sup>2</sup> Article VI, s. 4, Fla. Const.

<sup>3</sup> Section 40.013, F.S.

<sup>4</sup> Sections 790.06(2)(d) and (k) and 790.23, F.S.

<sup>5</sup> Article IV, s. 8(a), Fla. Const. See also s. 940.01, F.S.

<sup>6</sup> Restoration does not relieve a person of “registration and notification requirements or any other obligations and restrictions imposed by law upon sexual predators or sexual offenders.” Rules of Executive Clemency 4.I.(G). Additionally the Rules of Executive Clemency require a separate application to restore the rights to possess, own, or use a firearm. Rules of Executive Clemency 4.I.(F) and (G) and 5(D) and (E).

<sup>7</sup> Rules of Executive Clemency 2(B).

<sup>8</sup> Rules of Executive Clemency 4. Article IV, s. 8, Fla. Const.

<sup>9</sup> Rules of Executive Clemency 6(A) and 7. See also s. 940.03, F.S.

Eligibility for restoration of civil rights without a hearing is for less serious offenses and requires that five years have passed since the date of completion of all sentences and conditions of supervision imposed. The person may not have pending criminal charges and must have paid all restitution, be a citizen of the United States, and, if convicted in a court other than a Florida court, be a legal resident of Florida.<sup>10</sup> The person also is not eligible for restoration of civil rights if he or she committed one of a number of crimes, such as murder, sexual battery, or kidnapping.<sup>11</sup>

Eligibility for restoration of civil rights with a hearing requires that seven years have passed since the date of completion of all sentences and conditions of supervision imposed for all felony convictions. The person must have paid all restitution and be a citizen of the United States and, if convicted in a court other than a Florida court, be a legal resident of Florida.<sup>12</sup>

### **III. Effect of Proposed Changes:**

#### **Short Title**

The short title of the bill is the “Restoration of Civil Rights Act.”

#### **Findings and Purpose**

The bill provides the following Legislative findings:

- The exercise of civil rights is a fundamental aspect of citizenship. Restoring civil rights allows former felons to participate in public service, serve on juries, and pursue chosen occupations.
- Restoring civil rights helps felons who have completed their sentences to reintegrate into society. Having opportunities to fully participate in society reinforces their ties to their communities and may help to prevent recidivism.
- Under current law, all persons convicted of felonies permanently lose many civil rights unless they receive discretionary executive clemency.
- The restoration of civil rights through the clemency process is cumbersome, costly, and produces long delays. The clemency process imposes administrative burdens on the state and economic burdens on state taxpayers and should be reserved for extraordinary cases. Streamlining the restoration process for the majority of former felons will advance administrative efficiency, fiscal responsibility, fairness, and democracy.

The bill provides that its purpose is to “strengthen democratic institutions by enabling persons who have completed their felony sentences to become productive members of society and to streamline procedures for restoring civil rights.”

---

<sup>10</sup> Rules of Executive Clemency 9(A)

<sup>11</sup> Rules of Executive Clemency 9(A)4.

<sup>12</sup> Rule of Executive Clemency 10(A).

## **Restoration of Civil Rights**

The bill creates s. 944.294, F.S., to provide that a person convicted of a felony<sup>13</sup> shall have his or her civil rights restored upon completion of his or her sentence. “Completion of sentence” occurs when a person is released from incarceration upon expiration of his or her sentence and has completed all other terms and conditions of the sentence or subsequent supervision. It also occurs if a person has not been incarcerated for the felony but has completed all terms and conditions of supervision.

### ***Persons ineligible for restoration of civil rights***

Persons convicted of any of the following offenses are ineligible for automatic restoration of civil rights under the bill:

- Murder;<sup>14</sup>
- Aggravated manslaughter of a child;<sup>15</sup>
- Sexual battery;<sup>16</sup>
- Incest;<sup>17</sup>
- Sexual performance by a child;<sup>18</sup> or
- Selling or buying minors.<sup>19</sup>

A person is also ineligible for automatic restoration of civil rights if he or she was convicted of treason or if his or her impeachment has resulted in conviction.<sup>20</sup>

However, the bill does not impair the ability of a person convicted of a felony to apply for executive clemency pursuant to the Florida Constitution.

## **Notification by the Court**

Before accepting a plea of guilty or nolo contendere to a felony without trial or, if a trial is held, before imposing sentence for a felony, a court shall notify the defendant as follows:

- Felonies that preclude a person from being eligible for restoration of civil rights as enumerated above do not preclude a person from applying for executive clemency.
- If the felony does not preclude a person from being eligible for restoration of civil rights as enumerated above, the defendant must complete his or her sentence before his or her civil rights are restored, except for the right to own, possess, or use firearms.

## **Secretary of State**

The bill requires the Secretary of State to develop and implement a program to educate members of the public, attorneys, judges, election officials, and corrections officials, including parole and

---

<sup>13</sup> Except those felonies enumerated in s. 944.294(3), F.S., created by the bill.

<sup>14</sup> Section 782.04, F.S.

<sup>15</sup> Section 782.07(3), F.S.

<sup>16</sup> Section 794.011, F.S.

<sup>17</sup> Section 836.04, F.S.

<sup>18</sup> Section 827.071, F.S.

<sup>19</sup> Section 847.0145, F.S.

<sup>20</sup> Article IV, s. 8, Fla. Const.

probation officers, about the requirements of this bill. In doing so, the Secretary of State shall ensure that:

- Judges are informed of their obligation to notify criminal defendants of the potential loss and restoration of their civil rights.
- Accurate and complete information about the civil rights of people who have been charged with or convicted of crimes, whether disenfranchising or not, is made available through a single publication to government officials and the public.

### **Suspension of Civil Rights**

Section 944.292, F.S., is amended to provide that in addition to a full pardon, conditional pardon, or through clemency, civil rights may be restored as provided for in this bill.

### **Release Orientation Program**

Section 944.705, F.S., is amended to require the Department of Corrections to include instruction on restoration of civil rights in the release orientation program.

### **Retroactivity**

The bill applies retroactively to all persons who are eligible for restoration of civil rights, regardless of whether such persons were convicted or discharged from sentence before the effective date of this bill.

### **Effective Date**

The bill takes effect on the effective date of SJR 270 or another amendment to the State Constitution which authorizes, or removes impediments to, enactment of this bill by the Legislature.

## **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 impact to the Department of State is indeterminate at this time.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

In 1975, Florida Governor Askew requested an advisory opinion on whether the Florida Correctional Reform Act presented an infringement upon the constitutional power of the Governor and Cabinet to restore civil rights. The Florida Correctional Reform Act provided for suspension and automatic reinstatement of civil rights for prisoners through statute. The Florida Supreme Court answered in the affirmative and determined that it was a clear infringement upon the constitutional power of the Governor to restore civil rights through executive clemency.<sup>21</sup>

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 944.292 and 944.705.

This bill creates section 944.294 of the Florida Statutes.

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

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

None.

**B. Amendments:**

None.

---

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

---

---

<sup>21</sup> In re Advisory Opinion of Governor Civil Rights, 306 So. 2d 520 (Fla. 1975).



962638

LEGISLATIVE ACTION

Senate

.  
. .  
. .  
. .  
. .

House

---

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

**Senate Amendment (with title amendment)**

Delete lines 55 - 96

and insert:

(2) For purposes of this section, the term "completion of sentence" occurs when a person is released from incarceration upon expiration of his or her sentence and has completed all other terms and conditions of the sentence or subsequent supervision or, if the person has not been incarcerated for the felony offense, has completed all terms and conditions of



962638

11 supervision imposed on him or her.

12 (3) (a) A person is ineligible for restoration of civil  
13 rights under this section if he or she was convicted of a crime  
14 defined by any of the following:

15 1. Section 782.04, relating to murder.

16 2. Section 782.07(3), relating to aggravated manslaughter  
17 of a child.

18 3. Section 794.011, relating to sexual battery.

19 4. Section 826.04, relating to incest.

20 5. Section 827.071, relating to sexual performance by a  
21 child.

22 6. Section 847.0145, relating to selling or buying of  
23 minors, otherwise transferring or obtaining custody or control  
24 of minors, or offering to do the same.

25 (b) A person is ineligible for restoration of civil rights  
26 under this section if he or she was convicted of treason or if  
27 his or her impeachment has resulted in conviction, as referred  
28 to in s. 8, Art. IV of the State Constitution.

29 (4) This section does not impair the ability of a person  
30 convicted of a felony to apply for executive clemency under s.  
31 8, Art. IV of the State Constitution.

32 (5) A court shall, before accepting a plea of guilty or  
33 nolo contendere to a felony without trial or, if a trial is  
34 held, before imposing sentence for a felony, notify the  
35 defendant as follows:

36 (a) If the felony is described in subsection (3), that  
37 conviction will result in permanent loss of civil rights unless  
38 he or she receives executive clemency under s. 8, Art. IV of the  
39 State Constitution.



962638

40           (b) If the felony is not described in subsection (3), that  
41 conviction will result in loss of civil rights until the  
42 defendant completes his or her sentence and that civil rights  
43 will be restored thereafter.

44

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

46 And the title is amended as follows:

47           Delete lines 7 - 8

48 and insert:

49           rights after completion of his or her sentence of



329812

LEGISLATIVE ACTION

Senate

.  
. .  
. .  
. .  
. .

House

---

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

1       **Senate Substitute for Amendment (962638) (with title**  
2 **amendment)**

3  
4       Delete lines 54 - 96

5 and insert:

6 that felony restored five years after completion of his or her  
7 sentence.

8       (2) For purposes of this section, the term "completion of  
9 sentence" occurs when a person is released from incarceration  
10 upon expiration of his or her sentence and has completed all



329812

11 other terms and conditions of the sentence or subsequent  
12 supervision or, if the person has not been incarcerated for the  
13 felony offense, has completed all terms and conditions of  
14 supervision imposed on him or her.

15 (3) (a) A person is ineligible for restoration of civil  
16 rights under this section if he or she was convicted of a crime  
17 defined by any of the following:

18 1. Section 782.04, relating to murder.

19 2. Section 782.07(3), relating to aggravated manslaughter  
20 of a child.

21 3. Section 794.011, relating to sexual battery.

22 4. Section 826.04, relating to incest.

23 5. Section 827.071, relating to sexual performance by a  
24 child.

25 6. Section 847.0145, relating to selling or buying of  
26 minors, otherwise transferring or obtaining custody or control  
27 of minors, or offering to do the same.

28 (b) A person is ineligible for restoration of civil rights  
29 under this section if he or she was convicted of treason or if  
30 his or her impeachment has resulted in conviction, as referred  
31 to in s. 8, Art. IV of the State Constitution.

32 (4) This section does not impair the ability of a person  
33 convicted of a felony to apply for executive clemency under s.  
34 8, Art. IV of the State Constitution.

35 (5) A court shall, before accepting a plea of guilty or  
36 nolo contendere to a felony without trial or, if a trial is  
37 held, before imposing sentence for a felony, notify the  
38 defendant as follows:

39 (a) If the felony is described in subsection (3), that



329812

40 conviction will result in permanent loss of civil rights unless  
41 he or she receives executive clemency under s. 8, Art. IV of the  
42 State Constitution.

43 (b) If the felony is not described in subsection (3), that  
44 conviction will result in loss of civil rights until the  
45 defendant completes his or her sentence and that civil rights  
46 will be restored thereafter.

47  
48 ===== T I T L E A M E N D M E N T =====

49 And the title is amended as follows:

50 Delete lines 7 - 8

51 and insert:

52 rights five years after completion of his or her  
53 sentence of



836862

LEGISLATIVE ACTION

Senate

.  
. .  
. .  
. .  
. .

House

---

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

**Senate Amendment**

Delete lines 79 - 80  
and insert:  
his or her impeachment has resulted in conviction, pursuant to  
s. 8, Art. IV of the State Constitution.





352694

LEGISLATIVE ACTION

Senate

.  
. .  
. .  
. .  
. .

House

---

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

**Senate Amendment (with title amendment)**

Delete lines 105 - 109

and insert:

(b) Accurate and complete information about the loss and restoration of civil rights is made available through a single publication to government officials and the public.

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

And the title is amended as follows:



352694

11           Delete lines 14 - 15  
12 and insert:  
13           implement a program to educate the public about civil  
14           rights;

By Senator Thurston

33-01358-17

2017934\_\_

1 A bill to be entitled  
 2 An act relating to restoration of civil rights;  
 3 providing a short title; providing legislative  
 4 findings and purpose; creating s. 944.294, F.S.;

5 defining the term "completion of sentence"; providing  
 6 for automatic restoration of a former felon's civil  
 7 rights, other than the right to own, possess, or use  
 8 firearms, after completion of his or her sentence of  
 9 incarceration and conditions of supervision; providing  
 10 conditions for and exemptions from automatic  
 11 restoration; requiring a court to notify a defendant  
 12 of specified information under certain circumstances;  
 13 requiring the Secretary of State to develop and  
 14 implement a program to educate the public about the  
 15 civil rights of people who have felony convictions;  
 16 amending ss. 944.292 and 944.705, F.S.; conforming  
 17 provisions; providing retroactive applicability;  
 18 providing a contingent effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

21  
 22 Section 1. Short title.—This act may be cited as the  
 23 "Restoration of Civil Rights Act."

24 Section 2. Findings and purpose.—

25 (1) FINDINGS.—The Legislature finds that:

26 (a) The exercise of civil rights is a fundamental aspect of  
 27 citizenship. Restoring civil rights allows former felons to  
 28 participate in public service, serve on juries, and pursue  
 29 chosen occupations.

Page 1 of 5

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

33-01358-17

2017934\_\_

30 (b) Restoring civil rights helps felons who have completed  
 31 their sentences to reintegrate into society. Having  
 32 opportunities to fully participate in society reinforces their  
 33 ties to their communities and may help to prevent recidivism.  
 34 (c) Under current law, all persons convicted of felonies  
 35 permanently lose many civil rights unless they receive  
 36 discretionary executive clemency.  
 37 (d) The restoration of civil rights through the clemency  
 38 process is cumbersome, costly, and produces long delays. The  
 39 clemency process imposes administrative burdens on the state and  
 40 economic burdens on state taxpayers and should be reserved for  
 41 extraordinary cases. Streamlining the restoration process for  
 42 the majority of former felons will advance administrative  
 43 efficiency, fiscal responsibility, fairness, and democracy.  
 44 (2) PURPOSE.—The purposes of this act are to strengthen  
 45 democratic institutions by enabling persons who have completed  
 46 their felony sentences to become productive members of society  
 47 and to streamline procedures for restoring civil rights.  
 48 Section 3. Section 944.294, Florida Statutes, is created to  
 49 read:  
 50 944.294 Restoration of civil rights.—  
 51 (1) A person who has been convicted of a felony, other than  
 52 a felony set forth in subsection (3), shall have his or her  
 53 civil rights that are lost as a consequence of a conviction of  
 54 that felony restored upon completion of his or her sentence.  
 55 However, this subsection does not apply to restoration of the  
 56 right to own, possess, or use firearms.  
 57 (2) For purposes of this section, "completion of sentence"  
 58 occurs when a person is released from incarceration upon

Page 2 of 5

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

33-01358-17

2017934

59 expiration of his or her sentence and has completed all other  
 60 terms and conditions of the sentence or subsequent supervision  
 61 or, if the person has not been incarcerated for the felony  
 62 offense, has completed all terms and conditions of supervision  
 63 imposed on him or her.

64 (3) (a) A person is ineligible for restoration of civil  
 65 rights under this section if he or she was convicted of a crime  
 66 defined by any of the following:

67 1. Section 782.04, relating to murder.

68 2. Section 782.07(3), relating to aggravated manslaughter  
 69 of a child.

70 3. Section 794.011, relating to sexual battery.

71 4. Section 826.04, relating to incest.

72 5. Section 827.071, relating to sexual performance by a  
 73 child.

74 6. Section 847.0145, relating to selling or buying minors,  
 75 otherwise transferring or obtaining custody or control of  
 76 minors, or offering to do the same.

77 (b) A person is ineligible for restoration of civil rights  
 78 under this section if he or she was convicted of treason or if  
 79 his or her impeachment has resulted in conviction, as referred  
 80 to in s. 8, Art. IV of the State Constitution.

81 (4) This section does not impair the ability of a person  
 82 convicted of a felony to apply for executive clemency under s.  
 83 8, Art. IV of the State Constitution.

84 (5) A court shall, before accepting a plea of guilty or  
 85 nolo contendere to a felony without trial or, if a trial is  
 86 held, before imposing sentence for a felony, notify the  
 87 defendant as follows:

33-01358-17

2017934

88 (a) If the felony is described in subsection (3), that  
 89 conviction will result in permanent loss of civil rights unless  
 90 he or she receives executive clemency under s. 8, Art. IV of the  
 91 State Constitution.

92 (b) If the felony is not described in subsection (3), that  
 93 conviction will result in loss of civil rights until the  
 94 defendant completes his or her sentence and that civil rights  
 95 will be restored thereafter, except for the right to own,  
 96 possess, or use firearms.

97 (6) The Secretary of State shall develop and implement a  
 98 program to educate members of the public, attorneys, judges,  
 99 election officials, and corrections officials, including parole  
 100 and probation officers, about the requirements of this section,  
 101 ensuring that:

102 (a) Judges are informed of their obligation to notify  
 103 criminal defendants of the potential loss and restoration of  
 104 their civil rights as required by subsection (5).

105 (b) Accurate and complete information about the civil  
 106 rights of people who have been charged with or convicted of  
 107 crimes, whether disenfranchising or not, is made available  
 108 through a single publication to government officials and the  
 109 public.

110 Section 4. Subsection (1) of section 944.292, Florida  
 111 Statutes, is amended to read:

112 944.292 Suspension of civil rights.—

113 (1) Upon conviction of a felony as defined in s. 10, Art. X  
 114 of the State Constitution, the civil rights of the person  
 115 convicted shall be suspended in Florida until such rights are  
 116 restored by a full pardon, conditional pardon, or restoration of

33-01358-17

2017934\_\_

117 civil rights granted pursuant to s. 8, Art. IV of the State  
118 Constitution or by restoration of civil rights pursuant to s.  
119 944.294.

120 Section 5. Paragraph (g) of subsection (2) of section  
121 944.705, Florida Statutes, is redesignated as paragraph (h), and  
122 a new paragraph (g) is added to that subsection to read:

123 944.705 Release orientation program.—

124 (2) The release orientation program instruction must  
125 include, but is not limited to:

126 (g) Restoration of civil rights.

127 Section 6. This act applies retroactively to all persons  
128 who are eligible for restoration of civil rights under the terms  
129 of the act, regardless of whether such persons were convicted or  
130 discharged from sentence before the effective date of this act.

131 Section 7. This act shall take effect on the effective date  
132 of SJR 270 or another amendment to the State Constitution which  
133 authorizes, or removes impediments to, enactment of this act by  
134 the Legislature.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/17  
Meeting Date

934  
Bill Number (if applicable)

Topic Civil Rights

Amendment Barcode (if applicable)

Name Ben Wilcox

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

Address 1719 Old Fort Dr.

Phone \_\_\_\_\_

Tallahassee FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Common Cause Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/17/17

Meeting Date

934

Bill Number (if applicable)

Topic RESTORATION OF CIVIL RIGHTS

Amendment Barcode (if applicable)

Name DAPHNEE SAINVIL

Job Title LEGISLATIVE COORDINATOR

Address 115 S. ANDREWS AVE  
Street

Phone 954-253-7320

FT. LAUDERDALE FL 33301  
City State Zip

Email dsainvil@broward.org

Speaking:  For  Against  Information

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

Representing BROWARD 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)

April 17, 2017

SB 934

*Meeting Date*

*Bill Number (if applicable)*

Topic Restoration of Civil Rights

*Amendment Barcode (if applicable)*

Name Honorable Andy Thomas

Job Title Public Defender, 2nd Circuit

Address 301 South Monroe Street, Suite 401

Phone 850-606-1000

*Street*

Tallahassee

FL

32301

Email andy.thomas@flpd2.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)



THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/17  
Meeting Date

934  
Bill Number (if applicable)

Topic Restoration of Civil Rights

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title

Address 104 S. Monroe Street

Phone 850-425-1344

Tallahassee FL 32301  
City State Zip

Email TcgLobby@aol.com

Speaking:  For  Against  Information

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

Representing Florida State Conference of NAACP Branches

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)

4/17/17

Meeting Date

SB 934

Bill Number (if applicable)

Topic Restoration of Civil Rights

Amendment Barcode (if applicable)

Name Kara Gross

Job Title Legislative Counsel

Address 4500 Biscayne Blvd  
Street

Phone 786-303-4436

Miami, FL  
City State Zip

Email KGROSS@ACLUFL.ORG

Speaking:  For  Against  Information

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

Representing ACLU of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

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

---

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

---

**BILL:** CS/SB 970

**INTRODUCER:** Criminal Justice Committee and Senator Bracy

**SUBJECT:** Florida Compensation Trust Fund for Survivors of Human Trafficking/Department of Law Enforcement

**DATE:** April 17, 2017                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Hrdlicka	CJ	Fav/CS
2.	_____	_____	JU	_____
3.	_____	_____	AP	_____

---

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

---

**I. Summary:**

CS/SB 970 creates the Trust Fund for Victims of Human Trafficking and Prevention within the Department of Legal Affairs.

The purposes of the trust fund include, but are not limited to:

- Educating the public about the recruitment, trafficking, and exploitation of persons in connection with human trafficking;
- Assisting in the prevention of the recruitment of minors in Florida schools for exploitation;
- Establishing a survivors’ resource center to make available to survivors of human trafficking legal services, social services, safe harbors, safe houses, and language services;
- Advertising the National Human Trafficking Resource Center hotline number and the BeFree Textline in diverse venues;
- Assisting in the coordination between law enforcement and service providers; and
- Assisting in vacating any convictions of minors who were victims of human trafficking.

The Florida Constitution requires a bill creating a new trust fund to pass by a three-fifths vote of the membership of each chamber of the Legislature. State trust funds must terminate not more than four years after the initial creation of the fund unless the Legislature sets a shorter time.

In accordance with the Florida Constitution, the trust fund is terminated on July 1, 2021.

The bill takes effect on the same date as CS/SB 972 or similar legislation is adopted in the same legislative session, or an extension thereof, and becomes law.

## II. Present Situation:

### Human Trafficking

Human trafficking is a form of modern-day slavery. Victims of human trafficking are young children, men, and women, who are often subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor. There is an estimated 20.9 million adults and children in the world who are in some sort of forced labor or sexual exploitation. Of that number, an estimated 26 percent of them are children, and in 2010, it was estimated that as many as 300,000 children in the United States were at risk for exploitation each year.<sup>1</sup>

Section 787.06, F.S., is Florida's human trafficking statute and defines "human trafficking" as the "transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining of another person for the purpose of exploitation of that person." The statute contains a variety of provisions prohibiting persons from knowingly engaging in human trafficking by using labor or services or through commercial sexual activity.<sup>2</sup>

### Statewide Council on Human Trafficking

The Attorney General is the head of the Department of Legal Affairs.<sup>3</sup> The Department of Legal Affairs (DLA) is responsible for providing all legal services required by any executive department unless otherwise provided by law. Additionally, the DLA administers certain trust funds and related programs that support crime victim services, criminal investigations,<sup>4</sup> and crime prevention.<sup>5</sup>

The Statewide Council on Human Trafficking (council) resides within the DLA "for the purpose of enhancing the development and coordination of state and local law enforcement and social services responses to fight commercial sexual exploitation as a form of human trafficking and to support victims."<sup>6</sup>

---

<sup>1</sup> U.S. Department of Justice, Office of Justice Programs, *OJP Fact Sheet, Fast Facts*, (December 2011) available at [http://ojp.gov/newsroom/factsheets/ojpfs\\_humantrafficking.html](http://ojp.gov/newsroom/factsheets/ojpfs_humantrafficking.html) (last visited March 26, 2017). Polaris, *Human Trafficking: The Facts*, 2016, available at <https://polarisproject.org/facts> (last visited March 26, 2017).

<sup>2</sup> See ss. 787.06(3) and (4), F.S.

<sup>3</sup> Section 16.015, F.S.

<sup>4</sup> Sections 16.555 and 16.556, F.S.

<sup>5</sup> Section 16.54, F.S.

<sup>6</sup> Section 16.617, F.S.

## **Civil Cause of Action for Human Trafficking**

### ***CS/SB 972 Human Trafficking***

CS/SB 972, which is linked to CS/SB 970, creates a civil cause of action for victims of human trafficking to bring against the trafficker<sup>7</sup> or facilitator<sup>8</sup> of human trafficking. The bill allows a victim to bring a civil action against the trafficker or facilitator of human trafficking who victimized the victim. The council, with the consent of the victim, can bring a civil cause of action on behalf of the victim against the trafficker or facilitator of human trafficking who victimizes a person in Florida.

The victim, or the council on behalf of the victim, who prevails in any such action is entitled to recover economic and noneconomic damages, penalties, punitive damages, reasonable attorney fees, reasonable investigative expenses, and costs.

If the council prevails on behalf of the victim, the trust fund must hold the moneys awarded for distribution to the victim, or his or her parent, legal guardian, or estate. If the victim's parent or legal guardian knowingly or through willful blindness, participated in the human trafficking, he or she is not entitled to any distribution or benefit from the trust fund. The trust fund must keep the funds if there is no person or estate to receive the funds. The bill allows these funds to be used for the purposes of the trust fund.

If a victim, or the council on behalf of the victim, prevails in an action, the court must award a civil penalty against the defendant of \$100,000. This penalty is in addition to, and not in lieu of, any other damage award. The civil penalty cannot be disclosed to the jury. The proceeds from the civil penalty must be deposited into the trust fund.

There is no statute of limitations for this civil action.

### **III. Effect of Proposed Changes:**

The bill creates the Trust Fund for Victims of Human Trafficking and Prevention within the Department of Legal Affairs. The bill specifies that trust fund's funds must consist of funds obtained under s. 787.063, F.S., from civil actions brought on behalf of victims, from penalties imposed by the courts, and funds received from any other source, including legislative appropriations.

The purposes of the trust fund include, but are not limited to:

- Educating the public about the recruitment, trafficking, and exploitation of persons in connection with human trafficking;
- Assisting in the prevention of the recruitment of minors in Florida schools for exploitation;

---

<sup>7</sup> CS/SB 972 defines a "trafficker" as any person who knowingly engages in human trafficking, attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking.

<sup>8</sup> CS/SB 972 defines a "facilitator" as a person who knowingly, or in willful blindness, assists or provides goods or services to a trafficker, which assist or enable the trafficker to carry out human trafficking.

- Establishing a survivors' resource center to make available to survivors of human trafficking legal services, social services, safe harbors, safe houses, and language services;
- Advertising the National Human Trafficking Resource Center hotline number and the BeFree Textline in diverse venues;
- Assisting in the coordination between law enforcement and service providers; and
- Assisting in vacating any convictions of minors who were victims of human trafficking.

In accordance with section 19(f)(2), Art. III, of the Florida Constitution, the trust fund must, unless terminated sooner, be terminated on July 1, 2021. Before its scheduled termination, the trust fund must be reviewed as provided in s. 215.3206(1) and (2), F.S.

The bill takes effect on the same date as CS/SB 972 or similar legislation is adopted in the same legislative session, or an extension thereof, and becomes law. CS/SB 972 is effective October 1, 2017.

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

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

None.

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

None.

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

Section 19(f), Art. III, of the Florida Constitution requires that a bill that creates a new trust fund must:

- Terminate not more than four years after the effective date of the bill creating the trust fund. The Legislature may set a shorter time period.
- Pass both chambers of the Legislature by a three-fifths vote of the membership of each chamber.

The bill contains a termination date of July 1, 2021, for the created trust fund.

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

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The costs to the Department of Legal Affairs to administer the trust fund is unknown at this time. CS/SB 972 requires the court to issue a civil penalty of \$100,000, if the victim or the council prevails. The civil penalty must be deposited into the trust fund.

CS/SB 972 also provides the following appropriation:

- For the 2017-2018 Fiscal Year \$153,000 in recurring funds and \$29,000 in nonrecurring funds from the Crimes Compensation Trust Fund to the Department of Legal Affairs, and three full-time equivalent positions are authorized, for the purpose of implementing CS/SB 972.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill is linked to the passage of CS/SB 972.

**VIII. Statutes Affected:**

This bill creates section 787.0611 of the Florida Statutes.

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

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

**CS by Criminal Justice on April 17, 2017:**

The committee substitute:

- Creates the trust fund in the Department of Legal Affairs, instead of the Department of Law Enforcement;
- Renames the trust fund;
- Specifies where the trust funds' funds come from;
- Clarifies the purposes of the trust fund; and
- Specifies that the bill is effective on the same date as CS/SB 972.

**B. Amendments:**

None.



149896

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/17/2017	.	
	.	
	.	
	.	

---

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 787.0611, Florida Statutes, is created  
to read:

787.0611 The Trust Fund for Victims of Human Trafficking  
and Prevention.—

(1) There is created within the Department of Legal Affairs  
a trust fund to be known as the Trust Fund for Victims of Human





149896

11 Trafficking and Prevention.

12 (2) The trust fund shall consist of funds obtained under s.  
13 787.063 from civil actions brought on behalf of victims, from  
14 forfeiture of personal and real property pursuant to an civil  
15 forfeiture action, and from penalties imposed by the courts, and  
16 funds received from any other source, including legislative  
17 appropriations.

18 (3) The purposes of the fund include, but are not limited  
19 to:

20 (a) Educating the public about the recruitment,  
21 trafficking, and exploitation of persons through human  
22 trafficking.

23 (b) Assisting in the prevention of recruitment in Florida  
24 schools of minors for exploitation.

25 (c) Establishment of a survivors' resource center to make  
26 available to survivors of human trafficking legal services,  
27 social services, safe harbors, safe houses, and language  
28 services.

29 (d) Advertising the National Human Trafficking Resource  
30 Center hotline telephone number and the BeFree Textline in  
31 diverse venues.

32 (e) Assisting in the coordination between law enforcement  
33 agencies and service providers.

34 (f) Assisting in vacating the convictions of minors who  
35 were victims of human trafficking.

36 (g) Distributing compensation to victims of human  
37 trafficking under s. 787.064.

38 (4) The fund shall be administered by the Statewide Council  
39 on Human Trafficking created in s. 16.617.



149896

40           (5) In addition to the purposes specified in subsection  
41 (3), moneys in the fund may be used to bring actions, and to pay  
42 any associated costs under such actions, under s. 787.063.

43           (6) In accordance with s. 19(f)(2), Art. III of the State  
44 Constitution, the trust fund shall, unless terminated sooner, be  
45 terminated on July 1, 2021. Before its scheduled termination,  
46 the trust fund shall be reviewed as provided in s. 215.3206(1)  
47 and (2).

48           Section 2. This act shall take effect on the same date that  
49 SB 972 or similar legislation takes effect, if such legislation  
50 is adopted in the same legislative session or an extension  
51 thereof and becomes a law.

52  
53 ===== T I T L E   A M E N D M E N T =====

54 And the title is amended as follows:

55           Delete everything before the enacting clause  
56 and insert:

57                               A bill to be entitled  
58           An act relating to trust funds; creating s. 787.0611,  
59           F.S.; creating the Trust Fund for Victims of Human  
60           Trafficking and Prevention within the Department of  
61           Legal Affairs; providing the purposes of, and funding  
62           sources for, the trust fund; providing for  
63           administration of the fund by the Statewide Council on  
64           Human Trafficking; providing for future review and  
65           termination or re-creation of the trust fund;  
66           providing a contingent effective date.



635414

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2017	.	
	.	
	.	
	.	

---

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

1           **Senate Substitute for Amendment (149896) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. Section 787.0611, Florida Statutes, is created  
7 to read:

8           787.0611 The Trust Fund for Victims of Human Trafficking  
9 and Prevention.—

10           (1) There is created within the Department of Legal Affairs



635414

11 a trust fund to be known as the Trust Fund for Victims of Human  
12 Trafficking and Prevention.

13 (2) The trust fund shall consist of funds obtained under s.  
14 787.063 from civil actions brought on behalf of victims, from  
15 penalties imposed by the courts, and funds received from any  
16 other source, including legislative appropriations.

17 (3) The purposes of the fund include, but are not limited  
18 to:

19 (a) Educating the public about the recruitment,  
20 trafficking, and exploitation of persons through human  
21 trafficking.

22 (b) Assisting in the prevention of recruitment in Florida  
23 schools of minors for exploitation.

24 (c) Establishment of a survivors' resource center to make  
25 available to survivors of human trafficking legal services,  
26 social services, safe harbors, safe houses, and language  
27 services.

28 (d) Advertising the National Human Trafficking Resource  
29 Center hotline telephone number and the BeFree Textline in  
30 diverse venues.

31 (e) Assisting in the coordination between law enforcement  
32 agencies and service providers.

33 (f) Assisting in vacating the convictions of minors who  
34 were victims of human trafficking.

35 (4) The fund shall be administered by the Statewide Council  
36 on Human Trafficking created in s. 16.617.

37 (5) In addition to the purposes specified in subsection  
38 (3), moneys in the fund may be used to bring actions, and to pay  
39 any associated costs under such actions, under s. 787.063.



40           (6) In accordance with s. 19(f)(2), Art. III of the State  
41 Constitution, the trust fund shall, unless terminated sooner, be  
42 terminated on July 1, 2021. Before its scheduled termination,  
43 the trust fund shall be reviewed as provided in s. 215.3206(1)  
44 and (2).

45           Section 2. This act shall take effect on the same date that  
46 SB 972 or similar legislation takes effect, if such legislation  
47 is adopted in the same legislative session or an extension  
48 thereof and becomes a law.

49  
50 ===== T I T L E   A M E N D M E N T =====

51 And the title is amended as follows:

52           Delete everything before the enacting clause  
53 and insert:

54   A bill to be entitled  
55           An act relating to trust funds; creating s. 787.0611,  
56           F.S.; creating the Trust Fund for Victims of Human  
57           Trafficking and Prevention within the Department of  
58           Legal Affairs; providing the purposes of, and funding  
59           sources for, the trust fund; providing for  
60           administration of the fund by the Statewide Council on  
61           Human Trafficking; providing for future review and  
62           termination or re-creation of the trust fund;  
63           providing a contingent effective date.

By Senator Bracy

11-01653-17

2017970\_\_

1 A bill to be entitled  
 2 An act relating to trust funds; creating s. 787.062,  
 3 F.S.; creating the Florida Compensation Trust Fund for  
 4 Survivors of Human Trafficking within the Department  
 5 of Law Enforcement; providing the purpose of the trust  
 6 fund and sources of funds; providing for future review  
 7 and termination or re-creation of the trust fund;  
 8 providing a contingent effective date.  
 9  
 10 Be It Enacted by the Legislature of the State of Florida:  
 11  
 12 Section 1. Section 787.062, Florida Statutes, is created to  
 13 read:  
 14 787.062 The Florida Compensation Trust Fund for Survivors  
 15 of Human Trafficking.—  
 16 (1) The Florida Compensation Trust Fund for Survivors of  
 17 Human Trafficking is created within the Department of Law  
 18 Enforcement.  
 19 (2) The trust fund is established to receive and administer  
 20 funds from civil actions brought on behalf of the trust fund,  
 21 including, but not limited to, money from seizures of personal  
 22 and real property, penalties imposed by the courts, or funds  
 23 received from any other public or private sources or from the  
 24 Legislature. The trust fund's purpose is to administer claims  
 25 for compensation for survivors of human trafficking and to  
 26 create a public-private partnership by establishing a not-for-  
 27 profit foundation for receipt of charitable contributions to  
 28 carry out the foundation's purposes, including, but not limited  
 29 to:

Page 1 of 2

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

11-01653-17

2017970\_\_

30 (a) Educating the public about the recruitment,  
 31 trafficking, and exploitation of persons in connection with  
 32 human trafficking;  
 33 (b) Assisting in the prevention of recruitment of minors in  
 34 Florida schools for exploitation;  
 35 (c) Establishment of a survivor's resource center for legal  
 36 services, social services, safe harbors, safe houses, and  
 37 language services that are available to survivors of human  
 38 trafficking;  
 39 (d) Advertising the National Human Trafficking Resource  
 40 Center hotline number and the BeFree Textline in diverse venues;  
 41 (e) Assisting in the coordination between law enforcement  
 42 and service providers; and  
 43 (f) Assisting in vacating any convictions of minors who  
 44 were victims of human trafficking.  
 45 (3) In accordance with s. 19(f)(2), Art. III of the State  
 46 Constitution, the trust fund shall, unless terminated sooner, be  
 47 terminated on July 1, 2021. Before its scheduled termination,  
 48 the trust fund shall be reviewed as provided in s. 215.3206(1)  
 49 and (2).  
 50 Section 2. This act shall take effect July 1, 2017, if SB  
 51 \_\_\_\_ or similar legislation is adopted in the same legislative  
 52 session, or an extension thereof, and becomes law.

Page 2 of 2

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/17/2017  
Meeting Date

SB 972 970  
Bill Number (if applicable)

Topic Anti Human trafficking

Amendment Barcode (if applicable)

Name Dean R. LeBoeuf

Job Title President Brooks & LeBoeuf

Address 909 E. Park Ave

Phone 850-222-2000

Street

Tallahassee, FL 32301

City

State

Zip

Email Dean@Tallahasseeattorneys.ca

Speaking:  For  Against  Information

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

Representing self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

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

---

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

---

BILL: CS/SB 972

INTRODUCER: Criminal Justice Committee and Senator Bracy

SUBJECT: Human Trafficking

DATE: April 17, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Hrdlicka	CJ	Fav/CS
2.			JU	
3.			AP	

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 972 creates a civil cause of action for victims of human trafficking.

The bill also:

- Allows the Statewide Council on Human Trafficking (council) within the Department of Legal Affairs, with the consent of the victim, to bring a civil cause of action against the trafficker or facilitator of human trafficking;
- Specifies the standard of proof for this civil action is by the preponderance of the evidence;
- Specifies that the victim, or the council on behalf of the victim, who prevails in any such action is entitled to recover economic and noneconomic damages, penalties, punitive damages, reasonable attorney fees, reasonable investigative expenses, and costs;
- Requires the court impose civil penalties;
- Specifies that there is no statute of limitations for the civil action; and
- Requires the council to issue an annual report about the trust fund and to administer the Trust Fund for Victims of Human Trafficking and Prevention, created in CS/SB 970.

The bill provides an appropriation for the 2017-2018 Fiscal Year of \$153,000 in recurring funds and \$29,000 in nonrecurring funds from the Crimes Compensation Trust Fund to the Department of Legal Affairs, and three full-time equivalent positions are authorized, for the purpose of implementing the bill.

The bill is effective October 1, 2017.



## II. Present Situation:

### Human Trafficking

Human trafficking is a form of modern-day slavery. Victims of human trafficking are young children, men, and women, who are often subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor. There is an estimated 20.9 million adults and children in the world who are in some sort of forced labor or sexual exploitation. Of that number, an estimated 26 percent of them are children, and in 2010, it was estimated that as many as 300,000 children in the United States were at risk for exploitation each year.<sup>1</sup>

Section 787.06, F.S., is Florida's human trafficking statute and defines "human trafficking" as the "transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining of another person for the purpose of exploitation of that person." The statute contains a variety of provisions prohibiting persons from knowingly engaging in human trafficking by using labor or services or through commercial sexual activity.<sup>2</sup>

### Civil Cause of Action

Victims of human trafficking have a civil cause of action against a person who:

- With criminal intent, has:
  - Received any proceeds derived, directly or indirectly, from a pattern of criminal activity; or
  - Through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.
- Through a pattern of criminal activity or through the collection of an unlawful debt, has acquired or maintained, directly or indirectly, any interest in or control of any enterprise or real property.
- Was employed by or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of criminal activity or the collection of an unlawful debt.
- Has conspired or endeavored to violate any of the actions listed above.<sup>3</sup>

The civil cause of action allows for threefold the actual damages sustained. The victim is entitled to minimum damages of \$200 and reasonable attorney's fees and court costs. Section 772.104(3), F.S., prohibits punitive damages from being awarded. The standard of proof for the civil cause of action is clear and convincing evidence.<sup>4</sup>

---

<sup>1</sup> U.S. Department of Justice, Office of Justice Programs, *OJP Fact Sheet, Fast Facts*, (December 2011) available at [http://ojp.gov/newsroom/factsheets/ojpfs\\_humantrafficking.html](http://ojp.gov/newsroom/factsheets/ojpfs_humantrafficking.html) (last visited March 26, 2017). Polaris, *Human Trafficking: The Facts*, 2016, available at <https://polarisproject.org/facts> (last visited March 26, 2017).

<sup>2</sup> See ss. 787.06(3) and (4), F.S.

<sup>3</sup> Section 772.103, F.S.

<sup>4</sup> Section 772.104, F.S.

The statute of limitations for the civil cause of action is 5 years after the conduct constituting a violation of one of the above stated provisions. The statute of limitations is suspended during prosecution for the criminal activity or criminal conduct, which is the basis for the civil action and for two years after its conclusion.<sup>5</sup>

### **Statewide Council on Human Trafficking**

The Attorney General is the head of the Department of Legal Affairs.<sup>6</sup> The Department of Legal Affairs (DLA) is responsible for providing all legal services required by any executive department unless otherwise provided by law. Additionally, the DLA administers certain trust funds and related programs that support crime victim services, criminal investigations,<sup>7</sup> and crime prevention.<sup>8</sup>

The Statewide Council on Human Trafficking resides within the DLA “for the purpose of enhancing the development and coordination of state and local law enforcement and social services responses to fight commercial sexual exploitation as a form of human trafficking and to support victims.”<sup>9</sup>

### **III. Effect of Proposed Changes:**

The bill creates an additional civil cause of action for victims of human trafficking to bring against the trafficker or facilitator of human trafficking who victimized them and allows the victims to recover damages. (Section 3, creating s. 787.063, F.S.). The Legislature finds that, to achieve the state’s goals relating to human trafficking set forth in s. 787.06(1)(d), F.S., it is necessary to provide a civil cause of action for the recovery of compensatory and punitive damages.

The bill defines the following terms (Section 2, creating s. 787.062, F.S.):

- “Council” means the Statewide Council on Human Trafficking within the Department of Legal Affairs, as created in s. 16.617, F.S.
- “Facilitator” means a person who knowingly, or in willful blindness, assists or provides goods or services to a trafficker, which assist or enable the trafficker to carry out human trafficking.
- “Human trafficking” has the same meaning as provided in s. 787.06(2), F.S.
- “Trafficker” means any person who knowingly engages in human trafficking, attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking.
- “Trust fund” refers to the Trust Fund for Victims of Human Trafficking and Prevention created in s. 787.0611, F.S.
- “Venture” means any group of two or more individuals associated in fact, whether or not a legal entity.

---

<sup>5</sup> Section 772.17, F.S.

<sup>6</sup> Section 16.015, F.S.

<sup>7</sup> Sections 16.555 and 16.556, F.S.

<sup>8</sup> Section 16.54, F.S.

<sup>9</sup> Section 16.617, F.S.

- “Victim of human trafficking” means a person subjected to coercion, as defined in s. 787.06, F.S., for the purpose of being used in human trafficking, a child under 18 years of age subjected to human trafficking, or an individual subjected to human trafficking as defined by federal law.
- “Willful blindness” occurs when a person’s suspicions are aroused about a particular fact and, while he or she realizes its probability, he or she deliberately refrains from obtaining confirmation of or acting on the fact because he or she wants to remain in ignorance, such that knowledge of the fact avoided can reasonably and fairly be imputed to the person who avoided confirming it.

The bill allows a victim to bring a civil action against the trafficker or facilitator of human trafficking who victimized the victim. The bill also allows the council, with the consent of the victim to bring a civil cause of action against the trafficker or facilitator of human trafficking who victimizes a person in Florida. An action may be brought in any court of competent jurisdiction and the standard of proof is preponderance of the evidence. The court has specific authority to consolidate civil actions for the same trafficker or facilitator for the purpose of case resolution and aggregate jurisdiction.

The victim, or the council on behalf of the victim, who prevails in any such action is entitled to recover economic and noneconomic damages, penalties, punitive damages, reasonable attorney fees, reasonable investigative expenses, and costs. The bill requires the noneconomic damages be calculated as in a tort action.

The bill specifies that the measure of economic damages for services or labor coerced from the victim of human trafficking must be the greater of the fair market value of the labor<sup>10</sup> or services<sup>11</sup> provided or the amount realized by the trafficker. The economic damages must be calculated as a daily amount of the compensation payable to a person under s. 961.06(1)(a), F.S., for every day that the human trafficking was ongoing.<sup>12</sup> The bill specifies that the economic damages also include:

- Past and future medical and mental health expenses;
- Repatriation expenses, when a victim elects repatriation; and
- All other reasonable costs and expenses incurred by the victim in the past or estimated to be incurred by the victim in the future as a result of the human trafficking.

The bill specifies that if the council prevails on behalf of the victim, the trust fund must hold the moneys awarded for distribution to the victim, or his or her parent, legal guardian, or estate. If the victim’s parent or legal guardian knowingly or through willful blindness, participated in the human trafficking, he or she is not entitled to any distribution or benefit from the trust fund. The trust fund must keep the funds if there is no person or estate to receive the funds. The bill allows these funds to be used for the purposes of the trust fund.

---

<sup>10</sup> Section 787.06(2)(e), F.S., defines “labor” to mean work of economic or financial value.

<sup>11</sup> Section 787.06(2)(h), F.S., defines “services” to mean any act committed at the behest of, under the supervision of, or for the benefit of another. The term includes, but is not limited to, forced marriage, servitude, or the removal of organs.

<sup>12</sup> Section 961.06(1)(a), F.S., provides that monetary compensation (for wrongful incarceration) is calculated at a rate of \$50,000 for each year and can be prorated as necessary to account for a portion of a year.

These remedies are in addition to and cumulative with other legal and administrative remedies available to victims of human trafficking. The bill specifies that a victim may not recover under both the civil action created by the bill and the civil action provided in s. 772.104(2), F.S.

If a victim or the council, on behalf of the victim, prevails in an action, the court must award a civil penalty against the defendant of \$100,000. This penalty is in addition to, and not in lieu of, any other damage award. The civil penalty cannot be disclosed to the jury. The proceeds from the civil penalty must be deposited into the trust fund.

The court must also impose a civil penalty against the defendant in favor of the law enforcement agencies for \$50,000, if one or more law enforcement agencies rescued the victim or located the property upon which the abuse or exploitation occurred. The bill specifies that the award of the penalty to the law enforcement agencies is to fund future efforts to combat human trafficking. The court must equitably distribute the civil penalty among the law enforcement agencies.

The bill specifies that there is no statute of limitations for these civil actions.

The bill requires the council to issue an annual report no later than October 1 of each year to the President of the Senate and the Speaker of the House of Representatives detailing for the prior fiscal year all of the following (Section 4, creating s. 787.064, F.S.):

- The status of the trust fund;
- Any actions and outcomes under s. 787.063, F.S.; and
- Any information that demonstrates the council's fulfillment of the purposes of the trust fund during the prior fiscal year.

The bill also amends s. 16.617, F.S., (Section 5), to require the council to perform the functions and duties as the bill requires and administer the Trust Fund for Victims of Human Trafficking and Prevention.<sup>13</sup>

The bill provides an appropriation for the 2017-2018 Fiscal Year of \$153,000 in recurring funds and \$29,000 in nonrecurring funds from the Crimes Compensation Trust Fund to the Department of Legal Affairs, and three full-time equivalent positions are authorized, for the purpose of implementing the bill.

The bill is effective October 1, 2017.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

---

<sup>13</sup> See CS/SB 970 (2017).

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The impact on the courts is unknown at this time.

The bill provides an appropriation for the 2017-2018 Fiscal Year of \$153,000 in recurring funds and \$29,000 in nonrecurring funds from the Crimes Compensation Trust Fund to the Department of Legal Affairs, and three full-time equivalent positions are authorized, for the purpose of implementing the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

CS/SB 970 creates the Trust Fund for Victims of Human Trafficking and Prevention that is referred to in this bill.

CS/SB 1788 creates a public records exemption and is linked to the passage of this bill.

The statute of limitations provided for the civil cause of action in s. 772.104, F.S., is five years with some provided exceptions.<sup>14</sup> The bill provides that there is no statute of limitations for this new civil cause of action.

**VIII. Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 787.061, 787.062, 787.063, and 787.064.

This bill amends section 16.617 of the Florida Statutes.

---

<sup>14</sup> Section 772.17, 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 17, 2017:**

The committee substitute:

- Defines new terms;
- Specifies the types of damages a victim is entitled to and how the damages must be figured;
- Removes the proposed civil forfeiture cause of action;
- Requires the council to issue an annual report about the trust fund;
- Amends s. 16.617, F.S., to include the administration of the Trust Fund for Victims of Human Trafficking and Prevention;
- Adds an appropriation to implement the bill;
- Changes the effective date from July 1, 2017, to October 1, 2017; and
- Makes technical and stylistic changes.

- B. **Amendments:**

None.



228352

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/17/2017	.	
	.	
	.	
	.	

---

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 787.061, Florida Statutes, is created to  
read:

787.061 Short title.—Sections 787.061–787.066 may be cited  
as the “Civil Action for Victims of Human Trafficking and  
Prevention of Human Trafficking Act.”

Section 2. Section 787.062, Florida Statutes, is created to



228352

11 read:

12 787.062 Definitions for the Civil Action for Victims of  
13 Human Trafficking and Prevention of Human Trafficking Act.—As  
14 used in ss. 787.061-787.066 the term:

15 (1) "Civil forfeiture proceeding" or "forfeiture  
16 proceeding" means a hearing or trial in which the court or jury  
17 determines whether the property must be forfeited.

18 (2) "Claimant" means any party who has proprietary interest  
19 in the property that is the subject of a civil forfeiture action  
20 under s. 787.063(3) and has standing to challenge such  
21 forfeiture.

22 (3) "Council" means the Statewide Council on Human  
23 Trafficking within the Department of Legal Affairs, as created  
24 in s. 16.617.

25 (4) "Facilitator" means a person who knowingly, or in  
26 willful blindness, assists or provides goods or services to a  
27 trafficker which assist or enable the trafficker to carry out  
28 human trafficking.

29 (5) "Human trafficking" has the same meaning as provided in  
30 s. 787.06.

31 (6) "Trafficker" means any person who knowingly engages in  
32 human trafficking, attempts to engage in human trafficking, or  
33 benefits financially by receiving anything of value from  
34 participation in a venture that has subjected a person to human  
35 trafficking.

36 (7) "Trust fund" means the Trust Fund for Victims of Human  
37 Trafficking and Prevention created in s. 787.0611.

38 (8) "Venture" means any group of two or more individuals  
39 associated in fact, whether or not a legal entity.





228352

40 (9) "Victim of human trafficking" means a person subjected  
41 to coercion, as defined in s. 787.06, for the purpose of being  
42 used in human trafficking, a child under 18 years of age  
43 subjected to human trafficking, or an individual subjected to  
44 human trafficking as defined by federal law.

45 (10) "Willful blindness" occurs when a person's suspicions  
46 are aroused about a particular fact and, while she or he  
47 realizes its probability, he or she deliberately refrains from  
48 obtaining confirmation of or acting on the fact because he or  
49 she wants to remain in ignorance, such that knowledge of the  
50 fact avoided can reasonably and fairly be imputed to the person  
51 who avoided confirming it.

52 Section 3. Section 787.063, Florida Statutes, is created to  
53 read:

54 787.063 Civil action for victims of human trafficking;  
55 civil forfeiture proceeding.—

56 (1) FINDINGS.—The Legislature finds that, to achieve the  
57 state's goals relating to human trafficking set forth in s.  
58 787.06(1)(d), it is necessary to provide a civil cause of action  
59 for the recovery of compensatory and punitive damages and for  
60 the civil seizure and forfeiture of the personal and real  
61 property used by those who engage in the human trafficking of  
62 persons for sex or labor and those who either knowingly or  
63 through willful blindness receive profit from, or otherwise  
64 receive direct or indirect economic benefits from, such  
65 trafficking.

66 (2) CIVIL CAUSE OF ACTION.—

67 (a) A victim of human trafficking has a civil cause of  
68 action against the trafficker or facilitator of human



228352

69 trafficking who victimized her or him, and may recover damages  
70 for such victimization as provided in this section.

71 (b) The council, with the consent of the victim, may bring  
72 a civil cause of action against a trafficker or facilitator of  
73 human trafficking who victimizes a person in this state.

74 (c) If the council prevails in any action, the trust fund  
75 shall hold moneys awarded to the victim for distribution to the  
76 victim or her or his parent, legal guardian, or estate. However,  
77 if the victim's parent or legal guardian knowingly, or through  
78 willful blindness, participated in the human trafficking, such  
79 person is not entitled to any distribution or benefit from the  
80 trust fund. If there is no person or estate to appropriately  
81 receive the funds, they must remain in the trust fund and be  
82 used for purposes of the trust fund, as described in s.  
83 787.0611.

84 (d) The action may be brought in any court of competent  
85 jurisdiction and the standard of proof is a preponderance of the  
86 evidence.

87 (e) A victim, or the council on behalf of the victim, who  
88 prevails in any such action is entitled to recover economic and  
89 noneconomic damages, penalties, punitive damages, reasonable  
90 attorney fees, reasonable investigative expenses, and costs.

91 1. The measure of economic damages for services or labor  
92 coerced from the victim of human trafficking shall be the  
93 greater of the fair market value of the labor or services  
94 provided or the amount realized by the trafficker. For purposes  
95 of this subparagraph, the terms "labor" and "services" have the  
96 same meanings as provided in s. 787.06.

97 2. The measure of economic damages for every day that the



228352

98 human trafficking was ongoing shall be calculated as a daily  
99 amount of the compensation payable to a person under s.  
100 961.06(1)(a).

101 3. Economic damages also include past and future medical  
102 and mental health expenses; repatriation expenses, when a victim  
103 elects repatriation; and all other reasonable costs and expenses  
104 incurred by the victim in the past or estimated to be incurred  
105 by the victim in the future as a result of the human  
106 trafficking.

107 4. Noneconomic damages shall be calculated as in a tort  
108 action.

109 (f) The remedies provided in this section are in addition  
110 to and cumulative with other legal and administrative remedies  
111 available to victims of human trafficking, except that a victim  
112 may not recover under both this section and s. 772.104(2).

113 (g) If a victim or the council, on behalf of the victim,  
114 prevails in an action under this section, in addition to any  
115 other award imposed, the court must award a civil penalty  
116 against the defendant in the amount of \$100,000. This penalty is  
117 in addition to, and not in lieu of, any other damage award. The  
118 civil penalty must be assessed by the court and may not be  
119 disclosed to the jury. Proceeds from the civil penalty must be  
120 deposited into the trust fund.

121 (h) If one or more law enforcement agencies rescued the  
122 victim or located the property upon which the abuse or  
123 exploitation of a victim or victims had occurred, the court must  
124 impose a civil penalty against the defendant in the amount of  
125 \$50,000 and award the penalty to the law enforcement agencies to  
126 fund future efforts to combat human trafficking. The court must



228352

127 equitably distribute the civil penalty among the law enforcement  
128 agencies.

129 (i) The court shall have specific authority to consolidate  
130 civil actions for the same facilitator or trafficker for the  
131 purpose of case resolution and aggregate jurisdiction.

132 (3) CIVIL FORFEITURE PROCEEDINGS.—

133 (a) The council may file a civil forfeiture action in the  
134 circuit court of the state seeking a judgment of forfeiture  
135 against an owner of real or personal property that was knowingly  
136 used in the human trafficking of the victim. The civil  
137 forfeiture shall be for the benefit of the trust fund and  
138 proceeds shall be used as specified in s. 787.0611. Proceeds  
139 from the civil forfeiture action must be deposited into the  
140 trust fund.

141 (b) Valid and lawful leases, recorded mortgages, or liens  
142 of innocent third parties which were in existence before the  
143 date of the filing of the civil action and property owned by a  
144 good faith purchaser for value are not subject to forfeiture.

145 (c) Civil forfeiture actions brought under this section are  
146 exempt from the requirements of the Florida Contraband  
147 Forfeiture Act, ss. 932.701-932.7062, and shall be governed as  
148 provided in this section.

149 (d) If a law enforcement agency of the state or any other  
150 party, pursuant to the Florida Contraband Forfeiture Act or as  
151 otherwise provided for by law, seeks the forfeiture of the same  
152 property as the council, the council's claim shall take priority  
153 over that of the law enforcement agency. Any action by a law  
154 enforcement agency filed pursuant to the Florida Contraband  
155 Forfeiture Act or as otherwise provided for by law which



228352

156 involves the same property in an action brought under this  
157 section must remain pending until the conclusion of any action  
158 brought under this section.

159 (e) In a forfeiture proceeding brought under this section,  
160 the council must proceed against property to be forfeited by  
161 filing a complaint in the circuit court in the jurisdiction  
162 where the property is located or where the offense occurred,  
163 paying a filing fee of \$1,000, and depositing a bond of \$1,500  
164 with the clerk of the court. Unless otherwise expressly agreed  
165 to in writing by the parties, the bond is payable to the  
166 claimant if the claimant prevails in the forfeiture proceeding  
167 and in any appeal.

168 (f) The complaint must be styled, "In RE: FORFEITURE OF"  
169 (followed by the name or description of the property). The  
170 complaint must contain a brief jurisdictional statement, a  
171 description of the subject matter of the proceeding, and a  
172 statement of the facts sufficient to state a cause of action  
173 that would support a final judgment of forfeiture. The complaint  
174 must be accompanied by a verified supporting affidavit.

175 (g) If the property is required by law to be titled or  
176 registered, or if the property is subject to a perfected  
177 security interest in accordance with chapter 679, the council  
178 shall serve the forfeiture complaint as an original service of  
179 process under the Florida Rules of Civil Procedure and other  
180 applicable law to each person having an ownership or security  
181 interest in the property. The council shall serve notice of the  
182 forfeiture complaint on any known owner or lienholder. The  
183 council must make a diligent search and inquiry for the owner of  
184 the subject property, and if, after such diligent search and



228352

185 inquiry, the council is unable to ascertain the owner or  
186 lienholder, notice is not required. The council shall also  
187 publish, in accordance with chapter 50, notice of the forfeiture  
188 complaint once each week for 2 consecutive weeks in a newspaper  
189 of general circulation, as defined in s. 165.031, in the county  
190 where the property is located.

191 (h) The complaint must describe the property to be  
192 forfeited and state the name of the court in which the complaint  
193 will be filed. If the property to be forfeited has been seized  
194 by a law enforcement agency, the complaint must state the  
195 county, place, and date of seizure and state the name of the law  
196 enforcement agency holding the seized property.

197 (i) The court shall require any claimant who desires to  
198 contest the forfeiture proceeding to file and serve upon the  
199 plaintiff any responsive pleadings and affirmative defenses  
200 within 20 days after receipt of the complaint.

201 (j) Upon proof by a preponderance of the evidence that the  
202 property to be forfeited was used in human trafficking, the  
203 court shall order the property forfeited to the council. The  
204 court shall order the forfeiture of any other property of a  
205 claimant, excluding lienholders, up to the value of any property  
206 subject to forfeiture under this section if any of the property  
207 described in this section:

208 1. Cannot be located;

209 2. Has been transferred to, sold to, or deposited with, a  
210 third party;

211 3. Has been placed beyond the jurisdiction of the court;

212 4. Has been substantially diminished in value by any act or  
213 omission of the person in possession of the property; or



228352

214 5. Has been commingled with any property that cannot be  
215 divided without difficulty.

216 (k)1. Property may not be forfeited under this section  
217 unless the council establishes by a preponderance of the  
218 evidence that the owner knew, or should have known after a  
219 reasonable inquiry, that the property was being employed or was  
220 likely to be employed in criminal activity.

221 2. A bona fide lienholder's interest that has been  
222 perfected in the manner prescribed by law may not be forfeited  
223 under this section unless the council establishes by a  
224 preponderance of the evidence that the lienholder had actual  
225 knowledge at the time the lien was made that the property was  
226 being employed or was likely to be employed in criminal  
227 activity. If a lienholder's interest is not subject to  
228 forfeiture under the requirements of this section, such interest  
229 shall be preserved by the court by ordering the lienholder's  
230 interest to be paid as provided in s. 932.7055.

231 3. Property titled or registered between husband and wife  
232 jointly by the use of the conjunctives "and," "and/or," or "or,"  
233 in the manner prescribed by law are not subject to forfeiture  
234 under this section unless the council establishes by a  
235 preponderance of the evidence that the coowner either knew or  
236 had reason to know, after reasonable inquiry, that such property  
237 was employed or was likely to be employed in criminal activity.

238 (l) The court's final order of forfeiture shall perfect in  
239 the council right, title, and interest in and to such property,  
240 subject only to the rights and interests of bona fide  
241 lienholders, and, if applicable, shall relate back to the date  
242 of seizure or the date of filing of the civil forfeiture action.



228352

243       (m) Any interest in, title to, or right to property titled  
244 or registered jointly by the use of the conjunctives "and,"  
245 "and/or," or "or" held by a coowner, other than property held  
246 jointly between husband and wife, may not be forfeited unless  
247 council establishes by a preponderance of the evidence that the  
248 coowner either knew, or had reason to know, after reasonable  
249 inquiry, that the property was employed or was likely to be  
250 employed in criminal activity. When the interests of each  
251 culpable coowner are forfeited, any remaining coowners shall be  
252 afforded the opportunity to purchase the forfeited interest in,  
253 title to, or right to the property from the council. If any  
254 remaining coowner does not purchase such interest, the council  
255 may hold the property in coownership, sell its interest in the  
256 property, liquidate its interest in the property, or dispose of  
257 its interest in the property in any other reasonable manner.

258       (n) Following an order of forfeiture to the council,  
259 subject only to the rights and interests of bona fide  
260 lienholders, the forfeited property, or the proceeds from the  
261 sale of such forfeited property, shall be transferred to the  
262 trust fund. The council must sell the property at public auction  
263 or by sealed bid to the highest bidder, except for real  
264 property, which must be sold in a commercially reasonable manner  
265 after appraisal by listing on the market, or salvage, trade, or  
266 transfer the property to any public or nonprofit organization.  
267 The council shall destroy any image and the medium on which the  
268 image is recorded, including, but not limited to, a photograph,  
269 video tape, diskette, compact disc, or fixed disk made in  
270 violation of s. 810.145 when the image and the medium on which  
271 it is recorded is no longer needed for an official purpose. The





228352

272 council may not sell or retain any image. If the forfeited  
273 property is subject to a lien preserved by the court, the  
274 council shall sell the property with the proceeds being used  
275 toward satisfaction of any liens or satisfy the lien before  
276 taking any action authorized by this subsection.

277 (o) If a claimant prevails at the conclusion of a  
278 forfeiture proceeding involving property seized by a law  
279 enforcement agency and the council decides not to appeal, any  
280 seized property must be released immediately to the person  
281 entitled to possession of the property as determined by the  
282 court. Under such circumstances, the seizing agency may not  
283 assess any towing charges, storage fees, administrative costs,  
284 or maintenance costs against the claimant with respect to the  
285 seized property or forfeiture proceeding.

286 (p) If a claimant prevails at the conclusion of a  
287 forfeiture proceeding involving seized property, the trial court  
288 shall require the seizing agency to pay to the claimant the  
289 reasonable loss of value of the seized property. If a claimant  
290 prevails at trial or on appeal and the seizing agency retained  
291 the seized property during the trial or appellate process, the  
292 trial court must also require the seizing agency to pay to the  
293 claimant any loss of income directly attributed to the continued  
294 seizure of income-producing property during the trial or  
295 appellate process. If the claimant prevails on appeal, the  
296 seizing agency must immediately release the seized property to  
297 the person entitled to possession of the property as determined  
298 by the court and pay any cost as assessed by the court, and may  
299 not assess any towing charges, storage fees, administrative  
300 costs, or maintenance costs against the claimant with respect to



228352

301 the seized property or the forfeiture proceeding. However,  
302 release of the seized property is not required if the seizing  
303 agency has a pending forfeiture action as described in paragraph  
304 (d).

305 (q) If the claimant prevails, at the conclusion of  
306 forfeiture proceedings and any appeal, the court must award  
307 reasonable attorney fees and costs to the claimant if the court  
308 finds that the council has not proceeded in good faith. The  
309 court may order the council to pay the awarded attorney fees and  
310 costs from the trust fund. This subsection does not preclude any  
311 party from electing to seek attorney fees and costs under  
312 chapter 57 or other applicable law.

313 (4) STATUTE OF LIMITATIONS.—There is no statute of  
314 limitations for actions brought pursuant to this section.

315 Section 4. Section 787.064, Florida Statutes, is created to  
316 read:

317 787.064 Compensation from the Trust Fund for Victims of  
318 Human Trafficking and Prevention.—

319 (1) The council shall establish a program for compensation  
320 of victims of human trafficking. The council shall establish an  
321 application form and procedures for application. Information  
322 about the program must be posted on the Department of Legal  
323 Affairs' website. The council may choose to accept applications  
324 electronically. Applications for compensation must be made  
325 available in English, Spanish, and Creole.

326 (2) Up to 20 percent of all proceeds received from  
327 forfeiture actions shall be set aside for the program. If the  
328 funds available for the program at any time exceed \$2 million,  
329 the set asides shall be discontinued and may not be resumed



228352

330 until the fund balance is reduced to less than \$1 million by  
331 disbursement made under this section.

332 (3) A victim of human trafficking may apply to the council  
333 for compensation under this section within 7 years of the end of  
334 the human trafficking. If the victim is a minor, regardless of  
335 when the human trafficking on which the application is made  
336 occurred, application may be made by her or his parent or legal  
337 guardian if the victim is under 18 years of age or by the victim  
338 within 3 years after turning 18 years of age.

339 (4) Compensation may not be granted unless the council  
340 finds that the applicant was a victim of human trafficking.  
341 Compensation shall be granted on an actual need basis.  
342 Compensation may not be denied based on the victim's familial  
343 relationship to the trafficker or facilitator, except to prevent  
344 unjust enrichment of the trafficker or facilitator.

345 (5) Compensation made under this section is considered  
346 payment of last resort which follows all other sources. Any  
347 compensation shall be reduced by the amount of any other  
348 payments received or to be received by the victim as a result of  
349 the human trafficking.

350 (6) Compensation may not exceed \$10,000 for a victim of  
351 human trafficking. Regardless of the number of victims applying,  
352 payments for compensation are limited in the aggregate to  
353 \$100,000 against any one trafficker or facilitator. If the total  
354 applied for by victims exceeds the aggregate limit of \$100,000,  
355 the council shall prorate the compensation based upon the actual  
356 need of the victims to the total applied for.

357 (7) Compensation may not be distributed before the  
358 expiration of 2 years after the date any victim is found by the



228352

359 council to be approved for compensation under this section. If,  
360 during this 2-year period, more than one claim is made against  
361 the same trafficker or facilitator, the eligible payments shall  
362 be prorated as described in subsection (6). If no additional  
363 claims are made, the compensation may be distributed to the  
364 victim. Compensation shall be distributed from the set asides in  
365 the trust fund.

366 (8) If a victim receives compensation in excess of the  
367 amount authorized in this section, the victim shall reimburse  
368 the trust fund for any excess amount within 60 days after the  
369 victim receives it or 60 days after the compensation is  
370 determined to be in excess of that authorized by law, whichever  
371 is later.

372 (9) If at any time the funds in the set asides of the trust  
373 fund are insufficient to satisfy any approved compensation, the  
374 council shall satisfy such undistributed compensation or portion  
375 thereof as soon as a sufficient amount of funds have been set  
376 aside for the program. When there is more than one undistributed  
377 compensation outstanding, such compensation shall be paid in the  
378 order in which the compensation was approved by the council.

379 (10) Compensation granted final approval by the council is  
380 not subject to appeal or to any other pending proceeding.

381 (11) The council shall establish rules, guidelines, and an  
382 implementation plan and shall file a copy, and any subsequent  
383 amendments thereto, with the Department of Legal Affairs when  
384 adopted.

385 Section 5. Section 787.065, Florida Statutes, is created to  
386 read:

387 787.065 Annual Report of the Civil Action for Victims of



228352

388 Human Trafficking and Prevention of Human Trafficking Act.—The  
389 council shall issue an annual report no later than October 1 of  
390 each year to the President of the Senate and the Speaker of the  
391 House of Representatives detailing for the prior fiscal year all  
392 of the following:

393 (1) The status of the trust fund.

394 (2) Any actions and outcomes under s. 787.063.

395 (3) Whether the council has received forfeited property  
396 under s. 787.063. At a minimum the report must specify the type,  
397 approximate value, court case number, disposition of the  
398 property received, and amount of any proceeds received or  
399 expended.

400 (4) Information about the compensation program.

401 (5) Any information that demonstrates the council's  
402 fulfillment of the purposes of the trust fund during the prior  
403 fiscal year.

404 Section 6. Paragraph (f) is added to subsection (4) of  
405 section 16.617, Florida Statutes, to read:

406 16.617 Statewide Council on Human Trafficking; creation;  
407 membership; duties.—

408 (4) DUTIES.—The council shall:

409 (f) Perform the functions and duties as provided in ss.  
410 787.061-787.066 and administer the Florida Compensation Trust  
411 Fund for Survivors of Human Trafficking as created in s.  
412 787.0611.

413 Section 7. For the 2017-2018 fiscal year, the sums of  
414 \$153,000 in recurring funds and \$29,000 in nonrecurring funds  
415 from the Crimes Compensation Trust Fund are appropriated to the  
416 Department of Legal Affairs, and three full-time equivalent



417 positions are authorized, for the purpose of implementing this  
418 act.

419 Section 8. This act shall take effect October 1, 2017.

420

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

422 And the title is amended as follows:

423 Delete everything before the enacting clause  
424 and insert:

425 A bill to be entitled

426 An act relating to victims of human trafficking;  
427 creating s. 787.061, F.S.; providing a short title;  
428 creating s. 787.062, F.S.; defining terms; creating s.  
429 787.063, F.S.; providing legislative findings;  
430 creating a civil cause of action for victims of human  
431 trafficking, or for the Statewide Council on Human  
432 Trafficking on their behalves, against a trafficker or  
433 facilitator; providing procedures and requirements for  
434 bringing a claim; requiring a court to impose a civil  
435 penalty against a defendant if a victim, or the  
436 council on the victim's behalf, prevails; requiring a  
437 court to impose a civil penalty and award it equitably  
438 to one or more law enforcement agencies under certain  
439 circumstances; authorizing the council to file a civil  
440 forfeiture action for the council's benefit; requiring  
441 that proceeds from civil forfeiture be deposited into  
442 the Trust Fund for Victims of Human Trafficking and  
443 Prevention; providing procedures and requirements for  
444 civil forfeiture actions; providing that such actions  
445 are not subject to a statute of limitations; creating



228352

446 s. 787.064, F.S.; requiring the council to establish a  
447 program for the compensation of victims of human  
448 trafficking; requiring the council to establish an  
449 application form and procedures for application;  
450 requiring that applications be made available in  
451 certain languages; providing procedures and  
452 requirements for the program for compensating victims  
453 and the administration of funds; providing for  
454 rulemaking; creating s. 787.065, F.S.; requiring the  
455 council to issue an annual report to the Legislature  
456 which includes specified information, by a specified  
457 date; amending s. 16.617, F.S.; adding functions and  
458 duties for the council; providing for administration  
459 of the trust fund by the council; providing  
460 appropriations; providing an effective date.



176364

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2017	.	
	.	
	.	
	.	

---

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

1       **Senate Substitute for Amendment (228352) (with title**  
2 **amendment)**

3  
4       Delete everything after the enacting clause  
5 and insert:

6       Section 1. Section 787.061, Florida Statutes, is created to  
7 read:

8       787.061 Short title.—Sections 787.061–787.065 may be cited  
9 as the “Civil Action for Victims of Human Trafficking and  
10 Prevention of Human Trafficking Act.”





176364

11 Section 2. Section 787.062, Florida Statutes, is created to  
12 read:

13 787.062 Definitions for the Civil Action for Victims of  
14 Human Trafficking and Prevention of Human Trafficking Act.—As  
15 used in ss. 787.061-787.065 the term:

16 (1) "Council" means the Statewide Council on Human  
17 Trafficking within the Department of Legal Affairs, as created  
18 in s. 16.617.

19 (2) "Facilitator" means a person who knowingly, or in  
20 willful blindness, assists or provides goods or services to a  
21 trafficker which assist or enable the trafficker to carry out  
22 human trafficking.

23 (3) "Human trafficking" has the same meaning as provided in  
24 s. 787.06.

25 (4) "Trafficker" means any person who knowingly engages in  
26 human trafficking, attempts to engage in human trafficking, or  
27 benefits financially by receiving anything of value from  
28 participation in a venture that has subjected a person to human  
29 trafficking.

30 (5) "Trust fund" means the Trust Fund for Victims of Human  
31 Trafficking and Prevention created in s. 787.0611.

32 (6) "Venture" means any group of two or more individuals  
33 associated in fact, whether or not a legal entity.

34 (7) "Victim of human trafficking" means a person subjected  
35 to coercion, as defined in s. 787.06, for the purpose of being  
36 used in human trafficking, a child under 18 years of age  
37 subjected to human trafficking, or an individual subjected to  
38 human trafficking as defined by federal law.

39 (8) "Willful blindness" occurs when a person's suspicions



176364

40 are aroused about a particular fact and, while he or she  
41 realizes its probability, he or she deliberately refrains from  
42 obtaining confirmation of or acting on the fact because he or  
43 she wants to remain in ignorance, such that knowledge of the  
44 fact avoided can reasonably and fairly be imputed to the person  
45 who avoided confirming it.

46 Section 3. Section 787.063, Florida Statutes, is created to  
47 read:

48 787.063 Civil action for victims of human trafficking.—

49 (1) FINDINGS.—The Legislature finds that, to achieve the  
50 state's goals relating to human trafficking set forth in s.  
51 787.06(1)(d), it is necessary to provide a civil cause of action  
52 for the recovery of compensatory and punitive damages.

53 (2) CIVIL CAUSE OF ACTION.—

54 (a) A victim of human trafficking has a civil cause of  
55 action against the trafficker or facilitator of human  
56 trafficking who victimized her or him, and may recover damages  
57 for such victimization as provided in this section.

58 (b) The council, with the consent of the victim, may bring  
59 a civil cause of action against a trafficker or facilitator of  
60 human trafficking who victimizes a person in this state.

61 (c) If the council prevails in any action, the trust fund  
62 shall hold moneys awarded to the victim for distribution to the  
63 victim or her or his parent, legal guardian, or estate. However,  
64 if the victim's parent or legal guardian knowingly, or through  
65 willful blindness, participated in the human trafficking, such  
66 person is not entitled to any distribution or benefit from the  
67 trust fund. If there is no person or estate to appropriately  
68 receive the funds, they must remain in the trust fund and be



69 used for purposes of the trust fund, as described in s.  
70 787.0611.

71 (d) The action may be brought in any court of competent  
72 jurisdiction and the standard of proof is a preponderance of the  
73 evidence.

74 (e) A victim, or the council on behalf of the victim, who  
75 prevails in any such action is entitled to recover economic and  
76 noneconomic damages, penalties, punitive damages, reasonable  
77 attorney fees, reasonable investigative expenses, and costs.

78 1. The measure of economic damages for services or labor  
79 coerced from the victim of human trafficking shall be the  
80 greater of the fair market value of the labor or services  
81 provided or the amount realized by the trafficker. For purposes  
82 of this subparagraph, the terms "labor" and "services" have the  
83 same meanings as provided in s. 787.06.

84 2. The measure of economic damages for every day that the  
85 human trafficking was ongoing shall be calculated as a daily  
86 amount of the compensation payable to a person under s.  
87 961.06(1)(a).

88 3. Economic damages also include past and future medical  
89 and mental health expenses; repatriation expenses, when a victim  
90 elects repatriation; and all other reasonable costs and expenses  
91 incurred by the victim in the past or estimated to be incurred  
92 by the victim in the future as a result of the human  
93 trafficking.

94 4. Noneconomic damages shall be calculated as in a tort  
95 action.

96 (f) The remedies provided in this section are in addition  
97 to and cumulative with other legal and administrative remedies



176364

98 available to victims of human trafficking, except that a victim  
99 may not recover under both this section and s. 772.104(2).

100 (g) If a victim or the council, on behalf of the victim,  
101 prevails in an action under this section, in addition to any  
102 other award imposed, the court must award a civil penalty  
103 against the defendant in the amount of \$100,000. This penalty is  
104 in addition to, and not in lieu of, any other damage award. The  
105 civil penalty must be assessed by the court and may not be  
106 disclosed to the jury. Proceeds from the civil penalty must be  
107 deposited into the trust fund.

108 (h) If one or more law enforcement agencies rescued the  
109 victim or located the property upon which the abuse or  
110 exploitation of a victim or victims had occurred, the court must  
111 impose a civil penalty against the defendant in the amount of  
112 \$50,000 and award the penalty to the law enforcement agencies to  
113 fund future efforts to combat human trafficking. The court must  
114 equitably distribute the civil penalty among the law enforcement  
115 agencies.

116 (i) The court shall have specific authority to consolidate  
117 civil actions for the same trafficker or facilitator for the  
118 purpose of case resolution and aggregate jurisdiction.

119 (3) STATUTE OF LIMITATIONS.—There is no statute of  
120 limitations for actions brought pursuant to this section.

121 Section 4. Section 787.064, Florida Statutes, is created to  
122 read:

123 787.064 Annual Report of the Civil Action for Victims of  
124 Human Trafficking and Prevention of Human Trafficking Act.—The  
125 council shall issue an annual report no later than October 1 of  
126 each year to the President of the Senate and the Speaker of the



176364

127 House of Representatives detailing for the prior fiscal year all  
128 of the following:

129 (1) The status of the trust fund.

130 (2) Any actions and outcomes under s. 787.063.

131 (3) Any information that demonstrates the council's  
132 fulfillment of the purposes of the trust fund during the prior  
133 fiscal year.

134 Section 5. Paragraph (f) is added to subsection (4) of  
135 section 16.617, Florida Statutes, to read:

136 16.617 Statewide Council on Human Trafficking; creation;  
137 membership; duties.—

138 (4) DUTIES.—The council shall:

139 (f) Perform the functions and duties as provided in ss.  
140 787.061-787.065 and administer the Florida Compensation Trust  
141 Fund for Survivors of Human Trafficking as created in s.  
142 787.0611.

143 Section 6. For the 2017-2018 fiscal year, the sums of  
144 \$153,000 in recurring funds and \$29,000 in nonrecurring funds  
145 from the Crimes Compensation Trust Fund are appropriated to the  
146 Department of Legal Affairs, and three full-time equivalent  
147 positions are authorized, for the purpose of implementing this  
148 act.

149 Section 7. This act shall take effect October 1, 2017.

150  
151 ===== T I T L E A M E N D M E N T =====

152 And the title is amended as follows:

153 Delete everything before the enacting clause  
154 and insert:

155 A bill to be entitled



176364

156 An act relating to victims of human trafficking;  
157 creating s. 787.061, F.S.; providing a short title;  
158 creating s. 787.062, F.S.; defining terms; creating s.  
159 787.063, F.S.; providing legislative findings;  
160 creating a civil cause of action for victims of human  
161 trafficking, or for the Statewide Council on Human  
162 Trafficking on their behalves, against a trafficker or  
163 facilitator; providing procedures and requirements for  
164 bringing a claim; requiring a court to impose a civil  
165 penalty against a defendant if a victim, or the  
166 council on the victim's behalf, prevails; requiring a  
167 court to impose a civil penalty and award it equitably  
168 to one or more law enforcement agencies under certain  
169 circumstances; providing that such actions are not  
170 subject to a statute of limitations; creating s.  
171 787.064, F.S.; requiring the council to issue an  
172 annual report to the Legislature which includes  
173 specified information, by a specified date; amending  
174 s. 16.617, F.S.; adding functions and duties for the  
175 council; providing for administration of the trust  
176 fund by the council; providing appropriations;  
177 providing an effective date.



129704

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/17/2017	.	
	.	
	.	
	.	

---

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

1           **Senate Amendment to Substitute Amendment (176364) (with**  
2 **title amendment)**

3  
4           Between lines 5 and 6  
5 insert:

6           Section 1. Section 775.211, Florida Statutes, is created to  
7 read:

8           775.211 Subpoenas in investigations of sexual offenses.—

9           (1) AUTHORIZATION FOR ISSUANCE OF SUBPOENA.—

10           (a)1. In an investigation of an offense involving the



129704

11 sexual exploitation or abuse of a child, an offense involving an  
12 unregistered sex offender, or an offense meeting the criteria  
13 specified for designation as a sexual predator under s. 775.21,  
14 a law enforcement agency may issue in writing and serve a  
15 subpoena requiring the production of records and things and  
16 testimony described in subparagraph 2.

17 2. Except as provided in subparagraph 3., a subpoena issued  
18 under subparagraph 1. may require the production by their  
19 custodian of any records or things relevant to the investigation  
20 and testimony concerning their production and authenticity.

21 3. A subpoena issued under subparagraph 1. to a provider of  
22 electronic communication services or remote computing services  
23 in the course of an investigation of an offense involving the  
24 sexual exploitation or abuse of a child may not extend beyond  
25 requiring the provider to disclose the information specified in  
26 s. 775.21, which may be relevant to an authorized law  
27 enforcement inquiry, or requiring the provider's custodian of  
28 the records to give testimony concerning the production and  
29 authentication of such records or information.

30 4. As used in this paragraph, the term "sex offender" means  
31 a person who has been convicted of committing, or attempting,  
32 soliciting, or conspiring to commit, any of the following  
33 criminal offenses in this state or similar offenses in another  
34 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.  
35 787.02, or s. 787.025(2)(c), when the victim is a minor; s.  
36 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.  
37 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;  
38 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s.  
39 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.





129704

40 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court  
41 makes a written finding that the racketeering activity involved  
42 at least one sexual offense listed in this subparagraph or at  
43 least one offense listed in this subparagraph with sexual intent  
44 or motive; s. 916.1075(2); or s. 985.701(1).

45 (b) A subpoena issued under this subsection must describe  
46 the records or things required to be produced and prescribe a  
47 date by which the records or things must be made available.

48 (c) A witness subpoenaed under this subsection must be paid  
49 the same fees and mileage that are paid to a witness in the  
50 courts of this state.

51 (d) At any time before the return date specified in the  
52 summons, the person or entity summoned, in the court having  
53 jurisdiction over such person or investigation, may petition for  
54 an order modifying or setting aside the summons or a prohibition  
55 on disclosure under paragraph (e).

56 (e)1. If a subpoena issued under this subsection is  
57 accompanied by a certification under this subparagraph and  
58 notice of the right to judicial review under subparagraph 3.,  
59 the recipient of the subpoena may not disclose to any person for  
60 a period of 180 days that the law enforcement agency that issued  
61 the subpoena has sought or obtained access to information or  
62 records under this section. The law enforcement agency that  
63 issues the subpoena may request such certification by certifying  
64 to the court that the absence of a prohibition on disclosure may  
65 result in:

66 a. Endangering the life or physical safety of an  
67 individual;

68 b. Flight from prosecution;



129704

69       c. Destruction of or tampering with evidence;  
70       d. Intimidation of potential witnesses; or  
71       e. Seriously jeopardizing an investigation or unduly  
72 delaying a trial.

73       2.a. A recipient of a subpoena issued under this subsection  
74 may disclose information otherwise subject to any applicable  
75 nondisclosure requirement to persons as necessary to comply with  
76 the request, to an attorney in order to obtain legal advice or  
77 assistance regarding the request, or to other persons as allowed  
78 by the law enforcement agency that issued the subpoena.

79       b. A person to whom disclosure is made under sub-  
80 paragraph a. is subject to the nondisclosure requirements  
81 applicable to a person to whom a subpoena is issued under this  
82 subsection in the same manner as the person to whom the subpoena  
83 was issued.

84       c. Any recipient who discloses to a person described in  
85 sub-subparagraph a. information otherwise subject to a  
86 nondisclosure requirement shall notify that person of the  
87 applicable nondisclosure requirement.

88       d. At the request of the law enforcement agency that issued  
89 the subpoena, any person making or intending to make a  
90 disclosure under sub-subparagraph a. to a person other than an  
91 attorney shall identify to the law enforcement agency the person  
92 to whom such disclosure has been or will be made.

93       3. A nondisclosure requirement imposed under subparagraph  
94 1. is subject to judicial review under subsection (5). A  
95 subpoena issued under this subsection in connection with a  
96 nondisclosure requirement imposed under subparagraph 1. must  
97 include notice of the availability of such judicial review. Such



129704

98 nondisclosure requirement may be extended in accordance with  
99 subsection (5).

100 (f) A summons issued under this subsection may not compel  
101 the production of anything that would be protected from  
102 production under the standards applicable to a subpoena duces  
103 tecum issued by a court of this state.

104 (g) If a case or proceeding does not arise from the  
105 production of records or other things pursuant to this  
106 subsection within a reasonable time after those records or  
107 things are produced, the agency to which those records or things  
108 were delivered shall, upon written demand made by the person who  
109 produced them, return them to that person, unless the materials  
110 produced were copies rather than originals.

111 (h) A subpoena issued under paragraph (a) for an  
112 unregistered sex offender may require production as soon as  
113 possible, but must allow the recipient at least 24 hours after  
114 service of the subpoena to produce.

115 (2) SERVICE.—A subpoena issued under subsection (1) may be  
116 served by any person who is at least 18 years of age and  
117 designated in the subpoena to serve it. Service upon an  
118 individual may be made by personal delivery. Service may be made  
119 on a domestic or foreign corporation or on a partnership or  
120 other unincorporated association that is subject to suit under a  
121 common name by delivering the subpoena to an officer, a managing  
122 or general agent, or any other agent authorized by appointment  
123 or by law to receive service of process. The affidavit of the  
124 person serving the subpoena entered on a true copy of the  
125 subpoena is proof of service.

126 (3) ENFORCEMENT.—In the case of contumacy by or refusal to



129704

127 comply with a subpoena, the law enforcement agency that issued  
128 the subpoena may petition a court that has jurisdiction of the  
129 investigation or over the person subpoenaed, or in which he or  
130 she conducts business or may be found, to compel compliance. The  
131 court may issue an order requiring the subpoenaed person to  
132 appear before the law enforcement agency to produce records or  
133 to give testimony concerning the production and authentication  
134 of such records. Any failure to obey the order of the court may  
135 be punished by the court as contempt. All process in any such  
136 case may be served in any judicial district in which such person  
137 is located.

138 (4) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any  
139 other law, a person subpoenaed under this section who complies  
140 in good faith with the subpoena and produces the materials  
141 sought is not liable in any court within the state to any  
142 customer or other person for such production or for  
143 nondisclosure of that production.

144 (5) JUDICIAL REVIEW OF NONDISCLOSURE REQUIREMENTS.—

145 (a) Nondisclosure order.—

146 1. If a recipient of a subpoena under this section wishes  
147 to have a court review a nondisclosure requirement imposed in  
148 connection with the subpoena, the recipient may notify the law  
149 enforcement agency or file a petition for judicial review with  
150 the issuing court.

151 2. No later than 30 days after the date of receipt of a  
152 notification under subparagraph 1., the law enforcement agency  
153 shall apply for an order prohibiting the disclosure of the  
154 existence or contents of the relevant subpoena. An application  
155 under this subparagraph may be filed with the district court of



129704

156 appeal for the judicial district in which the recipient of the  
157 subpoena is doing business or with the district court of appeal  
158 for any judicial district within which the authorized  
159 investigation that is the basis for the subpoena is being  
160 conducted. The applicable nondisclosure requirement shall remain  
161 in effect during the pendency of any related proceeding.

162 3. A district court of appeal that receives a petition  
163 under subparagraph 1. or an application under subparagraph 2.  
164 must rule expeditiously, and shall, in accordance with paragraph  
165 (c), issue a nondisclosure order that includes conditions  
166 appropriate to the circumstances.

167 (b) Application contents.—An application for a  
168 nondisclosure order, or an extension thereof, or a response to a  
169 petition must include the certification required under  
170 subparagraph (1)(e)1.

171 (c) Standard.—A district court of appeal shall issue a  
172 nondisclosure order, or an extension thereof, under this  
173 subsection if the court determines that there is reason to  
174 believe that disclosure of the information subject to the  
175 nondisclosure requirement during the applicable time period may  
176 result in:

177 1. Endangering the life or physical safety of an  
178 individual;

179 2. Flight from prosecution;

180 3. Destruction of or tampering with evidence;

181 4. Intimidation of potential witnesses; or

182 5. Seriously jeopardizing an investigation or unduly  
183 delaying a trial.

184 (d) Extension.—Upon a showing that a circumstance described



129704

185 in any of subparagraphs (c)1.-(c)5. continues to exist, a  
186 district court of appeal may issue an ex parte order extending a  
187 nondisclosure order imposed under this subsection for additional  
188 180-day periods or, if the court determines that the  
189 circumstances necessitate a longer period of nondisclosure, for  
190 additional periods that are longer than 180 days.

191 (e) Closed hearings.-In all proceedings under this  
192 subsection, subject to any right to an open hearing in a  
193 contempt proceeding, the court shall close any hearing to the  
194 extent necessary to prevent the unauthorized disclosure of a  
195 request for records, a report, or other information made to any  
196 person or entity under this section. Petitions, filings,  
197 records, orders, certifications, and subpoenas must be kept  
198 under seal to the extent and length of time necessary to prevent  
199 the unauthorized disclosure of a subpoena under this section.

200  
201 ===== T I T L E A M E N D M E N T =====

202 And the title is amended as follows:

203 Delete line 156

204 and insert:

205 An act relating to exploitation and abuse; creating s.  
206 775.211, F.S.; authorizing a law enforcement agency to  
207 issue and serve a subpoena in an investigation of an  
208 offense involving the sexual exploitation or abuse of  
209 a child, an offense involving an unregistered sex  
210 offender, or other specified offenses; specifying and  
211 limiting the scope of production under the subpoena;  
212 defining the term "sex offender"; requiring the  
213 payment of fees and mileage to a subpoenaed witness;



214 authorizing a person who is the subject of a summons  
215 to petition for an order modifying or setting aside  
216 the summons or a prohibition on disclosure  
217 accompanying the summons; prohibiting the recipient of  
218 a subpoena from disclosing its contents to another  
219 person under certain circumstances; providing  
220 exceptions; specifying requirements regarding the  
221 nondisclosure of information; providing that  
222 nondisclosure requirements are subject to judicial  
223 review and that subpoenas issued under a nondisclosure  
224 certification must include notice of the availability  
225 of judicial review; requiring the return of produced  
226 records under certain circumstances; requiring that  
227 certain recipients of such a subpoena be allowed at  
228 least a specified amount of time to produce records;  
229 specifying requirements for service of the subpoena;  
230 authorizing the issuer of the subpoena to seek  
231 enforcement of the subpoena in a court of competent  
232 jurisdiction; authorizing a court to punish  
233 noncompliance with an order as contempt; providing  
234 immunity from liability for the good faith compliance  
235 with such a subpoena; specifying the procedure for  
236 filing for judicial review of a nondisclosure  
237 requirement imposed in connection with a subpoena;  
238 requiring the law enforcement agency to apply for a  
239 nondisclosure order within a specified timeframe after  
240 receipt of notification of a filing for judicial  
241 review; requiring a district court of appeal to rule  
242 expeditiously on such filing; requiring an application



129704

243 for a nondisclosure order to include the law  
244 enforcement agency's certification as to possible  
245 results of disclosure; requiring the district court of  
246 appeal to issue a nondisclosure order, or an extension  
247 thereof, under certain circumstances; specifying  
248 circumstances under which a district court of appeal  
249 may issue an extension for a specified period;  
250 requiring a court to close any hearing and seal  
251 records to prevent the disclosure of specified  
252 information or records;



By Senator Bracy

11-00683-17

2017972\_\_

1 A bill to be entitled  
 2 An act relating to human trafficking; creating s.  
 3 787.061, F.S.; providing a short title; providing  
 4 Legislative findings and intent; defining terms;  
 5 creating a civil cause of action for minors who are  
 6 victims of human trafficking; authorizing such minors  
 7 to recover actual and punitive damages; authorizing  
 8 the seizure and forfeiture of personal and real  
 9 property used in human trafficking; providing for  
 10 recovery by a prevailing victim or the Florida  
 11 Compensation Trust Fund for Survivors of Human  
 12 Trafficking of attorney fees, investigative expenses,  
 13 court costs, economic and noneconomic damages,  
 14 forfeited personal and real property, and other  
 15 applicable civil penalties; requiring the court to  
 16 impose specified civil penalties in certain  
 17 circumstances; making personal or real property of  
 18 certain persons subject to civil forfeiture upon  
 19 disposition of certain leases, mortgages, or liens;  
 20 requiring the Governor to appoint an administrator and  
 21 a panel to evaluate and pay claims; requiring the  
 22 trust fund administrator to establish guidelines and  
 23 prepare and submit to the Governor an implementation  
 24 plan; requiring the Executive Office of the Governor  
 25 to issue an annual report on the compliance of the  
 26 trust fund with its duties; requiring that  
 27 applications for compensation be made available in at  
 28 least English and Spanish; requiring closed hearings  
 29 and the redaction or sealing of personal identifying

Page 1 of 6

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

11-00683-17

2017972\_\_

30 information of the victim, upon the victim's request;  
 31 providing that there is no statute of limitation for  
 32 bringing an action; providing an effective date.  
 33  
 34 Be It Enacted by the Legislature of the State of Florida:  
 35  
 36 Section 1. Section 787.061 Florida Statutes, is created to  
 37 read:  
 38 787.061 Human trafficking; civil action.-  
 39 (1) SHORT TITLE.-This section shall be known and may be  
 40 cited as the "Civil Action Against Human Trafficking of Minors  
 41 and Survivors Compensation Fund Act."  
 42 (2) LEGISLATIVE FINDINGS.-The Legislature finds that in  
 43 order to achieve the goals relating to human trafficking  
 44 expressed in s. 787.06(1)(d), it is necessary to provide a civil  
 45 cause of action for the recovery of compensatory and punitive  
 46 damages and for the civil seizure and forfeiture of the personal  
 47 and real property used by those who engage in the human  
 48 trafficking of minors for sex or labor and those who either  
 49 knowingly or through willful blindness receive profit from or  
 50 otherwise receive direct or indirect economic benefits from such  
 51 trafficking.  
 52 (3) LEGISLATIVE INTENT.-In order to combat the practice of  
 53 human trafficking, it is the intent of the Legislature to create  
 54 a civil cause of action for the minors who are victims of human  
 55 trafficking and to establish the Florida Compensation Trust Fund  
 56 for Survivors of Human Trafficking.  
 57 (4) DEFINITIONS.-As used in this section, the term:  
 58 (a) "Facilitate" or "facilitator" means assisting or

Page 2 of 6

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

11-00683-17

2017972\_\_

59 providing services to a human trafficker which assist or enable  
 60 a trafficker to carry out human trafficking activities, or one  
 61 who provides such assistance or provides such services.

62 (b) "Human trafficking" has the same meaning as provided in  
 63 s. 787.06(2).

64 (c) "Trafficker" or "human trafficker" means any person who  
 65 knowingly, or in reckless disregard of the facts, engages in  
 66 human trafficking of a minor, attempts to engage in human  
 67 trafficking of a minor, or benefits financially by receiving  
 68 anything of value from participation in a venture that has  
 69 subjected a minor to human trafficking.

70 (d) "Trust fund" refers to the Florida Compensation Trust Fund  
 71 for Survivors of Human Trafficking.

72 (e) "Willful blindness" occurs when a person's suspicions  
 73 are aroused and he or she realizes the probability that his or  
 74 her suspicions are well founded, but the person deliberately  
 75 refrains from obtaining confirmation of or acting on his or her  
 76 suspicions because he or she wants to remain in ignorance, when  
 77 knowledge of the suspected activity can be reasonably and fairly  
 78 imputed to such person.

79 (5) CIVIL CAUSE OF ACTION.—

80 (a) A minor who has been a victim of human trafficking has  
 81 a civil cause of action against the trafficker or facilitator of  
 82 human trafficking who victimized the minor and may recover  
 83 actual and punitive damages for such victimization, and may  
 84 seize and have forfeited the personal and real property of such  
 85 trafficker or facilitator used in such trafficking.

86 1. A civil action may be brought by any minor who has been  
 87 the victim of human trafficking, by the parent or guardian of

11-00683-17

2017972\_\_

88 the minor, by a person or entity acting on behalf of the minor  
 89 with the consent of the minor or his or her guardian, or by the  
 90 personal representative of the estate of a deceased victim who  
 91 was a minor.

92 2. A civil action may be brought by a licensed attorney in  
 93 good standing with The Florida Bar, on behalf of and for the  
 94 benefit of the Florida Compensation Trust Fund for Survivors of  
 95 Human Trafficking.

96 (b) A civil action may be brought in any court of competent  
 97 jurisdiction.

98 (c) A victim, or the trust fund on the victim's behalf, who  
 99 prevails in any such action by proving his or her case by the  
 100 greater weight of the evidence, is entitled to recover  
 101 reasonable attorney fees, reasonable investigative expenses,  
 102 court costs, economic and noneconomic damages, forfeited  
 103 personal and real property, and any other applicable civil  
 104 penalties.

105 (d) The remedies provided in this section are in addition  
 106 to and cumulative with other legal and administrative remedies  
 107 available to a victim of human trafficking.

108 (e) If a victim, or the trust fund on the victim's behalf,  
 109 prevails in any action brought under this section, in addition  
 110 to the verdict, the court shall impose a civil penalty against  
 111 the defendant in the amount of \$100,000 in favor of the  
 112 prevailing victim or the trust fund.

113 (f) In addition to a civil penalty imposed under paragraph  
 114 (e), if a law enforcement agency rescued the victim or located  
 115 the property upon which the abuse or exploitation of one or more  
 116 victims occurred, the court shall impose a civil penalty against

11-00683-17 2017972\_\_

117 the defendant in favor of the law enforcement agency in the  
 118 amount of \$50,000, which shall be used in support of the law  
 119 enforcement agency's future efforts to combat human trafficking.

120 (g) The personal or real property of a person who knowingly  
 121 or through willful blindness allowed his or her property to be  
 122 used to facilitate human trafficking is subject to civil  
 123 forfeiture. Subject only to the disposition of valid and lawful  
 124 leases or recorded mortgages or liens of innocent third parties  
 125 which were in effect before the date of the arrest of a  
 126 trafficker or perpetrator and the filing of the civil action,  
 127 the forfeited property shall be used or disposed of for the  
 128 benefit of the prevailing victim or the trust fund.

129 (h) The victim, or the trust fund on the victim's behalf,  
 130 is entitled to seize the personal and real property of  
 131 traffickers, perpetrators, and facilitators upon proving his or  
 132 her case by the greater weight of the evidence without having to  
 133 prove an actual amount of money damages of any individual victim  
 134 or victims.

135 (6) THE FLORIDA COMPENSATION TRUST FUND FOR SURVIVORS OF  
 136 HUMAN TRAFFICKING.-

137 (a) The Governor shall appoint the administrator of the  
 138 trust fund, created in s. 787.062, and a three-person panel to  
 139 fairly evaluate and pay compensation claims based upon the  
 140 individual circumstances of each victim and the availability of  
 141 current funds or future funds received.

142 (b) The trust fund administrator shall establish guidelines  
 143 and prepare and submit an implementation plan, and any  
 144 amendments to the plan, to the Governor.

145 (c) The Executive Office of the Governor shall prepare and

11-00683-17 2017972\_\_

146 issue an annual report on the compliance of the trust fund with  
 147 its duties.

148 (d) Applications for compensation must be made available in  
 149 at least English and in Spanish.

150 (7) COURT HEARINGS.-At the victim's request, court hearings  
 151 conducted pursuant to this section must be closed to the public  
 152 and any information in the court file and online docket which  
 153 identifies a victim of human trafficking must be redacted or  
 154 sealed.

155 (8) STATUTE OF LIMITATIONS.-There is no statute of  
 156 limitations for suits brought pursuant to this section.

157 Section 2. This act shall take effect July 1, 2017.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/17  
Meeting Date

972  
Bill Number (if applicable)

176364  
Amendment Barcode (if applicable)

Topic Human Trafficking

Name Nicole Whitaker

Job Title Attorney / Anti-human trafficking advocate

Address 909 East Park Ave

Phone 850-556-9413

Tallahassee, FL 32301  
City State Zip

Email

Speaking:  For  Against  Information

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

Representing Self

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)

4/17/2017  
Meeting Date

SB 972 970  
Bill Number (if applicable)  
176364  
Amendment Barcode (if applicable)

Topic Anti Human trafficking

Name Dean R. LeBoeuf

Job Title President Brooks & LeBoeuf

Address 909 E. Park Ave  
Street

Phone 858-222-2000

Tallahassee, FL 32301  
City State Zip

Email dean@tallahasseeattorneys.com

Speaking:  For  Against  Information

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

Representing self

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)

04/17/17

Meeting Date

972

Bill Number (if applicable)

129704

Amendment Barcode (if applicable)

Topic Human Trafficking / Child Exploitation

Name CJ Johnson

Job Title Deputy General Counsel

Address 2725 Center PL

Phone 321-501-9903

Street

Melbourne

FL

32940

Email CJohnson@cchampions.com

City

State

Zip

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

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

Representing Community Champions

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

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

04/17/17  
Meeting Date

972

Bill Number (if applicable)

129704

Amendment Barcode (if applicable)

Topic Relating to human trafficking

Name Rob vitaliano

Job Title Lieutenant

Address 700 S. Park Ave

Phone 321-264-5201

Street

Titusville

Fl.

32780

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

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

Representing Brevard County Sheriff's Office

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

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

---

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

---

BILL: CS/SB 1248

INTRODUCER: Criminal Justice Committee and Senator Steube

SUBJECT: Breach of the Peace

DATE: April 19, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon/Erickson	Hrdlicka	CJ	Fav/CS
2.			RC	

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1248 repeals s. 933.14(3), F.S.

Section 933.14(3), F.S., requires law enforcement to retain a pistol or firearm until a court orders its return when the pistol or firearm was taken either:

- Pursuant to a search warrant; or
- Without a search warrant upon a view by the officer of a breach of the peace.

The bill eliminates the statutory firearm retention requirement under both circumstances.

**II. Present Situation:**

**Firearms and Other Property Seized Pursuant to Search Warrants**

It is within the purview of the courts to issue search warrants, based upon probable cause, established to the judge's satisfaction in a sworn affidavit.<sup>1</sup> When a law enforcement officer executes a search warrant as part of the investigation of any crime, the officer may lawfully seize a pistol or a firearm if it is evidence contemplated within the four corners of the search warrant. Evidence seized pursuant to a search warrant must be returned to the judge for his or her inspection, along with a complete inventory of the items seized, within 10 days of the warrant's execution.<sup>2</sup>

---

<sup>1</sup> Sections 933.01, 933.02, 933.04, 933.06, and 933.07, F.S.; see also *Swartz v. State*, 316 So.2d 618 (Fla. 1st DCA 1975).

<sup>2</sup> Sections 933.05 and 933.12, F.S.



Whether seized pursuant to a search warrant or at the time of an arrest, evidence is generally retained by the investigating agency until the related criminal case is resolved by a trial, plea, dismissal by the court, or at the discretion of the prosecuting attorney. The evidence, which may include firearms, is retained in a secure manner by the agency until the related criminal case is over because of the possibility that the evidence will be presented at trial. Presentation at trial requires that the prosecutor can demonstrate the authenticity of the evidence and its connection to the case through a chain of custody of the evidence.

### **Return of Firearms and Other Property Seized Pursuant to a Search Warrant or Lawful Arrest**

Section 790.08(1), F.S., requires that “[e]very officer making an arrest under s. 790.07, or under any other law or municipal ordinance within the state, shall take possession of any weapons, electric weapons or devices, or arms mentioned in s. 790.07 found upon the person arrested and deliver them to the sheriff of the county, or the chief of police of the municipality wherein the arrest is made, who shall retain the same until after the trial of the person arrested.”<sup>3</sup>

Upon the conclusion of the criminal case when evidence retention becomes unnecessary, a firearm is returned to the owner unless he or she is convicted of a felony in the case, or the property is contraband.<sup>4</sup>

In situations where the firearm (or any property) is admitted in evidence during the trial of the case, the court must release the evidence from the court’s jurisdiction. Pistols or other firearms seized pursuant to a search warrant or during an arrest for breach of the peace require a court order for release.<sup>5</sup> In arrest cases, s. 790.08, F.S., provides that upon acquittal or dismissal of the charges, a person has 60 days to retrieve his or her firearm otherwise it is forfeited to the state six months after that.

### **Seizure of Firearms for “Safety Reasons” Not Permitted**

Florida law does not currently provide for a law enforcement officer to seize a firearm from a person for “safety reasons” although some law enforcement agencies have created policies giving officers such discretion.

These situations have been reported to occur where a person was acting erratically or showing indications of being suicidal. The Bay County Sheriff requested the opinion of the Attorney General in a situation where a person was sent for an evaluation under the Baker Act but was not arrested or charged with a criminal offense.<sup>6</sup> The opinion concluded that if a person is taken for

---

<sup>3</sup> Section 790.07, F.S., prohibits displaying, using, threatening, or attempting to use a weapon or a firearm while committing or attempting to commit any felony offense.

<sup>4</sup> Sections 933.14(1) and (2), and 790.08(2), F.S. See also *Eight Hundred, Inc. v. State*, 895 So.2d (Fla. 5th DCA 2005).

<sup>5</sup> Section 933.14(3), F.S.; “It is not, of course, a prerequisite to a motion for return of property that a criminal prosecution be brought following the seizure of the property.” *Sawyer v. Gable*, 400 So.2d 992, 994, (Fla. 3rd DCA 1981).

<sup>6</sup> Also known as “The Florida Mental Health Act,” it provides for emergency service and temporary detention for evaluation when required. s. 394.453(1)(b)1., F.S.

an evaluation under the Baker Act, but is not arrested or charged for a criminal offense of any kind, a law enforcement agency is *not* authorized to retain firearms taken from that person.<sup>7</sup>

### **Breach of the Peace or Disorderly Conduct**

Section 877.03, F.S., provides that it is a second degree misdemeanor<sup>8</sup> to:

- Commit “such acts as are of a nature to corrupt the public morals, or outrage the sense of public decency, or affect the peace and quiet of persons who may witness them”;
- Engage in brawling or fighting; or
- Engage in “such conduct as to constitute a breach of the peace or disorderly conduct.”

Because s. 877.03, F.S., does not define the terms “breach of peace” and “disorderly conduct,” it is unclear if the terms are effectively synonymous in their meaning. One court has described “breach of peace” as “a generic term including all violations of the public peace, order, or decorum. A breach of the peace includes the violation of any law enacted to preserve peace and good order.”<sup>9</sup>

### **III. Effect of Proposed Changes:**

Section 933.14(3), F.S., requires law enforcement to retain a pistol or firearm until a court orders its return when the pistol or firearm was taken either:

- Pursuant to a search warrant; or
- Without a search warrant upon a view by the officer of a breach of the peace.

This bill repeals s. 933.14(3), F.S., in its entirety. The repeal impacts the process of retaining a pistol or firearm in *all* cases in which a search warrant is executed and a pistol or firearm is seized as evidence in a criminal investigation, not just those situations where an officer observes the commission of a misdemeanor breach of the peace.

It should be noted that arrests for breach of the peace may result in the seizure and retention of a pistol or firearm under the authority of s. 790.08, F.S.; therefore the only real effect of the bill could be in seizures pursuant to a search warrant.

The bill takes effect upon becoming a law.

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

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

None.

---

<sup>7</sup> *Op. Att’y Gen. Fla.* 09-04, (2009). See also *Dougan v. Bradshaw*, 198 So.3d 878 (Fla. 4th DCA 2016).

<sup>8</sup> A second degree misdemeanor is punishable by up to 60 days in jail, a fine of up to \$500, or both jail and a fine. Sections 775.082 and 775.083, F.S.

<sup>9</sup> *Edwards v. State*, 462 So.2d 581, 583 (Fla. 4th DCA 1985) (citations omitted).

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

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 933.14 of the Florida Statutes.

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

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

**CS by Criminal Justice on April 17, 2017:**

The committee substitute:

- Changes the title to “[a]n act relating to search warrants” from “[a]n act relating to breach of the peace.”
- Deletes Sections 1 and 2 of the bill (relating to repealing provisions related to breach of the peace), leaving the repeal of s. 933.14(3), F.S., (Section 3 of the bill), and the effective date (Section 4).

B. Amendments:

None.

---

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

---



424774

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2017	.	
	.	
	.	
	.	

---

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (3) of section 933.14, Florida  
Statutes, is amended to read:

933.14 Return of property taken under search warrant.—

~~(3) No pistol or firearm taken by any officer with a search  
warrant or without a search warrant upon a view by the officer  
of a breach of the peace shall be returned except pursuant to an~~



424774

11 ~~order of a trial court judge.~~

12       Section 2. This act shall take effect upon becoming a law.

13

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

15 And the title is amended as follows:

16       Delete everything before the enacting clause

17 and insert:

18                               A bill to be entitled

19       An act relating to breach of the peace; amending s.

20       933.14, F.S.; deleting a provision prohibiting the

21       return of a pistol or firearm taken by any officer,

22       with or without a search warrant, upon a view by the

23       officer of a breach of the peace; deleting an

24       exception; providing an effective date.



214914

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2017	.	
	.	
	.	
	.	

---

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

1           **Senate Amendment to Amendment (424774)**

2

3           In title, delete line 19

4 and insert:

5           An act relating to search warrants; amending s.

By Senator Steube

23-01547-17

20171248\_\_

1 A bill to be entitled  
 2 An act relating to breach of the peace; amending s.  
 3 877.03, F.S.; deleting provisions that provide  
 4 criminal penalties for certain conduct constituting a  
 5 breach of the peace; amending ss. 321.05 and 933.14,  
 6 F.S.; conforming provisions to changes made by the  
 7 act; providing an effective date.

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

10 Section 1. Section 877.03, Florida Statutes, is amended to  
 11 read:

12  
 13 877.03 ~~Breach of the peace.~~ Disorderly conduct.—Whoever  
 14 ~~commits such acts as are of a nature to corrupt the public~~  
 15 ~~morals, or outrage the sense of public decency, or affect the~~  
 16 ~~peace and quiet of persons who may witness them, or engages in~~  
 17 ~~brawling or fighting, or engages in such conduct as to~~  
 18 ~~constitute a breach of the peace or disorderly conduct, commits~~  
 19 ~~shall be guilty of~~ a misdemeanor of the second degree,  
 20 punishable as provided in s. 775.082 or s. 775.083.

21 Section 2. Section 321.05, Florida Statutes, is amended to  
 22 read:

23 321.05 Duties, functions, and powers of patrol officers.—  
 24 The members of the Florida Highway Patrol are hereby declared to  
 25 be conservators of the peace and law enforcement officers of the  
 26 state, with the common-law right to arrest a person who, in the  
 27 presence of the arresting officer, commits a felony or commits  
 28 an affray ~~or breach of the peace~~ constituting a misdemeanor,  
 29 with full power to bear arms; and they shall apprehend, without

Page 1 of 6

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

23-01547-17

20171248\_\_

30 warrant, any person in the unlawful commission of any of the  
 31 acts over which the members of the Florida Highway Patrol are  
 32 given jurisdiction as hereinafter set out and deliver him or her  
 33 to the sheriff of the county that further proceedings may be had  
 34 against him or her according to law. In the performance of any  
 35 of the powers, duties, and functions authorized by law, members  
 36 of the Florida Highway Patrol have the same protections and  
 37 immunities afforded other peace officers, which shall be  
 38 recognized by all courts having jurisdiction over offenses  
 39 against the laws of this state, and have authority to apply for,  
 40 serve, and execute search warrants, arrest warrants, capias, and  
 41 other process of the court. The patrol officers under the  
 42 direction and supervision of the Department of Highway Safety  
 43 and Motor Vehicles shall perform and exercise throughout the  
 44 state the following duties, functions, and powers:

45 (1) To patrol the state highways and regulate, control, and  
 46 direct the movement of traffic thereon; to maintain the public  
 47 peace by preventing violence on highways; to apprehend fugitives  
 48 from justice; to enforce all laws regulating and governing  
 49 traffic, travel, and public safety upon the public highways and  
 50 providing for the protection of the public highways and public  
 51 property thereon, including the security and safety of this  
 52 state's transportation infrastructure; to make arrests without  
 53 warrant for the violation of any state law committed in their  
 54 presence in accordance with state law; providing that no search  
 55 may be made unless it is incident to a lawful arrest, to  
 56 regulate and direct traffic concentrations and congestions; to  
 57 enforce laws governing the operation, licensing, and taxing and  
 58 limiting the size, weight, width, length, and speed of vehicles

Page 2 of 6

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



23-01547-17

20171248\_\_

59 and licensing and controlling the operations of drivers and  
 60 operators of vehicles, including the safety, size, and weight of  
 61 commercial motor vehicles; to collect all state fees and  
 62 revenues levied as an incident to the use or right to use the  
 63 highways for any purpose, including the taxing and registration  
 64 of commercial motor vehicles; to require the drivers of vehicles  
 65 to stop and exhibit their driver licenses, registration cards,  
 66 or documents required by law to be carried by such vehicles; to  
 67 investigate traffic accidents, secure testimony of witnesses and  
 68 of persons involved, and make report thereof with copy, if  
 69 requested in writing, to any person in interest or his or her  
 70 attorney; to investigate reported thefts of vehicles; and to  
 71 seize contraband or stolen property on or being transported on  
 72 the highways. Each patrol officer of the Florida Highway Patrol  
 73 is subject to and has the same arrest and other authority  
 74 provided for law enforcement officers generally in chapter 901  
 75 and has statewide jurisdiction. Each officer also has arrest  
 76 authority as provided for state law enforcement officers in s.  
 77 901.15. This section does not conflict with, but is supplemental  
 78 to, chapter 933.

79 (2) To assist other constituted law enforcement officers of  
 80 the state to quell mobs and riots, guard prisoners, and police  
 81 disaster areas.

82 (3) (a) To make arrests while in fresh pursuit of a person  
 83 believed to have violated the traffic and other laws.

84 (b) To make arrest of a person wanted for a felony or  
 85 against whom a warrant has been issued on any charge in  
 86 violation of federal, state, or county laws or municipal  
 87 ordinances.

Page 3 of 6

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

23-01547-17

20171248\_\_

88 (4) (a) All fines and costs and the proceeds of the  
 89 forfeiture of bail bonds and recognizances resulting from the  
 90 enforcement of this chapter by patrol officers shall be paid  
 91 into the fine and forfeiture fund established pursuant to s.  
 92 142.01 of the county where the offense is committed. In all  
 93 cases of arrest by patrol officers, the person arrested shall be  
 94 delivered forthwith by the officer to the sheriff of the county,  
 95 or he or she shall obtain from the person arrested a  
 96 recognizance or, if deemed necessary, a cash bond or other  
 97 sufficient security conditioned for his or her appearance before  
 98 the proper tribunal of the county to answer the charge for which  
 99 he or she has been arrested; and all fees accruing shall be  
 100 taxed against the party arrested, which fees are hereby declared  
 101 to be part of the compensation of the sheriffs authorized to be  
 102 fixed by the Legislature under s. 5(c), Art. II of the State  
 103 Constitution, to be paid such sheriffs in the same manner as  
 104 fees are paid for like services in other criminal cases. All  
 105 patrol officers are hereby directed to deliver all bonds  
 106 accepted and approved by them to the sheriff of the county in  
 107 which the offense is alleged to have been committed. However, a  
 108 sheriff shall not be paid any arrest fee for the arrest of a  
 109 person for violation of any section of chapter 316 when the  
 110 arresting officer was transported in a Florida Highway Patrol  
 111 car to the vicinity where the arrest was made; and a sheriff  
 112 shall not be paid any fee for mileage for himself or herself or  
 113 a prisoner for miles traveled in a Florida Highway Patrol car. A  
 114 patrol officer is not entitled to any fee or mileage cost except  
 115 when responding to a subpoena in a civil cause or except when  
 116 the patrol officer is appearing as an official witness to

Page 4 of 6

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

23-01547-17 20171248\_\_

117 testify at any hearing or law action in any court of this state  
 118 as a direct result of his or her employment as a patrol officer  
 119 during time not compensated as a part of his or her normal  
 120 duties. Nothing herein shall be construed as limiting the power  
 121 to locate and to take from any person under arrest or about to  
 122 be arrested deadly weapons. This section is not a limitation  
 123 upon existing powers and duties of sheriffs or police officers.

124 (b) Any person so arrested and released on his or her own  
 125 recognizance by an officer and who fails to appear or respond to  
 126 a notice to appear, in addition to the traffic violation charge,  
 127 commits a noncriminal traffic infraction subject to the penalty  
 128 provided in s. 318.18(2).

129 (5) The department may employ or assign some fit and  
 130 suitable person with experience in the field of public relations  
 131 who shall promote, coordinate, and publicize the traffic safety  
 132 activities in the state and assign such person to the office of  
 133 the Governor at a salary to be fixed by the department. The  
 134 person so assigned or employed shall be a member of the uniform  
 135 division of the Florida Highway Patrol, and he or she shall have  
 136 the pay and rank of lieutenant while on such assignment.

137 (6) The Division of Florida Highway Patrol is authorized to  
 138 adopt rules which may be necessary to implement the provisions  
 139 of chapter 316.

140 Section 3. Subsection (3) of section 933.14, Florida  
 141 Statutes, is amended to read:

142 933.14 Return of property taken under search warrant.—

143 ~~(3) No pistol or firearm taken by any officer with a search~~  
 144 ~~warrant or without a search warrant upon a view by the officer~~  
 145 ~~of a breach of the peace shall be returned except pursuant to an~~

Page 5 of 6

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

23-01547-17 20171248\_\_

146 ~~order of a trial court judge.~~

147 Section 4. This act shall take effect upon becoming a law.

Page 6 of 6

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Judiciary, *Chair*  
Banking and Insurance, *Vice Chair*  
Agriculture  
Appropriations Subcommittee on Finance and Tax  
Regulated Industries

### JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

**SENATOR GREG STEUBE**

23rd District

March 9, 2017

The Honorable Randolph Bracy  
Florida Senate  
213 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Senator Bracy,

I am writing this letter because my bills, SB 1244 Subpoenas in Investigations of Sexual Offenses and SB 1248 Breach of the Peace, have been referred to the Senate Criminal Justice Committee. I am respectfully requesting that you place these bills on your committee's calendar for the next committee week.

Thank you for your consideration. Please contact me if you have any questions.

Very respectfully yours,

A handwritten signature in black ink, appearing to read "W. Gregory Steube".

W. Gregory Steube, District 23

REPLY TO:

- 722 Apex Road, Unit A, Sarasota, Florida 34240 (941)342-9162
- 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

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

**JOE NEGRON**  
President of the Senate

**ANITERE FLORES**  
President Pro Tempore

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

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

---

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

---

BILL: SB 1436

INTRODUCER: Senator Clemens

SUBJECT: Controlled Substance Offenses

DATE: April 14, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Hrdlicka</u>	<u>CJ</u>	<u><b>Favorable</b></u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	<u>ACJ</u>	_____
4.	_____	_____	<u>AP</u>	_____

---

**I. Summary:**

SB 1436 revises weight ranges relevant to mandatory minimum terms for trafficking in cocaine, and reduces mandatory minimum terms of imprisonment for trafficking in cannabis, cocaine, hydrocodone, and oxycodone.

The bill also repeals the mandatory minimum term of imprisonment and mandatory fine for trafficking in hydrocodone (14 grams or more, but less than 28 grams) and trafficking in oxycodone (7 grams or more, but less than 14 grams). The lowest permissible sentence for these offenses will be determined by the Criminal Punishment Code (Code), not by a mandatory minimum term of imprisonment.

The bill also provides that the sentencing court may depart from a mandatory minimum sentence (term of imprisonment or, if applicable, a fine) for trafficking in 200 grams or less of hydrocodone or 100 grams or less of oxycodone if the court finds that imposition of a mandatory minimum sentence is not necessary for the protection of the public. A departure may not be lower than the lowest permissible sentence calculated under the Code.

Finally, the bill enhances a Code discretionary sentence multiplier for a Level 7 or Level 8 drug trafficking primary offense and expands the authority of the state attorney to move the court to reduce or suspend the sentence of a person convicted of a Level 7 or Level 8 drug trafficking offense.

The Criminal Justice Impact Conference estimates that the bill will have a “negative indeterminate” prison bed impact (an unquantifiable decrease in prison beds). See Section V. Fiscal Impact Statement.

## II. Present Situation:

### Drug Trafficking

Drug trafficking, which is punished in s. 893.135, F.S., consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state, or knowingly being in actual or constructive possession of, certain controlled substances in a statutorily-specified quantity. The statute only applies to a limited number of controlled substances. The quantity of the substance must meet a specified weight threshold. Most drug trafficking offenses are first degree felonies<sup>1</sup> and are subject to a mandatory minimum term and a mandatory fine, which is determined by the weight range applicable to the quantity of the substance involved in the trafficking.

### Criminal Punishment Code

In 1997, the Legislature enacted the Criminal Punishment Code<sup>2</sup> (Code) as Florida's "primary sentencing policy."<sup>3</sup> Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).<sup>4</sup> Points are assigned and accrue based upon the level ranking assigned to the primary offense, additional offenses, and prior offenses.<sup>5</sup> Sentence points escalate as the level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses like a Level 7 or 8 drug trafficking offense. The lowest permissible sentence is any nonstate prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent. Absent mitigation,<sup>6</sup> the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.<sup>7</sup>

### Mandatory Minimum Sentences and Departures

Mandatory minimum terms of imprisonment limit judicial discretion in Code sentencing: "If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory

---

<sup>1</sup> A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to \$10,000. However, when specifically provided by statute, a first degree felony may be punished by imprisonment for a term of years not exceeding life imprisonment. Sections 775.082 and 775.083, F.S.

<sup>2</sup> Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

<sup>3</sup> *Florida's Criminal Punishment Code: A Comparative Assessment (FY 2012-2013)* (Executive Summary), Florida Department of Corrections, available at [http://www.dc.state.fl.us/pub/sg\\_annual/1213/executives.html](http://www.dc.state.fl.us/pub/sg_annual/1213/executives.html) (last visited on January 24, 2017).

<sup>4</sup> Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

<sup>5</sup> Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

<sup>6</sup> The court may "mitigate" or "depart downward" from the scored lowest permissible sentence if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

<sup>7</sup> If the scored lowest permissible sentence exceeds the maximum penalty in s. 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment.

minimum sentence takes precedence.”<sup>8</sup> Generally, the sentencing range under the Code is the scored lowest permissible sentence up to and including the statutory maximum penalty. However, if there is a mandatory minimum sentence that is longer than the scored lowest permissible sentence, the sentencing range is narrowed: the mandatory minimum sentence up to and including the statutory maximum penalty.

There are limited circumstances in which departure from a mandatory minimum term is authorized: the defendant is a youthful offender;<sup>9</sup> the state attorney waives a “10/20/Life” mandatory minimum term;<sup>10</sup> the state attorney moves to reduce or suspend a sentence based on substantial assistance rendered;<sup>11</sup> and a departure from a mandatory minimum term for a violation s. 316.027(2)(c), F.S. (driver involved in a fatal crash fails to stop and remain at the scene of a crash).<sup>12</sup>

### III. Effect of Proposed Changes:

**Section 1** of the bill amends s. 893.135, F.S., the drug trafficking statute.

#### **Reducing Mandatory Minimum Terms for Trafficking in Cannabis**

Section 893.135(1)(a), F.S., punishes “trafficking in cannabis.” Section 893.135(1)(a)1.-3., F.S., currently provides that trafficking in:

- Excess of 25 pounds, but less than 2,000 pounds, of cannabis, or 300 or more cannabis plants, but not more than 2,000 cannabis plants, is punishable by a *3-year* mandatory minimum term of imprisonment;
- 2,000 pounds or more, but less than 10,000 pounds, of cannabis, or 2,000 or more cannabis plants, but not more than 10,000 cannabis plants, is punishable by a *7-year* mandatory minimum term of imprisonment; and
- 10,000 pounds or more of cannabis, or 10,000 or more cannabis plants, is punishable by a *15-year* mandatory minimum term of imprisonment.

Section 893.135(1)(a)1.-3., F.S., is amended to reduce mandatory minimum terms for trafficking in cannabis. Under the bill, trafficking in:

- Excess of 25 pounds, but less than 2,000 pounds, of cannabis, or 300 or more cannabis plants, but not more than 2,000 cannabis plants, is punishable by a *2-year* mandatory minimum term of imprisonment;
- 2,000 pounds or more, but less than 10,000 pounds, of cannabis, or 2,000 or more cannabis plants, but not more than 10,000 cannabis plants, is punishable by a *5-year* mandatory minimum term of imprisonment; and
- 10,000 pounds or more of cannabis, or 10,000 or more cannabis plants, is punishable by a *10-year* mandatory minimum term of imprisonment.

<sup>8</sup> Fla. R. Crim. P. 3.704(d)(26). See *State v. Vanderhoff*, 14 So.3d 1185, 1189 (Fla. 5th DCA 2009) (“the parties incorrectly assumed that a mitigating factor that would justify a downward departure under the Criminal Punishment Code, could also allow the trial court to waive a mandatory sentence”).

<sup>9</sup> Section 958.04, F.S.

<sup>10</sup> Section 27.366, F.S.

<sup>11</sup> Sections 790.163(2), 790.164(2), 893.135(4), and 921.0024(1)(b), F.S.

<sup>12</sup> Section 316.027(2)(g), F.S.

### **Increasing Weight Thresholds and Reducing Mandatory Minimum Terms for Trafficking in Cocaine**

Section 893.135(1)(b), F.S., punishes “trafficking in cocaine.” Section 893.135(1)(b)1.a.-c., F.S., currently provides that trafficking in:

- 28 grams or more, but less than 200 grams, of cocaine is punishable by a 3-year mandatory minimum term of imprisonment;
- 200 grams or more, but less than 400 grams, of cocaine is punishable by a 7-year mandatory minimum term of imprisonment; and
- 400 grams or more, but less than 150 kilograms, of cocaine is punishable by a 15-year mandatory minimum term of imprisonment.

Section 893.135(1)(b)1.a.-c., F.S., is amended to revise weight ranges relevant to mandatory minimum terms of imprisonment for trafficking in cocaine and to reduce such mandatory minimum terms. Under the bill, trafficking in:

- 50 grams or more, but less than 300 grams, of cocaine is punishable by a 2-year mandatory minimum term of imprisonment;
- 300 grams or more, but less than 500 grams, of cocaine is punishable by a 5-year mandatory minimum term of imprisonment; and
- 500 grams or more, but less than 150 kilograms, of cocaine is punishable by a 10-year mandatory minimum term of imprisonment.

### **Removing a 3-Year Mandatory Minimum Term and Mandatory Fine for Trafficking in Hydrocodone and Reducing Other Mandatory Minimum Terms**

Section 893.135(1)(c)2., F.S., punishes “trafficking in hydrocodone.” Section 893.135(1)(c)2.a., F.S., currently provides that trafficking in 14 grams or more, but less than 28 grams, of hydrocodone is subject to a 3-year mandatory minimum term of imprisonment and a mandatory fine of \$50,000. The bill repeals s. 893.135(1)(c)2.a., F.S.; therefore, the lowest permissible sentence for trafficking in 14 grams or more, but less than 28 grams, of hydrocodone will be determined by the Criminal Punishment Code (Code), not by a mandatory minimum term of imprisonment. Further, a fine will no longer be mandatory, and if imposed, will be a fine as provided in s. 775.083, F.S. Pursuant to s. 775.083, F.S., a court may impose a fine of up to \$10,000 for a first degree felony.

Section 893.135(1)(c)2.b.-d., F.S., currently provides that trafficking in:

- 28 grams or more, but less than 50 grams, of hydrocodone is punishable by a 7-year mandatory minimum term of imprisonment;
- 50 grams or more, but less than 200 grams, of hydrocodone is punishable by a 15-year mandatory minimum term of imprisonment; and
- 200 grams or more, but less than 30 kilograms, of hydrocodone is punishable by a 25-year mandatory minimum term of imprisonment.

Section 893.135(1)(c)2.b.-d., F.S., is amended to reduce mandatory minimum terms of imprisonment for trafficking in hydrocodone.<sup>13</sup> Under the bill, trafficking in:

- 28 grams or more, but less than 50 grams, of hydrocodone is punishable by a *5-year* mandatory minimum term of imprisonment;
- 50 grams or more, but less than 200 grams, of hydrocodone is punishable by a *10-year* mandatory minimum term of imprisonment; and
- 200 grams or more, but less than 30 kilograms, of hydrocodone is punishable by a *15-year* mandatory minimum term of imprisonment.

### **Removing a 3-Year Mandatory Minimum Term and Mandatory Fine for Trafficking in Oxycodone and Reducing Other Mandatory Minimum Terms**

Section 893.135(1)(c)3., F.S., punishes “trafficking in oxycodone.” Section 893.135(1)(c)3.a., currently provides that trafficking in 7 grams or more, but less than 14 grams, of oxycodone is subject to a 3-year mandatory minimum term of imprisonment and a mandatory fine of \$50,000. The bill repeals s. 893.135(1)(c)3.a., F.S.; therefore, the lowest permissible sentence for trafficking in 7 grams or more, but less than 14 grams, of oxycodone will be determined by the Criminal Punishment Code (Code), not by a mandatory minimum term of imprisonment. Further, a fine will no longer be mandatory, and if imposed, will be a fine as provided in s. 775.083, F.S.

Section 893.135(1)(c)3.b.-d., F.S., currently provides that trafficking in:

- 14 grams or more, but less than 25 grams, of oxycodone is punishable by a *7-year* mandatory minimum term of imprisonment;
- 25 grams or more, but less than 100 grams, of oxycodone is punishable by a *15-year* mandatory minimum term of imprisonment; and
- 100 grams or more, but less than 30 kilograms, of oxycodone is punishable by a *25-year* mandatory minimum term of imprisonment.

Section 893.135(1)(c)3.b.-d., F.S., is amended to reduce mandatory minimum terms of imprisonment for trafficking in oxycodone.<sup>14</sup> Under the bill, trafficking in:

- 14 grams or more, but less than 25 grams, of oxycodone is punishable by a *5-year* mandatory minimum term of imprisonment;
- 25 grams or more, but less than 100 grams, of oxycodone is punishable by a *10-year* mandatory minimum term of imprisonment; and
- 100 grams or more, but less than 30 kilograms, of oxycodone is punishable by a *15-year* mandatory minimum term of imprisonment.

### **Authorizing Departure from a Mandatory Minimum Term and Mandatory Fine for Trafficking in Hydrocodone or Oxycodone**

The bill also amends s. 893.135(1)(c)2., F.S., and s. 893.135(1)(c)3., F.S., to authorize a defendant to move for departure from the mandatory minimum term, and if applicable, any mandatory fine.<sup>15</sup> The defendant may make this motion if he or she trafficked in less than 200

<sup>13</sup> Section 893.135(1)(c)2.b.-d., F.S., is also renumbered as s. 893.135(1)(c)2.a.-c., F.S.

<sup>14</sup> Section 893.135(1)(c)3.b.-d., F.S., is also renumbered as s. 893.135(1)(c)3.a.-c., F.S.

<sup>15</sup> The departure provisions are created in new s. 893.135(1)(c)2.d., F.S., and new s. 893.135(1)(c)3.d., F.S.



grams of hydrocodone or less than 100 grams of oxycodone. The state attorney may file an objection to the motion. The sentencing court may depart from the mandatory minimum sentence if the courts finds that imposition of the mandatory sentence is not necessary for the protection of the public. However, the departure sentence may not be lower than the lowest permissible sentence as calculated according the total sentence points under the Code.

**Section 2** of the bill amends s. 921.0024, F.S., the Code worksheet (or scoresheet). Section 921.0024(2)(b), F.S., currently provides, in part, that if the primary offense is drug trafficking under s. 893.135, F.S., the subtotal sentence points are multiplied, at the discretion of the court, for a Level 7 or Level 8 offense, by 1.5. The state attorney may move the sentencing court to reduce or suspend the sentence of a person convicted of a Level 7 or Level 8 offense, if the offender provides substantial assistance as described in s. 893.135(4), F.S.<sup>16</sup>

Section 921.0024(2)(b), F.S., is amended to increase the discretionary sentencing point multiplier for drug trafficking from 1.5 to 2.0. The bill also removes the words “if the offender provides substantial assistance as described in s. 893.135.” Currently, this is the only ground supporting a state attorney’s motion to reduce or suspend a Level 7 or Level 8 drug trafficking offense. As a result of this change, the state attorney may offer any ground in support of this motion.

**Section 3** of the bill amends s. 921.0022, F.S., the Code offense severity ranking chart, to make technical, conforming changes. Although references to trafficking in hydrocodone (14 grams or more, but less than 28 grams) and trafficking in oxycodone (7 grams or more, but less than 14 grams) are removed from Level 7 of the chart, trafficking in the quantities noted would continue to be a Level 7 offense, because trafficking in these substances in these quantities is a first degree felony and a first degree felony not ranked in the chart is assigned a Level 7 ranking pursuant to s. 921.0023, F.S.

**Section 4** 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.

---

<sup>16</sup> Section 893.135(4), F.S, provides that the state attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of s. 893.135, F.S., if the person provides substantial assistance in the identification, arrest, or conviction of any of that person’s accomplices, accessories, coconspirators, or principals or of any other person engaged in trafficking in controlled substances. The arresting agency must be given an opportunity to be heard in aggravation or mitigation in reference to any such motion. Upon good cause shown, the motion may be filed and heard in camera. The judge hearing the motion may reduce or suspend the sentence if the judge finds that the defendant rendered such substantial assistance.

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, which provides the final, official estimate of the prison bed impact, if any, of legislation, estimates that the bill will have a “negative indeterminate” prison bed impact (an unquantifiable decrease in prison beds).<sup>17</sup>

Per the Department of Corrections (DOC), in FY 2015-2016, there were 751 (adj.)<sup>18</sup> offenders sentenced for the offenses of trafficking in cannabis, cocaine, hydrocodone, and oxycodone amended by the bill, and 558 (adj.) were sentenced to prison (mean sentence length of 64.4 months and an incarceration rate of 74.3 percent adj. and 74.2 percent unadj.). There were 1,335 (adj.) offenders sentenced for other trafficking offenses, and 1,007 (adj.) of these offenders were sentenced to prison (mean sentence length of 72.7 months and an incarceration rate of 75.4 percent adj. and 75.4 percent unadj.).

It is unknown how many of these offenses fall under the new drug thresholds created by the bill. Further, most of these offenses had some offenders who did not receive prison sanctions, and when sanctions were enforced, sentences were given below the mandatory minimum. Therefore, it cannot be determined how these changes would affect current court practices.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

---

<sup>17</sup> “Narrative Analyses of Adopted Impacts” (updated through March 31, 2017), Criminal Justice Impact Conference, available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/adoptedimpacts.cfm> (last visited on April 6, 2017). All information in this section of the analysis is from this source.

<sup>18</sup> The abbreviation “adj.” means “adjusted.” The abbreviation “unadj.” means “unadjusted.” Sentencing data from the DOC is incomplete, which means that the numbers the Legislature’s Office of Economic and Demographic Research (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.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 893.135, 921.0022, and 921.0024.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

---

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

---

By Senator Clemens

31-00532A-17

20171436\_\_

A bill to be entitled

An act relating to controlled substance offenses; amending s. 893.135, F.S.; reducing minimum mandatory sentences for certain trafficking offenses; increasing the threshold amounts for certain trafficking offenses; authorizing downward departures for sentences for certain violations involving trafficking of hydrocodone or oxycodone; amending s. 921.0024, F.S.; increasing the sentencing scoresheet multiplier for drug trafficking offenses; revising provisions relating to state motions for suspended sentences for certain violations; amending s. 921.0022, F.S.; 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. Paragraphs (a), (b), and (c) of subsection (1) of section 893.135, Florida Statutes, are amended to read:

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

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(a) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, in excess of 25 pounds of cannabis, or 300 or more cannabis plants, commits a felony of the first degree, which felony shall be known as "trafficking in cannabis," punishable as provided in s. 775.082,

Page 1 of 52

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

31-00532A-17

20171436\_\_

s. 775.083, or s. 775.084. If the quantity of cannabis involved:

1. Is in excess of 25 pounds, but less than 2,000 pounds, or is 300 or more cannabis plants, but not more than 2,000 cannabis plants, such person shall be sentenced to a mandatory minimum term of imprisonment of 2 ~~3~~ years, and the defendant shall be ordered to pay a fine of \$25,000.

2. Is 2,000 pounds or more, but less than 10,000 pounds, or is 2,000 or more cannabis plants, but not more than 10,000 cannabis plants, such person shall be sentenced to a mandatory minimum term of imprisonment of 5 ~~7~~ years, and the defendant shall be ordered to pay a fine of \$50,000.

3. Is 10,000 pounds or more, or is 10,000 or more cannabis plants, such person shall be sentenced to a mandatory minimum term of imprisonment of 10 ~~15~~ calendar years and pay a fine of \$200,000.

For the purpose of this paragraph, a plant, including, but not limited to, a seedling or cutting, is a "cannabis plant" if it has some readily observable evidence of root formation, such as root hairs. To determine if a piece or part of a cannabis plant severed from the cannabis plant is itself a cannabis plant, the severed piece or part must have some readily observable evidence of root formation, such as root hairs. Callous tissue is not readily observable evidence of root formation. The viability and sex of a plant and the fact that the plant may or may not be a dead harvested plant are not relevant in determining if the plant is a "cannabis plant" or in the charging of an offense under this paragraph. Upon conviction, the court shall impose the longest term of imprisonment provided for in this paragraph.

Page 2 of 52

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

31-00532A-17

20171436\_\_

59 (b)1. Any person who knowingly sells, purchases,  
 60 manufactures, delivers, or brings into this state, or who is  
 61 knowingly in actual or constructive possession of, 28 grams or  
 62 more of cocaine, as described in s. 893.03(2)(a)4., or of any  
 63 mixture containing cocaine, but less than 150 kilograms of  
 64 cocaine or any such mixture, commits a felony of the first  
 65 degree, which felony shall be known as "trafficking in cocaine,"  
 66 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
 67 If the quantity involved:

68 a. Is 50 ~~28~~ grams or more, but less than 300 ~~200~~ grams,  
 69 such person shall be sentenced to a mandatory minimum term of  
 70 imprisonment of 2 ~~3~~ years, and the defendant shall be ordered to  
 71 pay a fine of \$50,000.

72 b. Is 300 ~~200~~ grams or more, but less than 500 ~~400~~ grams,  
 73 such person shall be sentenced to a mandatory minimum term of  
 74 imprisonment of 5 ~~7~~ years, and the defendant shall be ordered to  
 75 pay a fine of \$100,000.

76 c. Is 500 ~~400~~ grams or more, but less than 150 kilograms,  
 77 such person shall be sentenced to a mandatory minimum term of  
 78 imprisonment of 10 ~~15~~ calendar years and pay a fine of \$250,000.

79 2. Any person who knowingly sells, purchases, manufactures,  
 80 delivers, or brings into this state, or who is knowingly in  
 81 actual or constructive possession of, 150 kilograms or more of  
 82 cocaine, as described in s. 893.03(2)(a)4., commits the first  
 83 degree felony of trafficking in cocaine. A person who has been  
 84 convicted of the first degree felony of trafficking in cocaine  
 85 under this subparagraph shall be punished by life imprisonment  
 86 and is ineligible for any form of discretionary early release  
 87 except pardon or executive clemency or conditional medical

Page 3 of 52

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

31-00532A-17

20171436\_\_

88 release under s. 947.149. However, if the court determines that,  
 89 in addition to committing any act specified in this paragraph:

90 a. The person intentionally killed an individual or  
 91 counseled, commanded, induced, procured, or caused the  
 92 intentional killing of an individual and such killing was the  
 93 result; or

94 b. The person's conduct in committing that act led to a  
 95 natural, though not inevitable, lethal result,  
 96

97 such person commits the capital felony of trafficking in  
 98 cocaine, punishable as provided in ss. 775.082 and 921.142. Any  
 99 person sentenced for a capital felony under this paragraph shall  
 100 also be sentenced to pay the maximum fine provided under  
 101 subparagraph 1.

102 3. Any person who knowingly brings into this state 300  
 103 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,  
 104 and who knows that the probable result of such importation would  
 105 be the death of any person, commits capital importation of  
 106 cocaine, a capital felony punishable as provided in ss. 775.082  
 107 and 921.142. Any person sentenced for a capital felony under  
 108 this paragraph shall also be sentenced to pay the maximum fine  
 109 provided under subparagraph 1.

110 (c)1. A person who knowingly sells, purchases,  
 111 manufactures, delivers, or brings into this state, or who is  
 112 knowingly in actual or constructive possession of, 4 grams or  
 113 more of any morphine, opium, hydromorphone, or any salt,  
 114 derivative, isomer, or salt of an isomer thereof, including  
 115 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or  
 116 (3)(c)4., or 4 grams or more of any mixture containing any such

Page 4 of 52

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

31-00532A-17 20171436\_\_

117 substance, but less than 30 kilograms of such substance or  
 118 mixture, commits a felony of the first degree, which felony  
 119 shall be known as "trafficking in illegal drugs," punishable as  
 120 provided in s. 775.082, s. 775.083, or s. 775.084. If the  
 121 quantity involved:

122 a. Is 4 grams or more, but less than 14 grams, such person  
 123 shall be sentenced to a mandatory minimum term of imprisonment  
 124 of 3 years and shall be ordered to pay a fine of \$50,000.

125 b. Is 14 grams or more, but less than 28 grams, such person  
 126 shall be sentenced to a mandatory minimum term of imprisonment  
 127 of 15 years and shall be ordered to pay a fine of \$100,000.

128 c. Is 28 grams or more, but less than 30 kilograms, such  
 129 person shall be sentenced to a mandatory minimum term of  
 130 imprisonment of 25 years and shall be ordered to pay a fine of  
 131 \$500,000.

132 2. A person who knowingly sells, purchases, manufactures,  
 133 delivers, or brings into this state, or who is knowingly in  
 134 actual or constructive possession of, 14 grams or more of  
 135 hydrocodone, or any salt, derivative, isomer, or salt of an  
 136 isomer thereof, or 14 grams or more of any mixture containing  
 137 any such substance, commits a felony of the first degree, which  
 138 felony shall be known as "trafficking in hydrocodone,"  
 139 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
 140 If the quantity involved:

141 ~~a. Is 14 grams or more, but less than 28 grams, such person~~  
 142 ~~shall be sentenced to a mandatory minimum term of imprisonment~~  
 143 ~~of 3 years and shall be ordered to pay a fine of \$50,000.~~

144 a.b. Is 28 grams or more, but less than 50 grams, such  
 145 person shall be sentenced to a mandatory minimum term of

31-00532A-17 20171436\_\_

146 imprisonment of 5 7 years and shall be ordered to pay a fine of  
 147 \$100,000.

148 ~~b.e.~~ Is 50 grams or more, but less than 200 grams, such  
 149 person shall be sentenced to a mandatory minimum term of  
 150 imprisonment of 10 ~~15~~ years and shall be ordered to pay a fine  
 151 of \$500,000.

152 ~~c.d.~~ Is 200 grams or more, but less than 30 kilograms, such  
 153 person shall be sentenced to a mandatory minimum term of  
 154 imprisonment of 15 ~~25~~ years and shall be ordered to pay a fine  
 155 of \$750,000.

156 d. A person convicted of a violation of this subparagraph  
 157 in which the quantity involved was less than 200 grams may move  
 158 the sentencing court to depart from the mandatory minimum term  
 159 and, if applicable, any mandatory fine. The state attorney may  
 160 file an objection to the motion. The sentencing court may depart  
 161 from the mandatory minimum sentence if the court finds that  
 162 imposition of the mandatory minimum sentence is not necessary  
 163 for the protection of the public. However, the sentencing court  
 164 may not impose a sentence lower than the lowest permissible  
 165 sentence as calculated according to the total sentence points  
 166 pursuant to s. 921.0024.

167 3. A person who knowingly sells, purchases, manufactures,  
 168 delivers, or brings into this state, or who is knowingly in  
 169 actual or constructive possession of, 7 grams or more of  
 170 oxycodone, or any salt, derivative, isomer, or salt of an isomer  
 171 thereof, or 7 grams or more of any mixture containing any such  
 172 substance, commits a felony of the first degree, which felony  
 173 shall be known as "trafficking in oxycodone," punishable as  
 174 provided in s. 775.082, s. 775.083, or s. 775.084. If the

31-00532A-17

20171436\_\_

175 quantity involved:

176 ~~a. Is 7 grams or more, but less than 14 grams, such person~~  
 177 ~~shall be sentenced to a mandatory minimum term of imprisonment~~  
 178 ~~of 3 years and shall be ordered to pay a fine of \$50,000.~~

179 ~~a.b.~~ Is 14 grams or more, but less than 25 grams, such  
 180 person shall be sentenced to a mandatory minimum term of  
 181 imprisonment of 5 7 years and shall be ordered to pay a fine of  
 182 \$100,000.

183 ~~b.e.~~ Is 25 grams or more, but less than 100 grams, such  
 184 person shall be sentenced to a mandatory minimum term of  
 185 imprisonment of 10 15 years and shall be ordered to pay a fine  
 186 of \$500,000.

187 ~~c.d.~~ Is 100 grams or more, but less than 30 kilograms, such  
 188 person shall be sentenced to a mandatory minimum term of  
 189 imprisonment of 15 25 years and shall be ordered to pay a fine  
 190 of \$750,000.

191 d. A person convicted of a violation of this subparagraph  
 192 in which the quantity involved was less than 100 grams may move  
 193 the sentencing court to depart from the mandatory minimum term  
 194 and, if applicable, any mandatory fine. The state attorney may  
 195 file an objection to the motion. The sentencing court may depart  
 196 from the mandatory minimum sentence if the court finds that  
 197 imposition of the mandatory minimum sentence is not necessary  
 198 for the protection of the public. However, the sentencing court  
 199 may not impose a sentence lower than the lowest permissible  
 200 sentence as calculated according to the total sentence points  
 201 pursuant to s. 921.0024.

202 4. A person who knowingly sells, purchases, manufactures,  
 203 delivers, or brings into this state, or who is knowingly in

31-00532A-17

20171436\_\_

204 actual or constructive possession of, 30 kilograms or more of  
 205 any morphine, opium, oxycodone, hydrocodone, hydromorphone, or  
 206 any salt, derivative, isomer, or salt of an isomer thereof,  
 207 including heroin, as described in s. 893.03(1)(b), (2)(a),  
 208 (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture  
 209 containing any such substance, commits the first degree felony  
 210 of trafficking in illegal drugs. A person who has been convicted  
 211 of the first degree felony of trafficking in illegal drugs under  
 212 this subparagraph shall be punished by life imprisonment and is  
 213 ineligible for any form of discretionary early release except  
 214 pardon or executive clemency or conditional medical release  
 215 under s. 947.149. However, if the court determines that, in  
 216 addition to committing any act specified in this paragraph:

217 a. The person intentionally killed an individual or  
 218 counseled, commanded, induced, procured, or caused the  
 219 intentional killing of an individual and such killing was the  
 220 result; or

221 b. The person's conduct in committing that act led to a  
 222 natural, though not inevitable, lethal result,

223  
 224 such person commits the capital felony of trafficking in illegal  
 225 drugs, punishable as provided in ss. 775.082 and 921.142. A  
 226 person sentenced for a capital felony under this paragraph shall  
 227 also be sentenced to pay the maximum fine provided under  
 228 subparagraph 1.

229 5. A person who knowingly brings into this state 60  
 230 kilograms or more of any morphine, opium, oxycodone,  
 231 hydrocodone, hydromorphone, or any salt, derivative, isomer, or  
 232 salt of an isomer thereof, including heroin, as described in s.

31-00532A-17 20171436\_\_

233 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or  
 234 more of any mixture containing any such substance, and who knows  
 235 that the probable result of such importation would be the death  
 236 of a person, commits capital importation of illegal drugs, a  
 237 capital felony punishable as provided in ss. 775.082 and  
 238 921.142. A person sentenced for a capital felony under this  
 239 paragraph shall also be sentenced to pay the maximum fine  
 240 provided under subparagraph 1.

241 Section 2. Paragraph (b) of subsection (1) of section  
 242 921.0024, Florida Statutes, is amended to read:

243 921.0024 Criminal Punishment Code; worksheet computations;  
 244 scoresheets.—

245 (1)  
 246 (b) WORKSHEET KEY:

247

248 Legal status points are assessed when any form of legal status  
 249 existed at the time the offender committed an offense before the  
 250 court for sentencing. Four (4) sentence points are assessed for  
 251 an offender's legal status.

252

253 Community sanction violation points are assessed when a  
 254 community sanction violation is before the court for sentencing.  
 255 Six (6) sentence points are assessed for each community sanction  
 256 violation and each successive community sanction violation,  
 257 unless any of the following apply:

258 1. If the community sanction violation includes a new  
 259 felony conviction before the sentencing court, twelve (12)  
 260 community sanction violation points are assessed for the  
 261 violation, and for each successive community sanction violation

31-00532A-17 20171436\_\_

262 involving a new felony conviction.

263 2. If the community sanction violation is committed by a  
 264 violent felony offender of special concern as defined in s.  
 265 948.06:

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

269 I. The violation does not include a new felony conviction;  
 270 and

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

274 b. Twenty-four (24) community sanction violation points are  
 275 assessed for the violation and for each successive violation of  
 276 felony probation or community control where the violation  
 277 includes a new felony conviction.

278

279 Multiple counts of community sanction violations before the  
 280 sentencing court shall not be a basis for multiplying the  
 281 assessment of community sanction violation points.

282

283 Prior serious felony points: If the offender has a primary  
 284 offense or any additional offense ranked in level 8, level 9, or  
 285 level 10, and one or more prior serious felonies, a single  
 286 assessment of thirty (30) points shall be added. For purposes of  
 287 this section, a prior serious felony is an offense in the  
 288 offender's prior record that is ranked in level 8, level 9, or  
 289 level 10 under s. 921.0022 or s. 921.0023 and for which the  
 290 offender is serving a sentence of confinement, supervision, or



31-00532A-17

20171436\_\_

291 other sanction or for which the offender's date of release from  
 292 confinement, supervision, or other sanction, whichever is later,  
 293 is within 3 years before the date the primary offense or any  
 294 additional offense was committed.

295  
 296 Prior capital felony points: If the offender has one or more  
 297 prior capital felonies in the offender's criminal record, points  
 298 shall be added to the subtotal sentence points of the offender  
 299 equal to twice the number of points the offender receives for  
 300 the primary offense and any additional offense. A prior capital  
 301 felony in the offender's criminal record is a previous capital  
 302 felony offense for which the offender has entered a plea of nolo  
 303 contendere or guilty or has been found guilty; or a felony in  
 304 another jurisdiction which is a capital felony in that  
 305 jurisdiction, or would be a capital felony if the offense were  
 306 committed in this state.

307  
 308 Possession of a firearm, semiautomatic firearm, or machine gun:  
 309 If the offender is convicted of committing or attempting to  
 310 commit any felony other than those enumerated in s. 775.087(2)  
 311 while having in his or her possession: a firearm as defined in  
 312 s. 790.001(6), an additional eighteen (18) sentence points are  
 313 assessed; or if the offender is convicted of committing or  
 314 attempting to commit any felony other than those enumerated in  
 315 s. 775.087(3) while having in his or her possession a  
 316 semiautomatic firearm as defined in s. 775.087(3) or a machine  
 317 gun as defined in s. 790.001(9), an additional twenty-five (25)  
 318 sentence points are assessed.

319

31-00532A-17

20171436\_\_

320 Sentencing multipliers:

321

322 Drug trafficking: If the primary offense is drug trafficking  
 323 under s. 893.135, the subtotal sentence points are multiplied,  
 324 at the discretion of the court, for a level 7 or level 8  
 325 offense, by 2.5. The state attorney may move the sentencing  
 326 court to reduce or suspend the sentence of a person convicted of  
 327 a level 7 or level 8 offense, ~~if the offender provides~~  
 328 ~~substantial assistance as described in s. 893.135(4).~~

329

330 Law enforcement protection: If the primary offense is a  
 331 violation of the Law Enforcement Protection Act under s.  
 332 775.0823(2), (3), or (4), the subtotal sentence points are  
 333 multiplied by 2.5. If the primary offense is a violation of s.  
 334 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points  
 335 are multiplied by 2.0. If the primary offense is a violation of  
 336 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement  
 337 Protection Act under s. 775.0823(10) or (11), the subtotal  
 338 sentence points are multiplied by 1.5.

339

340 Grand theft of a motor vehicle: If the primary offense is grand  
 341 theft of the third degree involving a motor vehicle and in the  
 342 offender's prior record, there are three or more grand thefts of  
 343 the third degree involving a motor vehicle, the subtotal  
 344 sentence points are multiplied by 1.5.

345

346 Offense related to a criminal gang: If the offender is convicted  
 347 of the primary offense and committed that offense for the  
 348 purpose of benefiting, promoting, or furthering the interests of

31-00532A-17 20171436\_\_

349 a criminal gang as defined in s. 874.03, the subtotal sentence  
 350 points are multiplied by 1.5. If applying the multiplier results  
 351 in the lowest permissible sentence exceeding the statutory  
 352 maximum sentence for the primary offense under chapter 775, the  
 353 court may not apply the multiplier and must sentence the  
 354 defendant to the statutory maximum sentence.

355

356 Domestic violence in the presence of a child: If the offender is  
 357 convicted of the primary offense and the primary offense is a  
 358 crime of domestic violence, as defined in s. 741.28, which was  
 359 committed in the presence of a child under 16 years of age who  
 360 is a family or household member as defined in s. 741.28(3) with  
 361 the victim or perpetrator, the subtotal sentence points are  
 362 multiplied by 1.5.

363

364 Adult-on-minor sex offense: If the offender was 18 years of age  
 365 or older and the victim was younger than 18 years of age at the  
 366 time the offender committed the primary offense, and if the  
 367 primary offense was an offense committed on or after October 1,  
 368 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the  
 369 violation involved a victim who was a minor and, in the course  
 370 of committing that violation, the defendant committed a sexual  
 371 battery under chapter 794 or a lewd act under s. 800.04 or s.  
 372 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.  
 373 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.  
 374 800.04; or s. 847.0135(5), the subtotal sentence points are  
 375 multiplied by 2.0. If applying the multiplier results in the  
 376 lowest permissible sentence exceeding the statutory maximum  
 377 sentence for the primary offense under chapter 775, the court

31-00532A-17 20171436\_\_

378 may not apply the multiplier and must sentence the defendant to  
 379 the statutory maximum sentence.

380 Section 3. Paragraphs (g), (h), and (i) of subsection (3)  
 381 of section 921.0022, Florida Statutes, are amended to read:  
 382 921.0022 Criminal Punishment Code; offense severity ranking  
 383 chart.—

384 (3) OFFENSE SEVERITY RANKING CHART  
 385 (g) LEVEL 7  
 386

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 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.

31-00532A-17 20171436\_\_

391 402.319(2) 2nd Misrepresentation and  
negligence or intentional act  
resulting in great bodily harm,  
permanent disfiguration,  
392 permanent disability, or death.

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

393 409.920 2nd Medicaid provider fraud; more  
(2) (b) 1.b. than \$10,000, but less than  
\$50,000.

394 456.065(2) 3rd Practicing a health care  
profession without a license.

395 456.065(2) 2nd Practicing a health care  
profession without a license  
which results in serious bodily  
injury.

396 458.327(1) 3rd Practicing medicine without a  
license.

397 459.013(1) 3rd Practicing osteopathic medicine  
without a license.

398 460.411(1) 3rd Practicing chiropractic

31-00532A-17 20171436\_\_

399 medicine without a license.

461.012(1) 3rd Practicing podiatric medicine  
without a license.

400 462.17 3rd Practicing naturopathy without  
a license.

401 463.015(1) 3rd Practicing optometry without a  
license.

402 464.016(1) 3rd Practicing nursing without a  
license.

403 465.015(2) 3rd Practicing pharmacy without a  
license.

404 466.026(1) 3rd Practicing dentistry or dental  
hygiene without a license.

405 467.201 3rd Practicing midwifery without a  
license.

406 468.366 3rd Delivering respiratory care  
services without a license.

407 483.828(1) 3rd Practicing as clinical  
laboratory personnel without a  
license.

31-00532A-17 20171436\_\_

408 483.901(7) 3rd Practicing medical physics  
without a license.

409 484.013(1)(c) 3rd Preparing or dispensing optical  
devices without a prescription.

410 484.053 3rd Dispensing hearing aids without  
a license.

411 494.0018(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.

412 560.123(8)(b)1. 3rd Failure to report currency or  
payment instruments exceeding  
\$300 but less than \$20,000 by a  
money services business.

413 560.125(5)(a) 3rd Money services business by  
unauthorized person, currency  
or payment instruments  
exceeding \$300 but less than  
\$20,000.

414 655.50(10)(b)1. 3rd Failure to report financial

Page 17 of 52

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

31-00532A-17 20171436\_\_

415 transactions exceeding \$300 but  
less than \$20,000 by financial  
institution.

416 775.21(10)(a) 3rd Sexual predator; failure to  
register; failure to renew  
driver license or  
identification card; other  
registration violations.

417 775.21(10)(b) 3rd Sexual predator working where  
children regularly congregate.

418 775.21(10)(g) 3rd Failure to report or providing  
false information about a  
sexual predator; harbor or  
conceal a sexual predator.

419 782.051(3) 2nd Attempted felony murder of a  
person by a person other than  
the perpetrator or the  
perpetrator of an attempted  
felony.

420 782.07(1) 2nd Killing of a human being by the  
act, procurement, or culpable  
negligence of another  
(manslaughter).

Page 18 of 52

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

	31-00532A-17		20171436__
	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
421	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
422	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
423	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
424	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
425	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
426	784.048(7)	3rd	Aggravated stalking; violation of court order.
427	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.

Page 19 of 52

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

	31-00532A-17		20171436__
428	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
429	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
430	784.081(1)	1st	Aggravated battery on specified official or employee.
431	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
432	784.083(1)	1st	Aggravated battery on code inspector.
433	787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
434	787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
435	790.07(4)	1st	Specified weapons violation

Page 20 of 52

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

31-00532A-17

20171436\_\_

subsequent to previous  
conviction of s. 790.07(1) or  
(2).

436

790.16(1) 1st Discharge of a machine gun  
under specified circumstances.

437

790.165(2) 2nd Manufacture, sell, possess, or  
deliver hoax bomb.

438

790.165(3) 2nd Possessing, displaying, or  
threatening to use any hoax  
bomb while committing or  
attempting to commit a felony.

439

790.166(3) 2nd Possessing, selling, using, or  
attempting to use a hoax weapon  
of mass destruction.

440

790.166(4) 2nd Possessing, displaying, or  
threatening to use a hoax  
weapon of mass destruction  
while committing or attempting  
to commit a felony.

441

790.23 1st,PBL Possession of a firearm by a  
person who qualifies for the  
penalty enhancements provided  
for in s. 874.04.

31-00532A-17

20171436\_\_

442

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.

443

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

444

796.05(1) 1st Live on earnings of a  
prostitute; 3rd and subsequent  
offense.

445

800.04(5)(c)1. 2nd Lewd or lascivious molestation;  
victim younger than 12 years of  
age; offender younger than 18  
years of age.

446

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  
or older.

447

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;

31-00532A-17 20171436\_\_

448 prior conviction for specified  
sex offense.

449 806.01(2) 2nd Maliciously damage structure by  
fire or explosive.

450 810.02(3) (a) 2nd Burglary of occupied dwelling;  
unarmed; no assault or battery.

451 810.02(3) (b) 2nd Burglary of unoccupied  
dwelling; unarmed; no assault  
or battery.

452 810.02(3) (d) 2nd Burglary of occupied  
conveyance; unarmed; no assault  
or battery.

453 810.02(3) (e) 2nd Burglary of authorized  
emergency vehicle.

454 812.014(2) (a)1. 1st Property stolen, valued at  
\$100,000 or more or a  
semitrailer deployed by a law  
enforcement officer; property  
stolen while causing other  
property damage; 1st degree  
grand theft.

812.014(2) (b)2. 2nd Property stolen, cargo valued

Page 23 of 52

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

31-00532A-17 20171436\_\_

455 at less than \$50,000, grand  
theft in 2nd degree.

456 812.014(2) (b)3. 2nd Property stolen, emergency  
medical equipment; 2nd degree  
grand theft.

457 812.014(2) (b)4. 2nd Property stolen, law  
enforcement equipment from  
authorized emergency vehicle.

458 812.0145(2) (a) 1st Theft from person 65 years of  
age or older; \$50,000 or more.

459 812.019(2) 1st Stolen property; initiates,  
organizes, plans, etc., the  
theft of property and traffics  
in stolen property.

460 812.131(2) (a) 2nd Robbery by sudden snatching.

461 812.133(2) (b) 1st Carjacking; no firearm, deadly  
weapon, or other weapon.

462 817.034(4) (a)1. 1st Communications fraud, value  
greater than \$50,000.

817.234(8) (a) 2nd Solicitation of motor vehicle  
accident victims with intent to

Page 24 of 52

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

31-00532A-17 20171436\_\_  
 defraud.

463 817.234 (9) 2nd Organizing, planning, or  
 participating in an intentional  
 motor vehicle collision.

464 817.234 (11) (c) 1st Insurance fraud; property value  
 \$100,000 or more.

465 817.2341 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.

466 817.535 (2) (a) 3rd Filing false lien or other  
 unauthorized document.

467 817.611 (2) (b) 2nd Traffic in or possess 15 to 49  
 counterfeit credit cards or  
 related documents.

468 825.102 (3) (b) 2nd Neglecting an elderly person or  
 disabled adult causing great  
 bodily harm, disability, or  
 disfigurement.

469

Page 25 of 52

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

31-00532A-17 20171436\_\_  
 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.

470 827.03 (2) (b) 2nd Neglect of a child causing  
 great bodily harm, disability,  
 or disfigurement.

471 827.04 (3) 3rd Impregnation of a child under  
 16 years of age by person 21  
 years of age or older.

472 837.05 (2) 3rd Giving false information about  
 alleged capital felony to a law  
 enforcement officer.

473 838.015 2nd Bribery.

474 838.016 2nd Unlawful compensation or reward  
 for official behavior.

475 838.021 (3) (a) 2nd Unlawful harm to a public  
 servant.

476 838.22 2nd Bid tampering.

477 843.0855 (2) 3rd Impersonation of a public  
 officer or employee.

Page 26 of 52

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



31-00532A-17 20171436\_\_

478 843.0855(3) 3rd Unlawful simulation of legal  
process.

479 843.0855(4) 3rd Intimidation of a public  
officer or employee.

480 847.0135(3) 3rd Solicitation of a child, via a  
computer service, to commit an  
unlawful sex act.

481 847.0135(4) 2nd Traveling to meet a minor to  
commit an unlawful sex act.

482 872.06 2nd Abuse of a dead human body.

483 874.05(2)(b) 1st Encouraging or recruiting  
person under 13 to join a  
criminal gang; second or  
subsequent offense.

484 874.10 1st,PBL Knowingly initiates, organizes,  
plans, finances, directs,  
manages, or supervises criminal  
gang-related activity.

485 893.13(1)(c)1. 1st Sell, manufacture, or deliver  
cocaine (or other drug  
prohibited under s.

Page 27 of 52

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

31-00532A-17 20171436\_\_

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.

486 893.13(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.

487 893.13(4)(a) 1st Use or hire of minor; deliver  
to minor other controlled  
substance.

488 893.135(1)(a)1. 1st Trafficking in cannabis, more  
than 25 lbs., less than 2,000  
lbs.

489 893.135 1st Trafficking in cocaine, more  
(1)(b)1.a. than 50 ~~28~~ grams, less than 300  
~~200~~-grams.

Page 28 of 52

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

31-00532A-17 20171436\_\_

490 893.135 1st Trafficking in illegal drugs,  
(1) (c) 1.a. more than 4 grams, less than 14  
grams.

491 ~~893.135~~ 1st ~~Trafficking in hydrocodone, 14~~  
~~(1) (c) 2.a.~~ ~~grams or more, less than 28~~  
~~grams.~~

492 893.135 1st Trafficking in hydrocodone, 28  
(1) (c) 2.a. grams or more, less than 50  
~~893.135~~ grams.  
~~(1) (c) 2.b.~~

493 ~~893.135~~ 1st ~~Trafficking in oxycodone, 7~~  
~~(1) (c) 3.a.~~ ~~grams or more, less than 14~~  
~~grams.~~

494 893.135 1st Trafficking in oxycodone, 14  
(1) (c) 3.a. grams or more, less than 25  
~~893.135~~ grams.  
~~(1) (c) 3.b.~~

495 893.135(1) (d) 1. 1st Trafficking in phencyclidine,  
more than 28 grams, less than  
200 grams.

496 893.135(1) (e) 1. 1st Trafficking in methaqualone,  
more than 200 grams, less than

Page 29 of 52

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

31-00532A-17 20171436\_\_

497 5 kilograms.

893.135(1) (f) 1. 1st Trafficking in amphetamine,  
more than 14 grams, less than  
28 grams.

498 893.135 1st Trafficking in flunitrazepam, 4  
(1) (g) 1.a. grams or more, less than 14  
grams.

499 893.135 1st Trafficking in gamma-  
(1) (h) 1.a. hydroxybutyric acid (GHB), 1  
kilogram or more, less than 5  
kilograms.

500 893.135 1st Trafficking in 1,4-Butanediol,  
(1) (j) 1.a. 1 kilogram or more, less than 5  
kilograms.

501 893.135 1st Trafficking in Phenethylamines,  
(1) (k) 2.a. 10 grams or more, less than 200  
grams.

502 893.1351(2) 2nd Possession of place for  
trafficking in or manufacturing  
of controlled substance.

503 896.101(5) (a) 3rd Money laundering, financial  
transactions exceeding \$300 but

Page 30 of 52

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

31-00532A-17 20171436\_\_  
 less than \$20,000.  
 504 896.104(4)(a)1. 3rd Structuring transactions to  
 evade reporting or registration  
 requirements, financial  
 505 943.0435(4)(c) 2nd Sexual offender vacating  
 permanent residence; failure to  
 comply with reporting  
 requirements.  
 506 943.0435(8) 2nd Sexual offender; remains in  
 state after indicating intent  
 to leave; failure to comply  
 with reporting requirements.  
 507 943.0435(9)(a) 3rd Sexual offender; failure to  
 comply with reporting  
 requirements.  
 508 943.0435(13) 3rd Failure to report or providing  
 false information about a  
 sexual offender; harbor or  
 509 943.0435(14) 3rd Sexual offender; failure to  
 report and reregister; failure

31-00532A-17 20171436\_\_  
 to respond to address  
 510 verification; providing false  
 registration information.  
 944.607(9) 3rd Sexual offender; failure to  
 comply with reporting  
 511 requirements.  
 944.607(10)(a) 3rd Sexual offender; failure to  
 submit to the taking of a  
 512 digitized photograph.  
 944.607(12) 3rd Failure to report or providing  
 false information about a  
 sexual offender; harbor or  
 513 conceal a sexual offender.  
 944.607(13) 3rd Sexual offender; failure to  
 report and reregister; failure  
 to respond to address  
 514 verification; providing false  
 registration information.  
 985.4815(10) 3rd Sexual offender; failure to  
 submit to the taking of a  
 digitized photograph.  
 515 985.4815(12) 3rd Failure to report or providing  
 false information about a

	31-00532A-17		20171436__	
				sexual offender; harbor or conceal a sexual offender.
516	985.4815 (13)	3rd		Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
517	(h) LEVEL 8			
518	Florida Statute	Felony Degree		Description
519				
520	316.193 (3) (c) 3.a.	2nd		DUI manslaughter.
521	316.1935 (4) (b)	1st		Aggravated fleeing or attempted eluding with serious bodily injury or death.
522	327.35 (3) (c) 3.	2nd		Vessel BUI manslaughter.
523	499.0051 (7)	1st		Knowing trafficking in contraband prescription drugs.
524	499.0051 (8)	1st		Knowing forgery of prescription labels or prescription drug labels.

	31-00532A-17		20171436__	
525	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.
526	560.125 (5) (b)	2nd		Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.
527	655.50 (10) (b) 2.	2nd		Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
528	777.03 (2) (a)	1st		Accessory after the fact, capital felony.
529	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

31-00532A-17 20171436\_\_

530 death, aircraft piracy, or  
unlawfully discharging bomb.

782.051(2) 1st Attempted felony murder while  
perpetrating or attempting to  
perpetrate a felony not  
531 enumerated in s. 782.04(3).

782.071(1)(b) 1st Committing vehicular homicide  
and failing to render aid or  
give information.

532 782.072(2) 1st Committing vessel homicide and  
failing to render aid or give  
information.

533 787.06(3)(a)1. 1st Human trafficking for labor and  
services of a child.

534 787.06(3)(b) 1st Human trafficking using  
coercion for commercial sexual  
activity of an adult.

535 787.06(3)(c)2. 1st Human trafficking using  
coercion for labor and services  
of an unauthorized alien adult.

536 787.06(3)(e)1. 1st Human trafficking for labor and  
services by the transfer or

31-00532A-17 20171436\_\_

537 transport of a child from  
outside Florida to within the  
state.

787.06(3)(f)2. 1st Human trafficking using  
coercion for commercial sexual  
activity by the transfer or  
transport of any adult from  
outside Florida to within the  
state.

538 790.161(3) 1st Discharging a destructive  
device which results in bodily  
harm or property damage.

539 794.011(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.

540 794.011(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.

541 794.011(5)(c) 2nd Sexual battery; victim 12 years

31-00532A-17 20171436\_\_

of age or older; offender  
younger than 18 years; offender  
does not use physical force  
likely to cause injury.

542 794.011(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.

543 794.08(3) 2nd Female genital mutilation,  
removal of a victim younger  
than 18 years of age from this  
state.

544 800.04(4)(b) 2nd Lewd or lascivious battery.

545 800.04(4)(c) 1st Lewd or lascivious battery;  
offender 18 years of age or  
older; prior conviction for  
specified sex offense.

546 806.01(1) 1st Maliciously damage dwelling or  
structure by fire or explosive,  
believing person in structure.

547 810.02(2)(a) 1st,PBL Burglary with assault or

Page 37 of 52

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

31-00532A-17 20171436\_\_

battery.

548 810.02(2)(b) 1st,PBL Burglary; armed with explosives  
or dangerous weapon.

549 810.02(2)(c) 1st Burglary of a dwelling or  
structure causing structural  
damage or \$1,000 or more  
property damage.

550 812.014(2)(a)2. 1st Property stolen; cargo valued  
at \$50,000 or more, grand theft  
in 1st degree.

551 812.13(2)(b) 1st Robbery with a weapon.

552 812.135(2)(c) 1st Home-invasion robbery, no  
firearm, deadly weapon, or  
other weapon.

553 817.535(2)(b) 2nd Filing false lien or other  
unauthorized document; second  
or subsequent offense.

554 817.535(3)(a) 2nd Filing false lien or other  
unauthorized document; property  
owner is a public officer or  
employee.

555

Page 38 of 52

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

31-00532A-17 20171436\_\_

556 817.535(4)(a)1. 2nd Filing false lien or other  
unauthorized document;  
defendant is incarcerated or  
under supervision.

817.535(5)(a) 2nd Filing false lien or other  
unauthorized document; owner of  
the property incurs financial  
loss as a result of the false  
instrument.

557 817.568(6) 2nd Fraudulent use of personal  
identification information of  
an individual under the age of  
18.

558 817.611(2)(c) 1st Traffic in or possess 50 or  
more counterfeit credit cards  
or related documents.

559 825.102(2) 1st Aggravated abuse of an elderly  
person or disabled adult.

560 825.1025(2) 2nd Lewd or lascivious battery upon  
an elderly person or disabled  
adult.

561 825.103(3)(a) 1st Exploiting an elderly person or  
disabled adult and property is

31-00532A-17 20171436\_\_

562 valued at \$50,000 or more.

837.02(2) 2nd Perjury in official proceedings  
relating to prosecution of a  
capital felony.

563 837.021(2) 2nd Making contradictory statements  
in official proceedings  
relating to prosecution of a  
capital felony.

564 860.121(2)(c) 1st Shooting at or throwing any  
object in path of railroad  
vehicle resulting in great  
bodily harm.

565 860.16 1st Aircraft piracy.

566 893.13(1)(b) 1st Sell or deliver in excess of 10  
grams of any substance  
specified in s. 893.03(1)(a) or  
(b).

567 893.13(2)(b) 1st Purchase in excess of 10 grams  
of any substance specified in  
s. 893.03(1)(a) or (b).

568 893.13(6)(c) 1st Possess in excess of 10 grams  
of any substance specified in

31-00532A-17 20171436\_\_  
 s. 893.03(1)(a) or (b).  
 569 893.135(1)(a)2. 1st Trafficking in cannabis, more  
 than 2,000 lbs., less than  
 10,000 lbs.  
 570 893.135 1st Trafficking in cocaine, more  
 (1)(b)1.b. than 300 ~~200~~ grams, less than  
500 ~~400~~ grams.  
 571 893.135 1st Trafficking in illegal drugs,  
 (1)(c)1.b. more than 14 grams, less than  
 28 grams.  
 572 893.135 1st Trafficking in hydrocodone, 50  
 (1)(c)2.b. grams or more, less than 200  
~~893.135~~ grams.  
~~(1)(e)2.c.~~  
 573 893.135 1st Trafficking in oxycodone, 25  
 (1)(c)3.b. grams or more, less than 100  
~~893.135~~ grams.  
~~(1)(e)3.c.~~  
 574 893.135 1st Trafficking in phencyclidine,  
 (1)(d)1.b. more than 200 grams, less than  
 400 grams.  
 575 893.135 1st Trafficking in methaqualone,

31-00532A-17 20171436\_\_  
 (1)(e)1.b. more than 5 kilograms, less  
 than 25 kilograms.  
 576 893.135 1st Trafficking in amphetamine,  
 (1)(f)1.b. more than 28 grams, less than  
 200 grams.  
 577 893.135 1st Trafficking in flunitrazepam,  
 (1)(g)1.b. 14 grams or more, less than 28  
 grams.  
 578 893.135 1st Trafficking in gamma-  
 (1)(h)1.b. hydroxybutyric acid (GHB), 5  
 kilograms or more, less than 10  
 kilograms.  
 579 893.135 1st Trafficking in 1,4-Butanediol,  
 (1)(j)1.b. 5 kilograms or more, less than  
 10 kilograms.  
 580 893.135 1st Trafficking in Phenethylamines,  
 (1)(k)2.b. 200 grams or more, less than  
 400 grams.  
 581 893.1351(3) 1st Possession of a place used to  
 manufacture controlled  
 substance when minor is present  
 or resides there.  
 582



	31-00532A-17		20171436__
583	895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
584	895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
585	895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
586	896.101(5)(b)	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.
587	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.
588	(i) LEVEL 9		
589	Florida Statute	Felony Degree	Description

	31-00532A-17		20171436__
590	316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
591	327.35 (3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
592	409.920 (2)(b)1.c.	1st	Medicaid provider fraud; \$50,000 or more.
593	499.0051(8)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
594	560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
595	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
596	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
597			

31-00532A-17 20171436\_\_

598 775.0844 1st Aggravated white collar crime.

782.04(1) 1st Attempt, conspire, or solicit to commit premeditated murder.

599 782.04(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.

600 782.051(1) 1st Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).

601 782.07(2) 1st Aggravated manslaughter of an elderly person or disabled adult.

602 787.01(1)(a)1. 1st,PBL Kidnapping; hold for ransom or reward or as a shield or hostage.

603 787.01(1)(a)2. 1st,PBL Kidnapping with intent to commit or facilitate commission of any felony.

31-00532A-17 20171436\_\_

604 787.01(1)(a)4. 1st,PBL Kidnapping with intent to interfere with performance of any governmental or political function.

605 787.02(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.

606 787.06(3)(c)1. 1st Human trafficking for labor and services of an unauthorized alien child.

607 787.06(3)(d) 1st Human trafficking using coercion for commercial sexual activity of an unauthorized adult alien.

608 787.06(3)(f)1. 1st,PBL Human trafficking for commercial sexual activity by the transfer or transport of any child from outside Florida to within the state.

609

	31-00532A-17		20171436__
	790.161	1st	Attempted capital destructive device offense.
610			
	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
611			
	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
612			
	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
613			
	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.
614			
	794.011(4)(b)	1st	Sexual battery, certain circumstances; victim and offender 18 years of age or older.
615			
	794.011(4)(c)	1st	Sexual battery, certain circumstances; victim 12 years

Page 47 of 52

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

	31-00532A-17		20171436__
			of age or older; offender younger than 18 years.
616			
	794.011(4)(d)	1st,PBL	Sexual battery, certain circumstances; victim 12 years of age or older; prior conviction for specified sex offenses.
617			
	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.
618			
	794.08(2)	1st	Female genital mutilation; victim younger than 18 years of age.
619			
	800.04(5)(b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
620			
	812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
621			
	812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
622			
	812.135(2)(b)	1st	Home-invasion robbery with

Page 48 of 52

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



31-00532A-17 20171436\_\_

635 893.135 1st Trafficking in hydrocodone, 200  
~~(1)(c)2.c.~~ grams or more, less than 30  
~~893.135~~ kilograms.  
~~(1)(e)2.d.~~

636 893.135 1st Trafficking in oxycodone, 100  
~~(1)(c)3.c.~~ grams or more, less than 30  
~~893.135~~ kilograms.  
~~(1)(e)3.d.~~

637 893.135 1st Trafficking in phencyclidine,  
(1)(d)1.c. more than 400 grams.

638 893.135 1st Trafficking in methaqualone,  
(1)(e)1.c. more than 25 kilograms.

639 893.135 1st Trafficking in amphetamine,  
(1)(f)1.c. more than 200 grams.

640 893.135 1st Trafficking in gamma-  
(1)(h)1.c. hydroxybutyric acid (GHB), 10  
kilograms or more.

641 893.135 1st Trafficking in 1,4-Butanediol,  
(1)(j)1.c. 10 kilograms or more.

642 893.135 1st Trafficking in Phenethylamines,  
(1)(k)2.c. 400 grams or more.

Page 51 of 52

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

31-00532A-17 20171436\_\_

643 896.101(5)(c) 1st Money laundering, financial  
instruments totaling or  
exceeding \$100,000.

644 896.104(4)(a)3. 1st Structuring transactions to  
evade reporting or registration  
requirements, financial  
transactions totaling or  
exceeding \$100,000.

645

646 Section 4. This act shall take effect October 1, 2017.

Page 52 of 52

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

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

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

April 17, 2017

SB 1436

*Meeting Date*

*Bill Number (if applicable)*

Topic Controlled Substance Offenses

*Amendment Barcode (if applicable)*

Name Honorable Andy Thomas

Job Title Public Defender, 2nd Circuit

Address 301 South Monroe Street, Suite 401

Phone 850-606-1000

*Street*

Tallahassee

FL

32301

Email andy.thomas@flpd2.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/17/17

Meeting Date

SB 1436

Bill Number (if applicable)

Topic Controlled Substance Offenses

Amendment Barcode (if applicable)

Name Kara Gross

Job Title Legislative Counsel

Address 4500 Biscayne Blvd  
Street

Phone 786-363-4436

Miami FL  
City State Zip

Email KGROSS@ACLUFL.ORG

Speaking:  For  Against  Information

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

Representing ACLU OF FLORIDA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/17/17  
Meeting Date

SB 1436  
Bill Number (if applicable)

Topic Drug Trafficking

Amendment Barcode (if applicable)

Name Buddy Jacobs

Job Title General Counsel Fla. Prosecuting Attorneys Assoc.

Address 961687 Gateway Blvd.  
Street

Phone 904-261-3693

Fernandina Bch FL 32034  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing State Attorneys of Fla.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  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)

4-17-17

Meeting Date

1436

Bill Number (if applicable)

Topic Sentencing

Amendment Barcode (if applicable)

Name Greg Newburn

Job Title State Policy Director

Address PO Box 142933

Phone 352.682.2542

Street

Gainesville

FL

32614

Email gnewburn@famn.org

City

State

Zip

Speaking:  For  Against  Information

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

Representing Families Against Mandatory Minimums

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

Tallahassee, Florida 32399-1100

## COMMITTEES:

Community Affairs, *Vice Chair*  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Appropriations Subcommittee on Higher Education  
Communications, Energy, and Public Utilities  
Criminal Justice

## JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

## SENATOR JEFF CLEMENS

*Democratic Whip*  
31st District

March 14, 2017

Senator Randolph Bracy, Chair  
Senate Committee on Criminal Justice  
510 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Chair Bracy:

I respectfully request that SB 1436—Controlled Substance Offenses be added to the agenda for the next Senate Committee on Criminal Justice meeting.

SB 1436 will enhance public safety while saving money by reserving more serious prison terms for more serious offenders. The bill gives courts flexibility to sentence low-level offenders more appropriately, which will save tens of millions in unnecessary correction costs. This also allows reinvestment into effective treatment options, testing rape kits, hiring more police officers, or pay raises for Corrections Officers.

Please feel free to contact me with any questions. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Clemens".

Senator Jeff Clemens  
Florida Senate District 31

## REPLY TO:

- 508 Lake Avenue, Unit C, Lake Worth, Florida 33460 (561) 540-1140 FAX: (561) 540-1143
- 210 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

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

JOE NEGRON  
President of the Senate

ANITERE FLORES  
President Pro Tempore

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

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

---

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

---

BILL: SB 1662

INTRODUCER: Senator Clemens

SUBJECT: Cannabis

DATE: April 14, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Hrdlicka	CJ	<b>Pre-meeting</b>
2.			JU	
3.			RC	

---

**I. Summary:**

SB 1662 creates s. 893.131, F.S., related to personal use quantity of cannabis. The bill creates a civil violation if a person knowingly and unlawfully possesses a personal use quantity of cannabis or a cannabis accessory. The bill provides different civil penalties for adults and juveniles.

The bill defines “personal use quantity of cannabis” to mean 1 ounce or less of cannabis, except that:

- No more than 5 grams of the cannabis may be resin extracted from or concentrates derived from cannabis;
- The term does not include cannabis that is growing; and
- The term does not include the estimated weight of any noncannabis ingredients combined with cannabis, such as ingredients added to prepare food or drink.

The bill also defines a “cannabis accessory” to mean paraphernalia for the ingestion, use, inhalation, preparation for personal use, or storage of a personal use quantity of cannabis.

The bill amends s. 893.13(6)(b), F.S., to make it a first degree misdemeanor to possess ***1 ounce or less of cannabis*** and the ***possession is not a personal use quantity of cannabis***.

The bill also amends s. 893.13(3), F.S., to make it a first degree misdemeanor for a person to deliver, without consideration, ***a personal use quantity of cannabis***. The bill also repeals the language specifying that the term “cannabis” does not include the resin extracted from the plants of the genus *Cannabis* or any compound manufacture, salt, derivative, mixture, or preparation of such resin.

The bill amends s. 893.145, F.S., to specify that the term “drug paraphernalia” does not include a cannabis accessory.

The courts and the clerk of courts may see an indeterminate increase in their caseloads with the creation of these new civil violations. The clerks, law enforcement agencies and the FDLE may incur significant costs to create suitable databases if they cannot maintain records of a civil violation in an existing criminal offender database.

The bill is effective July 1, 2017.

## II. Present Situation:

Florida law defines cannabis as “all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin,”<sup>1</sup> and places it, along with other sources of THC, on the list of Schedule I controlled substances.<sup>2</sup>

Schedule I controlled substances are substances that have a high potential for abuse and no currently accepted medical use in the United States.<sup>3</sup> As a Schedule I controlled substance, possession and trafficking of cannabis carry varying criminal penalties.<sup>4</sup>

Specifically, a person commits a first degree misdemeanor if a person possesses or delivers, without consideration, 20 grams or less of cannabis.<sup>5</sup> Subsections (3) and paragraph (6)(b) of s. 893.13, F.S., specify that the term “cannabis” does not include the resin extracted from the plants of the genus *Cannabis* or any compound manufacture, salt, derivative, mixture, or preparation of such resin.

Section 893.145, F.S., defines drug paraphernalia as all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, transporting, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of ch. 893, F.S., or s. 877.111, F.S.<sup>6</sup> Section 893.145, F.S., provides an extensive list of items that are included in the term “drug paraphernalia.”<sup>7</sup>

---

<sup>1</sup> Section 893.02(3), F.S.

<sup>2</sup> Section 893.03(1)(c)7., and 190., F.S. The definition excludes “low-THC cannabis” as defined in s. 381.986, F.S., if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed in conformance with that section.

<sup>3</sup> Section 893.03(1), F.S.

<sup>4</sup> See ss. 893.13 and 893.135, F.S.

<sup>5</sup> Section 893.13(3), and (6)(b), F.S.

<sup>6</sup> Section 893.145, F.S.

<sup>7</sup> See s. 893.145(1)-(12), F.S.

### III. Effect of Proposed Changes:

#### Personal use of Cannabis

The bill creates s. 893.131, F.S., related to personal use quantity of cannabis. The bill defines “personal use quantity of cannabis” to mean 1 ounce or less of cannabis, except that:

- No more than 5 grams of the cannabis may be resin extracted from or concentrates derived from cannabis;
- The term does not include cannabis that is growing; and
- The term does not include the estimated weight of any noncannabis ingredients combined with cannabis, such as ingredients added to prepare food or drink.

The bill does not provide a way for a law enforcement officer to determine if the cannabis is 1 ounce or less. Current law provides that it is unlawful to possess any amount of cannabis and officers do not have to make this determination.

The bill also defines a “cannabis accessory” to mean paraphernalia for the ingestion, use, inhalation, preparation for personal use, or storage of a personal use quantity of cannabis. The bill does not define what paraphernalia is.

The bill provides that a person, 18 years of age or older, who knowingly and unlawfully possesses a personal use quantity of cannabis or a cannabis accessory commits a civil violation and must be assessed a civil penalty of not more than \$100. The person may request a penalty of 15 hours of community service in lieu of the up to \$100 civil penalty. It is unclear what a civil violation is and who assesses or determines the civil penalty. The bill does not specify:

- Whether a unit of government collects the civil penalty and where it is deposited;
- If proof of completion of the community service hours is required;
- If the civil penalty must be paid or the community service hours completed within a certain time period; and
- What happens if a person does not pay the civil penalty or complete the community service hours.

A juvenile, under 18 years of age, who knowingly and unlawfully possesses a personal use quantity of cannabis or a cannabis accessory commits a civil violation and must be ordered to complete up to 15 hours of community service, a drug awareness program, or both.

The bill specifies that a person cited for one of the above stated civil violations is not subject to arrest and must be issued a notice to appear. The bill does not define the notice to appear or set forth procedures to comply with such notice.

Within 1 year after the court orders the juvenile to complete his or her civil penalties, the juvenile or his or her parent or legal guardian must file evidence with the clerk of court that the civil penalties are completed. If the juvenile or his or her parent or legal guardian fails to provide such evidence of completion, the clerk must notify the juvenile, or his or her parent or legal guardian, and the *person* who issued the *citation* of a hearing to impose a civil penalty of up to

\$150 or up to 40 hours of community service on the juvenile. During the hearing, the court is limited to considering the:

- Juvenile's financial capacity to pay the penalty;
- Juvenile's ability to participate in a drug awareness program;
- Availability of a suitable drug awareness program; and
- Juvenile's willingness to complete such program within a timeframe to be determined by the court.

The bill attempts to place responsibility to submit documentation on the juvenile's parent or legal guardian. However, it is unclear how such responsibility can be placed upon a party that did not commit a civil violation; the juvenile is the one who has committed a civil violation and is the responsible party.

The bill says that the clerk should notify the *person* who issued the *citation*. It is unclear if someone other than a law enforcement officer can issue a notice to appear for a civil violation of possessing a personal use quantity of cannabis or cannabis accessory. The bill also uses the term *citation* when the bill only provides an issuance of a notice to appear for a civil violation of possessing a personal use quantity of cannabis or cannabis accessory.

The bill does not specify what type of evidence must be filed, how the clerk is to assess the evidence, or how the clerk would be aware that the evidence was filed within the 1-year requirement. The bill also says the hearing is to "impose a civil penalty of up to \$150 or up to 40 hours of community service." This makes it seem that the court does not have an option to determine that no penalties are necessary.

The bill also provides that receiving a civil violation, as stated above, is not considered a drug offense under state law or as defined in 23 C.F.R. s. 192.3 and may not affect a person's driving privileges. Florida law cannot dictate what is considered a drug offense under federal law. The current wording of the bill may create this problem.

The bill attempts to allow a person to be arrested if he or she fails or refuses to:

- Produce his or her identification card or driver license or other form of identification on the request of a law enforcement officer who informs the person that he or she has been found in possession of what appears to be a personal use quantity of cannabis or a cannabis accessory; and
- Truthfully provide his or her name, address, and date of birth to a law enforcement officer.

However, the bill does not provide what a person can be arrested for and the wording seems to allow a person to:

- Fail or refuse to produce his or her identification but truthfully provide the officer with his or her name, address, and date of birth; or
- Produce his or her identification and then lie about his or her name, address, or date of birth.

Additionally, some of the forms of identification allowed, like a school district id, would not likely contain the information needed by the law enforcement officer.

The bill prohibits the state or any of its political subdivisions from imposing any other penalty than those stated above for:

- Possessing a personal use quantity of cannabis or a cannabis accessory; and
- A person who solely has cannabinoids or cannabinoid metabolites in his or her urine, blood, sweat, hair, fingernails, toenails, or other tissue or fluid of the human body.

The bill seems to prohibit the state from requiring a drug free work place, which would allow state workers, law enforcement officers, childcare professionals, etc., to test positive for having cannabis in his or her system.

The bill also specifies that receiving a civil violation for possession of a personal use quantity of cannabis or a cannabis accessory may not be considered a violation of parole or probation. This may create a problem because many parolees or probationers currently have a condition of parole or probation that prohibits the possession and use of drugs. The parole and probation statutes may need to be amended to reflect this change made by the bill.

The bill provides that possession of a personal use quantity of cannabis or a cannabis accessory or the presence of cannabinoids or cannabinoid metabolites in the urine, blood, sweat, hair, fingernails, toenails, or other tissue or fluid of the human body, or conviction, citation, admission or plea bargain does not constitute grounds for denying a person:

- Student financial aid;
- Public housing; or
- Any other form of public assistance including:
  - Unemployment benefits;
  - Denying a person the right to operate a motor vehicle; or
  - Disqualifying a person from serving as a foster parent or an adoptive parent.

The state cannot regulate the federal government or federal government programs. To the extent that any of the above programs are run or funded by the federal government and the bill conflicts with any federal government requirements, the conflicting provisions could be found unconstitutional or the state could lose federal funding.

The bill specifies that it does not repeal or modify any law concerning the:

- Medical use of cannabis or tetrahydrocannabinol (THC) in any form, such as dronabinol;
- Possession of more than a personal use quantity of cannabis; or
- Sale, manufacture, or trafficking of cannabis.

The bill allows political subdivisions of the state to enact ordinances regulating or prohibiting the public consumption of cannabis or THC. The bill also allows political subdivisions of the state to provide additional penalties for the public consumption of cannabis or THC as long as the penalties are not greater than those relating to the public consumption of alcohol.

### *Notice of Violations*

The bill requires state, county, and municipal law enforcement agencies to issue *noncriminal citation* forms to their officers. The bill provides that it is a civil violation for the possession of a

personal use quantity of cannabis or a cannabis accessory and a notice to appear must be issued, not a noncriminal citation.

A juvenile's parent or legal guardian must be notified of a civil violation. The notice must be mailed to the parent or legal guardian's last known address or hand delivered. The bill does not specify who notifies the juvenile's parent or legal guardian or who pays for such a notification.

### ***Drug Awareness Programs***

The bill provides that a juvenile, under the age of 18, may be ordered to complete a drug awareness program. The program may charge a fee of up to \$75 dollars to offset costs, which must be paid when the juvenile enters the program. The fees must be waived based on a juvenile's financial hardship. The parent or legal guardian of the juvenile must also be provided with information about available drug awareness programs.

Lines 168-169 state that the juvenile has "to complete a drug awareness program *within 1 year after his or her parent or legal guardian is notified of the violation.*" This would allow a juvenile to not have to complete the program if his or her parent or legal guardian is not notified. This also conflicts with lines 94-97 that requires a juvenile or his or parent or legal guardian to submit evidence of completion of the program within 1 year of the court ordering it.

The bill does not specify any requirements of what the program must consist of, the length of the program, or what happens if a juvenile does not complete the program. The bill does not provide what constitutes a financial hardship or who would make such a determination. The bill also does not provide what occurs if a juvenile is ordered to complete a drug awareness program and there is not such a program in his or her area. The bill also does not state who provides the information about the drug awareness programs to law enforcement agencies and what the information must consist of.

### ***Recordkeeping***

A record of a civil violation for the possession of a personal use quantity of cannabis or a cannabis accessory cannot be recorded in any database of criminal offenders. It is unclear what a database of criminal offenders is. If the clerks keeping a record of the civil violation or law enforcement keeping a copy of the civil violation is considered a database of criminal offenders, it is unclear where the information concerning the civil violation would be maintained.

If the clerk or law enforcement cannot maintain a record of the civil violation, then it would be difficult for them to enforce the civil violation. On the other hand, if they can maintain the records, but cannot use an existing criminal offender database they may incur significant costs to create suitable databases. The clerks would also not be able to verify that a juvenile had completed his or her civil penalties within the required 1-year time period.

The bill requires any state, county, or municipal law enforcement agency that collects and reports data for the Federal Bureau of Investigation's Uniform Crime Reporting Program to collect data on the number of civil violations issued and report the data to the Florida Department of Law Enforcement (FDLE). The FDLE must compile the data and make it available free of cost to the



public. The law enforcement agencies must update the data annually and make the data available on their public Internet websites.

The bill does not specify how often the FDLE must update the data that is made available to the public or a specific date for law enforcement agencies to annually update their data. It is unclear why the bill requires only state, county, or municipal law enforcement agencies that collect and report data for the Federal Bureau of Investigation's Uniform Crime Program to have to collect data and not all law enforcement agencies in Florida. It is unclear if just making the data available online would meet the requirement to make the data free of cost to the public.

### ***Distribution of Revenue***

The bill requires that any civil penalties levied must be distributed as follows:

- Fifty percent distributed to or retained by the municipality where the violation occurred, or the county where it occurred, if the violation occurred in an unincorporated area; and
- Fifty percent distributed as provided in s. 938.23(2), F.S.<sup>8</sup>

### **Possession and Delivery of Cannabis**

Section 893.13(6)(b), F.S., is amended to make it a first degree misdemeanor to possess ***1 ounce or less of cannabis*** and the ***possession is not a personal use quantity of cannabis***, as defined in s. 893.131, F.S.

The bill also amends s. 893.13(3), F.S., to make it a first degree misdemeanor for a person to deliver, without consideration, ***a personal use quantity of cannabis***, as defined in s. 893.131, F.S. The bill also repeals the language specifying that the term "cannabis" does not include the resin extracted from the plants of the genus *Cannabis* or any compound manufacture, salt, derivative, mixture, or preparation of such resin.

Section 893.13(6)(e), F.S., provides that a law enforcement officer may arrest without warrant any person who the officer has probable cause to believe is violating the provisions of ch. 893, F.S., relating to the possession of cannabis. The bill excludes s. 893.131, F.S., personal use quantity of cannabis, from this provision.

### **Drug Paraphernalia**

The bill amends s. 893.145, F.S., to specify that the term "drug paraphernalia" does not include a cannabis accessory, as defined in s. 893.131, F.S.

---

<sup>8</sup> Section 938.23(2), F.S., provides that the clerk of court must collect and remit the monies to the jurisdictional county for deposit into the County Alcohol and Other Drug Abuse Trust Fund or remitted to the Department of Revenue for deposit into the Grants and Donations Trust Fund of the Department of Children and Families pursuant to guidelines and priorities developed by the department. If a County Alcohol and Other Drug Abuse Trust Fund has not been established for any jurisdictional county, assessments collected by the clerk of court shall be remitted to the Department of Revenue for deposit into the Grants and Donations Trust Fund of the Department of Children and Families.

### **Section 938.23, F.S., Assistance Grants for Alcohol and Other Drug Abuse Programs**

The bill amends s. 938.23(2), F.S., to include proceeds of civil penalties under s. 893.131, F.S., which the clerk can collect and then remit as the statute provides.

#### **Other**

The bill reenacts ss. 112.0455, 397.451, 435.07, 772.12, 775.084, 810.02, 812.014, 831.311, 893.1351, 893.138, 893.15, 903.133, 921.187, 893.12, and 893.147 to incorporate amendments by the bill to statutes that are cross-referenced in the reenacted sections.

The bill is effective July 1, 2017. This effective date may not provide enough time for the affected agencies to properly implement the bill.

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

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

The application of several of the provisions of this bill are unclear. To the extent that the cities or counties have to expend funds, create programs, databases, or citation forms to comply with the provisions of the bill, the mandates provision of the Florida Constitution may apply. Subsection (a) of section 18, Article VII of the Florida Constitution, provides that “no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds unless ... the legislature has determined that such law fulfills an important state interest ... and unless the law requiring such expenditure is approved except by a two-thirds vote of the membership of each chamber of the Legislature or the law applies to all persons similarly situated, including state and local governments.” However, the mandates requirements do not apply to criminal laws or to laws having an insignificant impact, which for Fiscal Year 2016-2017 was \$2 million or less.<sup>9,10,11</sup>

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

None.

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

None.

<sup>9</sup> FLA. CONST. art. VII, s. 18(d).

<sup>10</sup> An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited April 14, 2017).

<sup>11</sup> Based on the Demographic Estimating Conference’s population adopted on November 1, 2016. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited April 14, 2017).

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill creates a civil violation for the possession of a personal use quantity of cannabis. The courts and the clerk of courts may see an indeterminate increase in their caseloads with the creation of these new civil violations.

The bill is unclear on how the clerk and law enforcement are supposed to maintain a record of a civil violation. If the clerks, law enforcement agencies, and the FDLE cannot maintain records of a civil violation in an existing criminal offender database, they may incur significant costs to create suitable databases.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 893.13, 893.145, and 938.23.

This bill creates section 893.131 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 112.0455, 397.451, 435.07, 772.12, 775.084, 810.02, 812.014, 831.311, 893.1351, 893.138, 893.15, 903.133, 921.187, 893.12, and 893.147.

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

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

None.

B. Amendments:

None.

---

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

---

By Senator Clemens

31-01630-17

20171662\_\_

1 A bill to be entitled  
 2 An act relating to cannabis; creating s. 893.131,  
 3 F.S.; defining terms; providing that possession of a  
 4 personal use quantity of cannabis or a cannabis  
 5 accessory by an adult is a civil violation; providing  
 6 for fines or community service; providing that such  
 7 possession by a minor is a civil violation; requiring  
 8 such minor to perform community service, attend a drug  
 9 awareness program, or both; prohibiting arrests for  
 10 such violation; providing an exception; limiting  
 11 collateral use of such violation; prohibiting state or  
 12 local penalties or obligations other than specified  
 13 penalties or obligations concerning possession of  
 14 personal use quantities of cannabis or cannabis  
 15 accessories; prohibiting additional state or local  
 16 penalties or obligations for having cannabinoids or  
 17 cannabinoid metabolites in tissue or fluid of the  
 18 body; providing applicability; specifying that  
 19 political subdivisions may enact ordinances concerning  
 20 public consumption of cannabis; specifying that  
 21 certain violations may not be considered probation or  
 22 parole violations; providing recordkeeping;  
 23 authorizing the court to require completion of a drug  
 24 awareness program under certain circumstances;  
 25 providing penalties for noncompliance; providing  
 26 distribution of revenue from civil penalties; amending  
 27 ss. 893.13, 893.145, and 938.23, F.S.; conforming  
 28 provisions to changes made by the act; reenacting ss.  
 29 112.0455(8) (s), 397.451(4) (b), 435.07(2), 772.12(2),

Page 1 of 23

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

31-01630-17

20171662\_\_

30 775.084(1) (a), 810.02(3) (f), 812.014(2) (c),  
 31 831.311(1), 893.1351(1) and (2), 893.138(3), 893.15,  
 32 903.133, 921.187(1) (l), F.S., relating to the Drug-  
 33 Free Workplace Act, background checks of service  
 34 provider personnel, exemptions from disqualification,  
 35 the Drug Dealer Liability Act, violent career  
 36 criminals, habitual felony offenders, habitual violent  
 37 felony offenders, three-time violent felony offenders,  
 38 definitions, procedure, and enhanced penalties or  
 39 mandatory minimum prison terms, burglary, theft,  
 40 unlawful sale, manufacture, alteration, delivery,  
 41 uttering, or possession of counterfeit-resistant  
 42 prescription blanks for controlled substances,  
 43 ownership, lease, rental, or possession for  
 44 trafficking in or manufacturing a controlled  
 45 substance, local administrative action to abate drug-  
 46 related, prostitution-related, or stolen-property-  
 47 related public nuisances and criminal gang activity,  
 48 rehabilitation, bail on appeal prohibited for certain  
 49 felony convictions, disposition, sentencing,  
 50 alternatives and restitution, respectively, to  
 51 incorporate the amendment made by the act to s.  
 52 893.13, F.S.; reenacting s. 893.12(2) (a) and  
 53 893.147(6) (a), F.S., relating to contraband seizure,  
 54 forfeiture, and sale, and use, possession,  
 55 manufacture, delivery, transportation, advertisement,  
 56 or retail sale of drug paraphernalia, respectively, to  
 57 incorporate the amendment made by the act to s.  
 58 893.145, F.S.; providing an effective date.

Page 2 of 23

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

31-01630-17

20171662\_\_

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

62 Section 1. Section 893.131, Florida Statutes, is created to  
63 read:

64 893.131 Personal use quantity of cannabis.—

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

66 (a) "Cannabis accessory" means paraphernalia for the  
67 ingestion, use, inhalation, preparation for personal use, or  
68 storage of a personal use quantity of cannabis.

69 (b) "Personal use quantity of cannabis" means 1 ounce or  
70 less of cannabis, except that:

71 1. No more than 5 grams of the cannabis may be resin  
72 extracted from or concentrates derived from cannabis.

73 2. The term does not include cannabis that is growing.

74 3. The term does not include the estimated weight of any  
75 noncannabis ingredients combined with cannabis, such as  
76 ingredients added to prepare food or drink.

77 (2) PERSONAL POSSESSION.—

78 (a)1. A person 18 years of age or older who knowingly and  
79 unlawfully possesses a personal use quantity of cannabis or a  
80 cannabis accessory commits a civil violation and, except as  
81 provided in subparagraph 2., shall be assessed a civil penalty  
82 of not more than \$100.

83 2. A person 18 years of age or older who commits a civil  
84 violation under subparagraph 1. may request a penalty of up to  
85 15 hours of community service in lieu of the civil penalty in  
86 subparagraph 1.

87 (b) A person under the age of 18 years who knowingly and

31-01630-17

20171662\_\_

88 unlawfully possesses a personal use quantity of cannabis or a  
89 cannabis accessory commits a civil violation and shall be  
90 ordered to complete up to 15 hours of community service, a drug  
91 awareness program, or both. The offender's parent or legal  
92 guardian shall be notified of the violation pursuant to  
93 paragraph (5) (b) and provided information regarding available  
94 drug awareness programs. Within 1 year after the court orders  
95 such offender to complete such service, program, or both, the  
96 offender or his or her parent or legal guardian shall file with  
97 the clerk of the court evidence of such completion.

98 (c) Except as provided in this section, a person is not  
99 subject to arrest for a violation of this section. A person  
100 cited for a violation of this section shall be released on  
101 notice to appear if the law enforcement officer does not have  
102 lawful grounds to arrest such person for a different offense.

103 (d) A determination of a civil violation under this section  
104 is not considered a drug offense under state law or as defined  
105 in 23 C.F.R. s. 192.3 and may not affect a person's driving  
106 privileges.

107 (e) A person who fails or refuses to produce his or her  
108 identification card or driver license issued by the state, or  
109 another form of identification issued by any state, district,  
110 county, municipality, school district, college, or university  
111 upon request by a law enforcement officer who informs the person  
112 that he or she has been found to be in possession of what  
113 appears to the officer to be a personal use quantity of cannabis  
114 or a cannabis accessory may be arrested for a violation of this  
115 section if the person fails or refuses to truthfully provide his  
116 or her name, address, and date of birth to a law enforcement

31-01630-17

20171662\_\_

117 officer.

118 (f) Except as provided in this section, the state or any of  
 119 its political subdivisions may not impose any penalty or  
 120 obligation other than those outlined in this section on a person  
 121 for possessing a personal use quantity of cannabis or a cannabis  
 122 accessory. The state or any of its political subdivisions may  
 123 not impose any penalty or obligation exceeding those outlined in  
 124 this section on a person solely for having cannabinoids or  
 125 cannabinoid metabolites in his or her urine, blood, sweat, hair,  
 126 finger nails, toenails, or other tissue or fluid of the human  
 127 body.

128 (g) Possession of a personal use quantity of cannabis or a  
 129 cannabis accessory, or the presence of cannabinoids or  
 130 cannabinoid metabolites in the urine, blood, sweat, hair,  
 131 finger nails, toenails, or other tissue or fluid of the human  
 132 body, or a conviction, citation, admission, or plea bargain  
 133 thereof, does not constitute grounds for denying a person  
 134 student financial aid, public housing, or any other form of  
 135 public financial assistance, including unemployment benefits;  
 136 denying a person the right to operate a motor vehicle; or  
 137 disqualifying a person from serving as a foster parent or an  
 138 adoptive parent.

139 (h) This section does not repeal or modify any law  
 140 concerning the medical use of cannabis or tetrahydrocannabinol  
 141 in any other form, such as dronabinol; the possession of more  
 142 than a personal use quantity of cannabis; or the sale,  
 143 manufacture, or trafficking of cannabis.

144 (i) This section does not prohibit a political subdivision  
 145 of the state from enacting ordinances regulating or prohibiting

31-01630-17

20171662\_\_

146 the public consumption of cannabis or tetrahydrocannabinol or  
 147 providing additional penalties for the public consumption of  
 148 cannabis or tetrahydrocannabinol if such penalties are not  
 149 greater than those relating to the public consumption of  
 150 alcohol.

151 (j) A violation of this section may not be considered a  
 152 violation of parole or probation.

153 (3) RECORDKEEPING.—

154 (a) Except as otherwise provided in this subsection, a  
 155 record of a violation of this section may not be recorded in any  
 156 database of criminal offenders.

157 (b) A state, county, or municipal law enforcement agency  
 158 that collects and reports data for the Federal Bureau of  
 159 Investigation's Uniform Crime Reporting Program shall collect  
 160 data on the number of violations of this section and report such  
 161 data to the Department of Law Enforcement. The Department of Law  
 162 Enforcement shall compile the data collected pursuant to this  
 163 paragraph and make it available free of cost to the public. Such  
 164 law enforcement agency shall update the data annually and make  
 165 the data available on its public Internet website.

166 (4) DRUG AWARENESS PROGRAMS.—

167 (a) The court may require an offender under the age of 18  
 168 to complete a drug awareness program within 1 year after his or  
 169 her parent or legal guardian is notified of the violation  
 170 pursuant to paragraph (2)(b).

171 (b) The drug awareness program may charge a fee of up to  
 172 \$75 to offset any program costs. The fees shall be waived based  
 173 on an offender's financial hardship. All fees shall be payable  
 174 by the offender upon entry into the program.

31-01630-17

20171662\_\_

175 (5) NOTICE OF VIOLATIONS.—

176 (a) A state, county, or municipal law enforcement agency  
 177 shall issue noncriminal citation forms to its officers which  
 178 conform with this section.

179 (b) The notice required in paragraph (2)(b) shall be mailed  
 180 or hand delivered to at least one of the offender's parents or  
 181 legal guardians at his or her last known address. If the  
 182 offender or his or her parent or legal guardian fails to comply  
 183 with paragraph (2)(b), the clerk shall notify the offender, the  
 184 offender's parent or legal guardian, and the person who issued  
 185 the original citation notice of a hearing to impose a civil  
 186 penalty of up to \$150 or community service of up to 40 hours on  
 187 the offender for such noncompliance. During such hearing, the  
 188 court is limited to considering the offender's financial  
 189 capacity to pay the penalty, the offender's ability to  
 190 participate in a drug awareness program, the availability of a  
 191 suitable drug awareness program, and the offender's willingness  
 192 to complete such program within a timeframe to be determined by  
 193 the court.

194 (6) DISTRIBUTION OF REVENUE.—Notwithstanding any other law,  
 195 civil penalties levied under this section shall be distributed  
 196 as follows:

197 (a) Fifty percent shall be distributed to or retained by  
 198 the municipality where the violation occurred or the county  
 199 where it occurred, if the violation occurred in an  
 200 unincorporated area.

201 (b) Fifty percent shall be distributed in the same manner  
 202 as provided in s. 938.23(2).

203 Section 2. Subsection (3) and paragraphs (b) and (e) of

Page 7 of 23

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

31-01630-17

20171662\_\_

204 subsection (6) of section 893.13, Florida Statutes, are amended  
 205 to read:

206 893.13 Prohibited acts; penalties.—

207 (3) A person who delivers, without consideration, a  
 208 personal use quantity of cannabis, as defined in s. 893.131, ~~20~~  
 209 grams or less of cannabis, as defined in this chapter, commits a  
 210 misdemeanor of the first degree, punishable as provided in s.  
 211 775.082 or s. 775.083. ~~As used in this paragraph, the term~~  
 212 ~~"cannabis" does not include the resin extracted from the plants~~  
 213 ~~of the genus Cannabis or any compound manufacture, salt,~~  
 214 ~~derivative, mixture, or preparation of such resin.~~

215 (6)

216 (b) If the offense is the possession of 1 ounce ~~20 grams~~ or  
 217 less of cannabis, as defined in this chapter, and the possession  
 218 is not a personal use quantity of cannabis, as defined in s.  
 219 893.131, the person commits a misdemeanor of the first degree,  
 220 punishable as provided in s. 775.082 or s. 775.083. As used in  
 221 this subsection, the term "cannabis" does not include the resin  
 222 extracted from the plants of the genus Cannabis, or any compound  
 223 manufacture, salt, derivative, mixture, or preparation of such  
 224 resin.

225 (e) Notwithstanding any provision to the contrary of the  
 226 laws of this state relating to arrest, and except as provided in  
 227 s. 893.131, a law enforcement officer may arrest without warrant  
 228 any person who the officer has probable cause to believe is  
 229 violating the provisions of this chapter relating to possession  
 230 of cannabis.

231 Section 3. Section 893.145, Florida Statutes, is amended to  
 232 read:

Page 8 of 23

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



31-01630-17

20171662\_\_

233 893.145 "Drug paraphernalia" defined.—The term "drug  
 234 paraphernalia" means all equipment, products, and materials of  
 235 any kind which are used, intended for use, or designed for use  
 236 in planting, propagating, cultivating, growing, harvesting,  
 237 manufacturing, compounding, converting, producing, processing,  
 238 preparing, testing, analyzing, packaging, repackaging, storing,  
 239 containing, concealing, transporting, injecting, ingesting,  
 240 inhaling, or otherwise introducing into the human body a  
 241 controlled substance in violation of this chapter or s. 877.111.  
 242 Drug paraphernalia is deemed to be contraband which shall be  
 243 subject to civil forfeiture. The term does not include a  
 244 cannabis accessory, as defined in s. 893.131. The term includes,  
 245 but is not limited to:

246 (1) Kits used, intended for use, or designed for use in the  
 247 planting, propagating, cultivating, growing, or harvesting of  
 248 any species of plant which is a controlled substance or from  
 249 which a controlled substance can be derived.

250 (2) Kits used, intended for use, or designed for use in  
 251 manufacturing, compounding, converting, producing, processing,  
 252 or preparing controlled substances.

253 (3) Isomerization devices used, intended for use, or  
 254 designed for use in increasing the potency of any species of  
 255 plant which is a controlled substance.

256 (4) Testing equipment used, intended for use, or designed  
 257 for use in identifying, or in analyzing the strength,  
 258 effectiveness, or purity of, controlled substances.

259 (5) Scales and balances used, intended for use, or designed  
 260 for use in weighing or measuring controlled substances.

261 (6) Diluents and adulterants, such as quinine

31-01630-17

20171662\_\_

262 hydrochloride, caffeine, dimethyl sulfone, mannitol, mannite,  
 263 dextrose, and lactose, used, intended for use, or designed for  
 264 use in diluting controlled substances; or substances such as  
 265 damiana leaf, marshmallow leaf, and mullein leaf, used, intended  
 266 for use, or designed for use as carrier mediums of controlled  
 267 substances.

268 (7) Separation gins and sifters used, intended for use, or  
 269 designed for use in removing twigs and seeds from, or in  
 270 otherwise cleaning or refining, cannabis.

271 (8) Blenders, bowls, containers, spoons, and mixing devices  
 272 used, intended for use, or designed for use in compounding  
 273 controlled substances.

274 (9) Capsules, balloons, envelopes, and other containers  
 275 used, intended for use, or designed for use in packaging small  
 276 quantities of controlled substances.

277 (10) Containers and other objects used, intended for use,  
 278 or designed for use in storing, concealing, or transporting  
 279 controlled substances.

280 (11) Hypodermic syringes, needles, and other objects used,  
 281 intended for use, or designed for use in parenterally injecting  
 282 controlled substances into the human body.

283 (12) Objects used, intended for use, or designed for use in  
 284 ingesting, inhaling, or otherwise introducing controlled  
 285 substances, as described in s. 893.03, or substances described  
 286 in s. 877.111(1) into the human body, such as:

287 (a) Metal, wooden, acrylic, glass, stone, plastic, or  
 288 ceramic pipes, with or without screens, permanent screens,  
 289 hashish heads, or punctured metal bowls.

290 (b) Water pipes.

31-01630-17

20171662\_\_

- 291 (c) Carburetion tubes and devices.  
 292 (d) Smoking and carburetion masks.  
 293 (e) Roach clips: meaning objects used to hold burning  
 294 material, such as a cannabis cigarette, that has become too  
 295 small or too short to be held in the hand.  
 296 (f) Miniature cocaine spoons, and cocaine vials.  
 297 (g) Chamber pipes.  
 298 (h) Carburetor pipes.  
 299 (i) Electric pipes.  
 300 (j) Air-driven pipes.  
 301 (k) Chillums.  
 302 (l) Bonges.  
 303 (m) Ice pipes or chillers.  
 304 (n) A cartridge or canister, which means a small metal  
 305 device used to contain nitrous oxide.  
 306 (o) A charger, sometimes referred to as a "cracker," which  
 307 means a small metal or plastic device that contains an interior  
 308 pin that may be used to expel nitrous oxide from a cartridge or  
 309 container.  
 310 (p) A charging bottle, which means a device that may be  
 311 used to expel nitrous oxide from a cartridge or canister.  
 312 (q) A whip-it, which means a device that may be used to  
 313 expel nitrous oxide.  
 314 (r) A tank.  
 315 (s) A balloon.  
 316 (t) A hose or tube.  
 317 (u) A 2-liter-type soda bottle.  
 318 (v) Duct tape.  
 319 Section 4. Subsection (2) of section 938.23, Florida

Page 11 of 23

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

31-01630-17

20171662\_\_

- 320 Statutes, is amended to read:  
 321 938.23 Assistance grants for alcohol and other drug abuse  
 322 programs.—  
 323 (2) All assessments authorized by this section and proceeds  
 324 of civil penalties under s. 893.131 shall be collected by the  
 325 clerk of court and remitted to the jurisdictional county as  
 326 described in s. 893.165(2) for deposit into the County Alcohol  
 327 and Other Drug Abuse Trust Fund or remitted to the Department of  
 328 Revenue for deposit into the Grants and Donations Trust Fund of  
 329 the Department of Children and Families pursuant to guidelines  
 330 and priorities developed by the department. If a County Alcohol  
 331 and Other Drug Abuse Trust Fund has not been established for any  
 332 jurisdictional county, assessments collected by the clerk of  
 333 court shall be remitted to the Department of Revenue for deposit  
 334 into the Grants and Donations Trust Fund of the Department of  
 335 Children and Families.  
 336 Section 5. For the purpose of incorporating the amendment  
 337 made by this act to section 893.13, Florida Statutes, in a  
 338 reference thereto, paragraph (s) of subsection (8) of section  
 339 112.0455, Florida Statutes, is reenacted to read:  
 340 112.0455 Drug-Free Workplace Act.—  
 341 (8) PROCEDURES AND EMPLOYEE PROTECTION.—All specimen  
 342 collection and testing for drugs under this section shall be  
 343 performed in accordance with the following procedures:  
 344 (s) An employer may not discharge, discipline, or  
 345 discriminate against an employee solely upon voluntarily seeking  
 346 treatment, while under the employ of the employer, for a drug-  
 347 related problem if the employee has not previously tested  
 348 positive for drug use, entered an employee assistance program

Page 12 of 23

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

31-01630-17

20171662\_\_

349 for drug-related problems, or entered an alcohol and drug  
 350 rehabilitation program. However, special risk employees may be  
 351 subject to discharge or disciplinary action when the presence of  
 352 illicit drugs, pursuant to s. 893.13, is confirmed.

353 Section 6. For the purpose of incorporating the amendment  
 354 made by this act to section 893.13, Florida Statutes, in a  
 355 reference thereto, paragraph (b) of subsection (4) of section  
 356 397.451, Florida Statutes, is reenacted to read:

357 397.451 Background checks of service provider personnel.—

358 (4) EXEMPTIONS FROM DISQUALIFICATION.—

359 (b) Since rehabilitated substance abuse impaired persons  
 360 are effective in the successful treatment and rehabilitation of  
 361 individuals with substance use disorders, for service providers  
 362 which treat adolescents 13 years of age and older, service  
 363 provider personnel whose background checks indicate crimes under  
 364 s. 817.563, s. 893.13, or s. 893.147 may be exempted from  
 365 disqualification from employment pursuant to this paragraph.

366 Section 7. For the purpose of incorporating the amendment  
 367 made by this act to section 893.13, Florida Statutes, in a  
 368 reference thereto, subsection (2) of section 435.07, Florida  
 369 Statutes, is reenacted to read:

370 435.07 Exemptions from disqualification.—Unless otherwise  
 371 provided by law, the provisions of this section apply to  
 372 exemptions from disqualification for disqualifying offenses  
 373 revealed pursuant to background screenings required under this  
 374 chapter, regardless of whether those disqualifying offenses are  
 375 listed in this chapter or other laws.

376 (2) Persons employed, or applicants for employment, by  
 377 treatment providers who treat adolescents 13 years of age and

31-01630-17

20171662\_\_

378 older who are disqualified from employment solely because of  
 379 crimes under s. 817.563, s. 893.13, or s. 893.147 may be  
 380 exempted from disqualification from employment pursuant to this  
 381 chapter without application of the waiting period in  
 382 subparagraph (1)(a)1.

383 Section 8. For the purpose of incorporating the amendment  
 384 made by this act to section 893.13, Florida Statutes, in a  
 385 reference thereto, subsection (2) of section 772.12, Florida  
 386 Statutes, is reenacted to read:

387 772.12 Drug Dealer Liability Act.—

388 (2) A person, including any governmental entity, has a  
 389 cause of action for threefold the actual damages sustained and  
 390 is entitled to minimum damages in the amount of \$1,000 and  
 391 reasonable attorney's fees and court costs in the trial and  
 392 appellate courts, if the person proves by the greater weight of  
 393 the evidence that:

394 (a) The person was injured because of the defendant's  
 395 actions that resulted in the defendant's conviction for:

396 1. A violation of s. 893.13, except for a violation of s.  
 397 893.13(2)(a) or (b), (3), (5), (6)(a), (b), or (c), (7); or

398 2. A violation of s. 893.135; and

399 (b) The person was not injured by reason of his or her  
 400 participation in the same act or transaction that resulted in  
 401 the defendant's conviction for any offense described in  
 402 subparagraph (a)1.

403 Section 9. For the purpose of incorporating the amendment  
 404 made by this act to section 893.13, Florida Statutes, in a  
 405 reference thereto, paragraph (a) of subsection (1) of section  
 406 775.084, Florida Statutes, is reenacted to read:

31-01630-17

20171662\_\_

407 775.084 Violent career criminals; habitual felony offenders  
 408 and habitual violent felony offenders; three-time violent felony  
 409 offenders; definitions; procedure; enhanced penalties or  
 410 mandatory minimum prison terms.-

411 (1) As used in this act:

412 (a) "Habitual felony offender" means a defendant for whom  
 413 the court may impose an extended term of imprisonment, as  
 414 provided in paragraph (4) (a), if it finds that:

415 1. The defendant has previously been convicted of any  
 416 combination of two or more felonies in this state or other  
 417 qualified offenses.

418 2. The felony for which the defendant is to be sentenced  
 419 was committed:

420 a. While the defendant was serving a prison sentence or  
 421 other sentence, or court-ordered or lawfully imposed supervision  
 422 that is imposed as a result of a prior conviction for a felony  
 423 or other qualified offense; or

424 b. Within 5 years of the date of the conviction of the  
 425 defendant's last prior felony or other qualified offense, or  
 426 within 5 years of the defendant's release from a prison  
 427 sentence, probation, community control, control release,  
 428 conditional release, parole or court-ordered or lawfully imposed  
 429 supervision or other sentence that is imposed as a result of a  
 430 prior conviction for a felony or other qualified offense,  
 431 whichever is later.

432 3. The felony for which the defendant is to be sentenced,  
 433 and one of the two prior felony convictions, is not a violation  
 434 of s. 893.13 relating to the purchase or the possession of a  
 435 controlled substance.

Page 15 of 23

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

31-01630-17

20171662\_\_

436 4. The defendant has not received a pardon for any felony  
 437 or other qualified offense that is necessary for the operation  
 438 of this paragraph.

439 5. A conviction of a felony or other qualified offense  
 440 necessary to the operation of this paragraph has not been set  
 441 aside in any postconviction proceeding.

442 Section 10. For the purpose of incorporating the amendment  
 443 made by this act to section 893.13, Florida Statutes, in a  
 444 reference thereto, paragraph (f) of subsection (3) of section  
 445 810.02, Florida Statutes, is reenacted to read:

446 810.02 Burglary.-

447 (3) Burglary is a felony of the second degree, punishable  
 448 as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the  
 449 course of committing the offense, the offender does not make an  
 450 assault or battery and is not and does not become armed with a  
 451 dangerous weapon or explosive, and the offender enters or  
 452 remains in a:

453 (f) Structure or conveyance when the offense intended to be  
 454 committed therein is theft of a controlled substance as defined  
 455 in s. 893.02. Notwithstanding any other law, separate judgments  
 456 and sentences for burglary with the intent to commit theft of a  
 457 controlled substance under this paragraph and for any applicable  
 458 possession of controlled substance offense under s. 893.13 or  
 459 trafficking in controlled substance offense under s. 893.135 may  
 460 be imposed when all such offenses involve the same amount or  
 461 amounts of a controlled substance.

462  
 463 However, if the burglary is committed within a county that is  
 464 subject to a state of emergency declared by the Governor under

Page 16 of 23

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

31-01630-17

20171662\_\_

465 chapter 252 after the declaration of emergency is made and the  
 466 perpetration of the burglary is facilitated by conditions  
 467 arising from the emergency, the burglary is a felony of the  
 468 first degree, punishable as provided in s. 775.082, s. 775.083,  
 469 or s. 775.084. As used in this subsection, the term "conditions  
 470 arising from the emergency" means civil unrest, power outages,  
 471 curfews, voluntary or mandatory evacuations, or a reduction in  
 472 the presence of or response time for first responders or  
 473 homeland security personnel. A person arrested for committing a  
 474 burglary within a county that is subject to such a state of  
 475 emergency may not be released until the person appears before a  
 476 committing magistrate at a first appearance hearing. For  
 477 purposes of sentencing under chapter 921, a felony offense that  
 478 is reclassified under this subsection is ranked one level above  
 479 the ranking under s. 921.0022 or s. 921.0023 of the offense  
 480 committed.

481 Section 11. For the purpose of incorporating the amendment  
 482 made by this act to section 893.13, Florida Statutes, in a  
 483 reference thereto, paragraph (c) of subsection (2) of section  
 484 812.014, Florida Statutes, is reenacted to read:

485 812.014 Theft.—

486 (2)

487 (c) It is grand theft of the third degree and a felony of  
 488 the third degree, punishable as provided in s. 775.082, s.  
 489 775.083, or s. 775.084, if the property stolen is:

- 490 1. Valued at \$300 or more, but less than \$5,000.  
 491 2. Valued at \$5,000 or more, but less than \$10,000.  
 492 3. Valued at \$10,000 or more, but less than \$20,000.  
 493 4. A will, codicil, or other testamentary instrument.

31-01630-17

20171662\_\_

494 5. A firearm.

495 6. A motor vehicle, except as provided in paragraph (a).

496 7. Any commercially farmed animal, including any animal of  
 497 the equine, bovine, or swine class or other grazing animal; a  
 498 bee colony of a registered beekeeper; and aquaculture species  
 499 raised at a certified aquaculture facility. If the property  
 500 stolen is aquaculture species raised at a certified aquaculture  
 501 facility, then a \$10,000 fine shall be imposed.

502 8. Any fire extinguisher.

503 9. Any amount of citrus fruit consisting of 2,000 or more  
 504 individual pieces of fruit.

505 10. Taken from a designated construction site identified by  
 506 the posting of a sign as provided for in s. 810.09(2)(d).

507 11. Any stop sign.

508 12. Anhydrous ammonia.

509 13. Any amount of a controlled substance as defined in s.  
 510 893.02. Notwithstanding any other law, separate judgments and  
 511 sentences for theft of a controlled substance under this  
 512 subparagraph and for any applicable possession of controlled  
 513 substance offense under s. 893.13 or trafficking in controlled  
 514 substance offense under s. 893.135 may be imposed when all such  
 515 offenses involve the same amount or amounts of a controlled  
 516 substance.

517  
 518 However, if the property is stolen within a county that is  
 519 subject to a state of emergency declared by the Governor under  
 520 chapter 252, the property is stolen after the declaration of  
 521 emergency is made, and the perpetration of the theft is  
 522 facilitated by conditions arising from the emergency, the

31-01630-17

20171662\_\_

523 offender commits a felony of the second degree, punishable as  
 524 provided in s. 775.082, s. 775.083, or s. 775.084, if the  
 525 property is valued at \$5,000 or more, but less than \$10,000, as  
 526 provided under subparagraph 2., or if the property is valued at  
 527 \$10,000 or more, but less than \$20,000, as provided under  
 528 subparagraph 3. As used in this paragraph, the term "conditions  
 529 arising from the emergency" means civil unrest, power outages,  
 530 curfews, voluntary or mandatory evacuations, or a reduction in  
 531 the presence of or the response time for first responders or  
 532 homeland security personnel. For purposes of sentencing under  
 533 chapter 921, a felony offense that is reclassified under this  
 534 paragraph is ranked one level above the ranking under s.  
 535 921.0022 or s. 921.0023 of the offense committed.

536 Section 12. For the purpose of incorporating the amendment  
 537 made by this act to section 893.13, Florida Statutes, in a  
 538 reference thereto, subsection (1) of section 831.311, Florida  
 539 Statutes, is reenacted to read:

540 831.311 Unlawful sale, manufacture, alteration, delivery,  
 541 uttering, or possession of counterfeit-resistant prescription  
 542 blanks for controlled substances.—

543 (1) It is unlawful for any person having the intent to  
 544 injure or defraud any person or to facilitate any violation of  
 545 s. 893.13 to sell, manufacture, alter, deliver, utter, or  
 546 possess with intent to injure or defraud any person, or to  
 547 facilitate any violation of s. 893.13, any counterfeit-resistant  
 548 prescription blanks for controlled substances, the form and  
 549 content of which are adopted by rule of the Department of Health  
 550 pursuant to s. 893.065.

551 Section 13. For the purpose of incorporating the amendment

31-01630-17

20171662\_\_

552 made by this act to section 893.13, Florida Statutes, in a  
 553 reference thereto, subsections (1) and (2) of section 893.1351,  
 554 Florida Statutes, are reenacted to read:

555 893.1351 Ownership, lease, rental, or possession for  
 556 trafficking in or manufacturing a controlled substance.—

557 (1) A person may not own, lease, or rent any place,  
 558 structure, or part thereof, trailer, or other conveyance with  
 559 the knowledge that the place, structure, trailer, or conveyance  
 560 will be used for the purpose of trafficking in a controlled  
 561 substance, as provided in s. 893.135; for the sale of a  
 562 controlled substance, as provided in s. 893.13; or for the  
 563 manufacture of a controlled substance intended for sale or  
 564 distribution to another. A person who violates this subsection  
 565 commits a felony of the third degree, punishable as provided in  
 566 s. 775.082, s. 775.083, or s. 775.084.

567 (2) A person may not knowingly be in actual or constructive  
 568 possession of any place, structure, or part thereof, trailer, or  
 569 other conveyance with the knowledge that the place, structure,  
 570 or part thereof, trailer, or conveyance will be used for the  
 571 purpose of trafficking in a controlled substance, as provided in  
 572 s. 893.135; for the sale of a controlled substance, as provided  
 573 in s. 893.13; or for the manufacture of a controlled substance  
 574 intended for sale or distribution to another. A person who  
 575 violates this subsection commits a felony of the second degree,  
 576 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

577 Section 14. For the purpose of incorporating the amendment  
 578 made by this act to section 893.13, Florida Statutes, in a  
 579 reference thereto, subsection (3) of section 893.138, Florida  
 580 Statutes, is reenacted to read:

31-01630-17

20171662\_\_

581 893.138 Local administrative action to abate drug-related,  
582 prostitution-related, or stolen-property-related public  
583 nuisances and criminal gang activity.-

584 (3) Any pain-management clinic, as described in s. 458.3265  
585 or s. 459.0137, which has been used on more than two occasions  
586 within a 6-month period as the site of a violation of:

587 (a) Section 784.011, s. 784.021, s. 784.03, or s. 784.045,  
588 relating to assault and battery;

589 (b) Section 810.02, relating to burglary;

590 (c) Section 812.014, relating to theft;

591 (d) Section 812.131, relating to robbery by sudden  
592 snatching; or

593 (e) Section 893.13, relating to the unlawful distribution  
594 of controlled substances,

595  
596 may be declared to be a public nuisance, and such nuisance may  
597 be abated pursuant to the procedures provided in this section.

598 Section 15. For the purpose of incorporating the amendment  
599 made by this act to section 893.13, Florida Statutes, in a  
600 reference thereto, section 893.15, Florida Statutes, is  
601 reenacted to read:

602 893.15 Rehabilitation.-Any person who violates s.  
603 893.13(6) (a) or (b) relating to possession may, in the  
604 discretion of the trial judge, be required to participate in a  
605 substance abuse services program approved or regulated by the  
606 Department of Children and Families pursuant to the provisions  
607 of chapter 397, provided the director of such program approves  
608 the placement of the defendant in such program. Such required  
609 participation shall be imposed in addition to any penalty or

31-01630-17

20171662\_\_

610 probation otherwise prescribed by law. However, the total time  
611 of such penalty, probation, and program participation shall not  
612 exceed the maximum length of sentence possible for the offense.

613 Section 16. For the purpose of incorporating the amendment  
614 made by this act to section 893.13, Florida Statutes, in a  
615 reference thereto, section 903.133, Florida Statutes, is  
616 reenacted to read:

617 903.133 Bail on appeal; prohibited for certain felony  
618 convictions.-Notwithstanding the provisions of s. 903.132, no  
619 person adjudged guilty of a felony of the first degree for a  
620 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.  
621 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a  
622 violation of s. 794.011(2) or (3), shall be admitted to bail  
623 pending review either by posttrial motion or appeal.

624 Section 17. For the purpose of incorporating the amendment  
625 made by this act to section 893.13, Florida Statutes, in a  
626 reference thereto, paragraph (1) of subsection (1) of section  
627 921.187, Florida Statutes, is reenacted to read:

628 921.187 Disposition and sentencing; alternatives;  
629 restitution.-

630 (1) The alternatives provided in this section for the  
631 disposition of criminal cases shall be used in a manner that  
632 will best serve the needs of society, punish criminal offenders,  
633 and provide the opportunity for rehabilitation. If the offender  
634 does not receive a state prison sentence, the court may:

635 (1)1. Require the offender who violates any criminal  
636 provision of chapter 893 to pay an additional assessment in an  
637 amount up to the amount of any fine imposed, pursuant to ss.  
638 938.21 and 938.23.

31-01630-17

20171662\_\_

639 2. Require the offender who violates any provision of s.  
640 893.13 to pay an additional assessment in an amount of \$100,  
641 pursuant to ss. 938.055 and 943.361.

642 Section 18. For the purpose of incorporating the amendment  
643 made by this act to section 893.145, Florida Statutes, in a  
644 reference thereto, paragraph (a) of subsection (2) of section  
645 893.12, Florida Statutes, is reenacted to read:

646 893.12 Contraband; seizure, forfeiture, sale.—

647 (2)(a) Any vessel, vehicle, aircraft, or drug paraphernalia  
648 as defined in s. 893.145 which has been or is being used in  
649 violation of any provision of this chapter or in, upon, or by  
650 means of which any violation of this chapter has taken or is  
651 taking place may be seized and forfeited as provided by the  
652 Florida Contraband Forfeiture Act.

653 Section 19. For the purpose of incorporating the amendment  
654 made by this act to section 893.145, Florida Statutes, in a  
655 reference thereto, paragraph (a) of subsection (6) of section  
656 893.147, Florida Statutes, is reenacted to read:

657 893.147 Use, possession, manufacture, delivery,  
658 transportation, advertisement, or retail sale of drug  
659 paraphernalia.—

660 (6) RETAIL SALE OF DRUG PARAPHERNALIA.—

661 (a) It is unlawful for a person to knowingly and willfully  
662 sell or offer for sale at retail any drug paraphernalia  
663 described in s. 893.145(12)(a)-(c) or (g)-(m), other than a pipe  
664 that is primarily made of briar, meerschaum, clay, or corn cob.

665 Section 20. This act shall take effect July 1, 2017.



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

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

April 17, 2017

*Meeting Date*

SB 1662

*Bill Number (if applicable)*

Topic Cannabis

*Amendment Barcode (if applicable)*

Name Honorable Andy Thomas

Job Title Public Defender, 2nd Circuit

Address 301 South Monroe Street, Suite 401

Phone 850-606-1000

*Street*

Tallahassee

FL

32301

Email andy.thomas@fldpd2.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4-17-17

Meeting Date

SB 1662

Bill Number (if applicable)

Topic Civil Infractions for Personal Use of Cannabis

Amendment Barcode (if applicable)

Name Kara Kampmeyer

Job Title President of Florida Angels of Mercy

Address 58 Runnels Pl.

Phone 352-422-7027

Inglis

City

FL

State

334449

Zip

Email KARA.KAMPMEYER@

Speaking:  For  Against  Information

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

Representing Florida's Angels of Mercy & parents everywhere

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)

4-17-17

Meeting Date

Bill Number (if applicable) 1662

Topic Civil Infraction  
~~1390 Step in the Right direction~~

Amendment Barcode (if applicable)

Name Ethel Rowland

Job Title President - Florida Cannabis Action Network

Address 1375 Cypress Ave  
Street

Phone 772 668-3678

Melbourne FL 32935  
City State Zip

Email ethel@FLCAN.org

Speaking:  For  Against  Information

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

Representing People Florida Cannabis Action Network

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)

4/17/17  
Meeting Date

1662  
Bill Number (if applicable)

Topic Cannabis Decriminalization

Amendment Barcode (if applicable)

Name Christopher Cano

Job Title Executive Director

Address 1529 W River Ln

Phone 813-767-5295

Tampa FL 33603  
City State Zip

Email cano@cflnorml.org

Speaking:  For  Against  Information

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

Representing CFL NORML

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

Tallahassee, Florida 32399-1100

## COMMITTEES:

Community Affairs, *Vice Chair*  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Appropriations Subcommittee on Higher Education  
Communications, Energy, and Public Utilities  
Criminal Justice

## JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

## SENATOR JEFF CLEMENS

*Democratic Whip*  
31st District

March 15, 2017

Senator Randolph Bracy, Chair  
Senate Committee on Criminal Justice  
510 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100



Chair Bracy:

I respectfully request that SB 1662—Cannabis be added to the agenda for the next Senate Committee on Criminal Justice meeting.

SB 1662 reduces the penalty for possession of 1 ounce or less of cannabis to a civil violation that does not subject the person to arrest or affect a person's driving privileges.

Please feel free to contact me with any questions. Thank you for your consideration.

Sincerely,

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

Senator Jeff Clemens  
Florida Senate District 31

## REPLY TO:

- 508 Lake Avenue, Unit C, Lake Worth, Florida 33460 (561) 540-1140 FAX: (561) 540-1143
- 210 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

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

JOE NEGRON  
President of the Senate

ANITERE FLORES  
President Pro Tempore

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

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

---

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

---

BILL: CS/SB 1788

INTRODUCER: Criminal Justice Committee and Senator Bracy

SUBJECT: Public Records/Victim of Human Trafficking

DATE: April 19, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Hrdlicka	CJ	<b>Fav/CS</b>
2.			GO	
3.			AP	

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1788, which is linked to the passage of CS/SB 972, creates a public records exemption for victims of human trafficking. Specifically, any personal identifying information of victims of human trafficking which, upon request, is redacted or sealed in the court files and online dockets of actions brought by, or on behalf of, victims of human trafficking under s. 787.063, F.S., and any personal identifying information held by the Statewide Council on Human Trafficking is confidential and exempt from s. 119.07(1), and Art. I, s. 24(a), of the Florida Constitution.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2022, unless reviewed and saved from repeal by the Legislature. The bill provides a statement of public necessity as required by the Florida Constitution.

The Florida Constitution requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage because it creates a new public records exemption.

The bill takes effect on the same date that CS/SB 972 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof, and becomes law.

## II. Present Situation:

The Florida Constitution provides that every individual has a right of access to public records which are made or received in connection with official public business unless the records are exempt. This right applies to records of the legislative, executive, and judicial branches.<sup>1</sup>

The Public Records Act, codified in ch. 119, F.S., expressly guarantees every person's right to inspect and copy any state or local government public record<sup>2</sup> at any reasonable time, under reasonable conditions, and under the supervision of the public records custodian.<sup>3</sup>

Only the Legislature may create an exemption to public records requirements.<sup>4</sup> Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption. Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law.

The Open Government Sunset Review Act (OGSR) requires a newly created or expanded public records exemption be repealed on October 2 of the fifth year after enactment, unless reviewed and reenacted by the Legislature.<sup>5</sup> It further provides that a public records exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet the public purpose it serves.<sup>6</sup>

An exemption serves an identifiable purpose if it meets one of the following purposes and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption.
- The release of sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt.
- It protects trade or business secrets.<sup>7</sup>

In addition, the Legislature must find that the purpose of the exemption overrides Florida's public policy strongly favoring open government.

---

<sup>1</sup> Article I, s. 24(a), FLA. CONST.

<sup>2</sup> Section 119.011(12), F.S., defines "public record" as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

<sup>3</sup> Section 119.07(1)(a), F.S.

<sup>4</sup> Article I, s. 24(c), FLA. CONST. There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Bd. of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, then such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in the statutory exemption. See Op. Att'y Gen, Fla. 85-62, August 1, 1985.

<sup>5</sup> Section 119.15(3), F.S.

<sup>6</sup> Section 119.15(6)(b), F.S.

<sup>7</sup> Section 119.15(6)(b)1.-3., F.S.

The OGSR also requires specified questions to be considered during the review process.<sup>8</sup> In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of the exemption. These specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?<sup>9</sup>

To enact an exemption, the bill may not contain other substantive provisions<sup>10</sup> and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.<sup>11</sup>

### **Human Trafficking**

CS/SB 972, which is linked to CS/SB 1788, creates a civil cause of action for victims of human trafficking to bring against the trafficker<sup>12</sup> or facilitator<sup>13</sup> of human trafficking. The bill allows a victim or the Statewide Council on Human Trafficking (council) with the consent of the victim, to bring a civil cause of action on behalf of the victim against the trafficker or facilitator of human trafficking who victimizes a person in Florida.

There is no statute of limitations for the newly created civil action.

### **III. Effect of Proposed Changes:**

The bill creates a public records exemption for victims of human trafficking.

At the request of the victim, or the council on behalf of the victim, a court hearing for the civil action created in s. 787.063, F.S., must be closed to the public, and any personal identifying information of the victim of human trafficking must be redacted or sealed in the court file and online docket for such hearings. The bill specifies that the redacted or sealed information in the court file or the online docket is confidential and exempt from s. 119.07(1) and Art. I, s. 24(a), of the Florida Constitution.

---

<sup>8</sup> Section 119.15(6)(a), F.S.

<sup>9</sup> Section 119.15(6)(a)1.-6., F.S.

<sup>10</sup> The bill may, however, contain multiple exemptions that relate to one subject.

<sup>11</sup> Article I, s. 24(c), FLA. CONST.

<sup>12</sup> CS/SB 972 defines a “trafficker” as any person who knowingly engages in human trafficking, attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking.

<sup>13</sup> CS/SB 972 defines a “facilitator” as a person who knowingly, or in willful blindness, assists or provides goods or services to a trafficker, which assist or enable the trafficker to carry out human trafficking.



A victim may also request that any personal identifying information of the victim of human trafficking held by the council under s. 787.063, F.S., be kept confidential and exempt from s. 119.07(1) and Art. I, s. 24(a), of the Florida Constitution.

The bill provides a statement of public necessity as required by the Florida Constitution.<sup>14</sup> The statement includes the following findings:

- Hearings conducted pursuant to s. 787.063, F.S., for victims of human trafficking should be closed to the public at the request of the victim or the council on behalf of the victim. Preventing public access to such hearings will allow victims of human trafficking to seek relief in the courts of the state without exposing their victimization to the public and to protect their identities as they continue to recover from their time as victims of human trafficking.
- Any personal identifying information of victims of human trafficking which, upon request, is redacted or sealed in the court files and online dockets of actions brought by, or on behalf of, victims of human trafficking under s. 787.063, F.S., and any personal identifying information held by the council should be made confidential and exempt from s. 119.07(1), and Art. I, s. 24(a), of the Florida Constitution.
- The identity of these victims and the details of their victimization are information of a sensitive, personal nature.
- The exemption serves to minimize the trauma to victims because the release of such information would compound the tragedy they have already endured and would be defamatory or cause unwarranted damage to the good name and reputation of these victims.

The bill repeals the exemption on October 2, 2022, unless reviewed and saved from repeal by the Legislature.

The bill takes effect on the same date that CS/SB 972 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law. CS/SB 972 is effective October 1, 2017.

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

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

None.

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

This bill creates a new public record exemption. Therefore, the following constitutional requirements apply.

##### **Vote Requirement**

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting

---

<sup>14</sup> Article I, s. 24(c), FLA. CONST.

exemption. The bill creates a new public record exemption; thus, it requires a two-thirds vote for final passage.

**Public Necessity Statement**

Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a new public record exemption and includes a public necessity statement.

**Breadth of Exemption**

Article I, s. 24(c) of the Florida Constitution requires a newly created public record exemption to be no broader than necessary to accomplish the stated purpose of the law. Based on the legislative findings in the statement of public necessity, the bill does not appear to be in conflict with this constitutional requirement.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a minimal fiscal impact on the courts and agencies responsible for complying with public records requests and redacting confidential and exempt information prior to releasing a record.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill is linked to the passage of CS/SB 972 (2017).

**VIII. Statutes Affected:**

This bill creates section 787.065 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Criminal Justice on April 17, 2017:**

The committee substitute:

- Specifies that the victim, or the Statewide Council on Human Trafficking on behalf of the victim, may request the court hearings conducted pursuant to s. 787.063, F.S., be closed to the public;
- Requires any personal identifying information of the victim of human trafficking be redacted or sealed in the court file and online docket for such hearings;
- Specifies that the redacted or sealed information in the court file and online docket is confidential and exempt from s. 119.07(1) and Art. I, s. 24(a), of the Florida Constitution;
- Specifies that the victim may request that any personal identifying information of the victim of human trafficking held by the council under s. 787.063, F.S., be confidential and exempt from s. 119.07(1) and Art. I, s. 24(a), of the Florida Constitution; and
- Provides findings of the Legislature.

- B. **Amendments:**

None.



491246

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/17/2017	.	
	.	
	.	
	.	

---

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 787.066, Florida Statutes, is created to  
read:

787.066 Public records exemption for victims of human  
trafficking.-

(1) CLOSED HEARINGS.-At the request of the victim, or the  
Statewide Council on Human Trafficking on behalf of the victim,



491246

11 court hearings conducted pursuant to s. 787.063 shall be closed  
12 to the public, and any personal identifying information of the  
13 victim of human trafficking shall be redacted or sealed in the  
14 court file and online docket for such hearings. Such redacted or  
15 sealed information in the court file and online docket is  
16 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
17 of the State Constitution. This subsection is subject to the  
18 Open Government Sunset Review Act in accordance with s. 119.15  
19 and shall stand repealed on October 2, 2022, unless reviewed and  
20 saved from repeal through reenactment by the Legislature.

21 (2) COUNCIL RECORDS.—At the victim’s request, any personal  
22 identifying information of the victim of human trafficking held  
23 by the council under s. 787.064 is confidential and exempt from  
24 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.  
25 This subsection is subject to the Open Government Sunset Review  
26 Act in accordance with s. 119.15 and shall stand repealed on  
27 October 2, 2022, unless reviewed and saved from repeal through  
28 reenactment by the Legislature.

29 Section 2. (1) The Legislature finds that hearings  
30 conducted pursuant to s. 787.063, Florida Statutes, for victims  
31 of human trafficking should be closed to the public at the  
32 request of the victim or the Statewide Council on Human  
33 Trafficking on behalf of the victim. Preventing public access to  
34 such hearings will allow victims of human trafficking to seek  
35 relief in the courts of the state without exposing their  
36 victimization to the public and to protect their identities as  
37 they continue to recover from their time as victims of human  
38 trafficking. For these reasons, the Legislature finds that it is  
39 a public necessity that, upon the request of the victim or the



491246

40 council on behalf of the victim, hearings conducted pursuant to  
41 s. 787.063, Florida Statutes, be closed to the public.

42 (2) The Legislature further finds that any personal  
43 identifying information of victims of human trafficking which,  
44 upon request, is redacted or sealed in the court files and  
45 online dockets of actions brought by, or on behalf of, victims  
46 of human trafficking under s. 787.063, Florida Statutes, and any  
47 personal identifying information held by the council should be  
48 made confidential and exempt from s. 119.07(1), Florida  
49 Statutes, and s. 24(a), Article I of the State Constitution. The  
50 identity of these victims and the details of their victimization  
51 are information of a sensitive, personal nature. As such, this  
52 exemption serves to minimize the trauma to victims because the  
53 release of such information would compound the tragedy already  
54 visited upon their lives and would be defamatory, or cause  
55 unwarranted damage, to the good name and reputation of the  
56 victims. For these reasons, the Legislature finds that it is a  
57 public necessity that any personal identifying information of  
58 victims of human trafficking which, upon request, is redacted or  
59 sealed in the court files and online dockets of actions by  
60 victims of human trafficking under s. 787.063, Florida Statutes,  
61 and any personal identifying information held by the council be  
62 made confidential and exempt from s. 119.07(1), Florida  
63 Statutes, and s. 24(a), Article I of the State Constitution.

64 Section 3. This act shall take effect on the same date that  
65 SB 972 or similar legislation takes effect, if such legislation  
66 is adopted in the same legislative session or an extension  
67 thereof and becomes a law.

68



491246

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

70 And the title is amended as follows:

71 Delete everything before the enacting clause

72 and insert:

73 A bill to be entitled

74 An act relating to public records; creating s.  
75 787.066, F.S.; providing for closed hearings in  
76 certain civil actions upon the request of victims, or  
77 the Statewide Council on Human Trafficking on behalf  
78 of the victims, of human trafficking; providing for  
79 redaction and sealing of personal identifying  
80 information of victims of human trafficking upon  
81 request; exempting from public records requirements  
82 the redacted and sealed information; providing for  
83 future review and repeal of the exemption; exempting  
84 from public records requirements the personal  
85 identifying information of victims of human  
86 trafficking held by the council; providing for future  
87 review and repeal of the exemption; providing a  
88 statement of public necessity; providing a contingent  
89 effective date.



744366

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2017	.	
	.	
	.	
	.	

---

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

1       **Senate Substitute for Amendment (491246) (with title**  
2 **amendment)**

3  
4       Delete everything after the enacting clause  
5 and insert:

6       Section 1. Section 787.065, Florida Statutes, is created to  
7 read:

8       787.065 Public records exemption for victims of human  
9 trafficking.-

10       (1) CLOSED HEARINGS.-At the request of the victim, or the





744366

11 Statewide Council on Human Trafficking on behalf of the victim,  
12 court hearings conducted pursuant to s. 787.063 shall be closed  
13 to the public, and any personal identifying information of the  
14 victim of human trafficking shall be redacted or sealed in the  
15 court file and online docket for such hearings. Such redacted or  
16 sealed information in the court file and online docket is  
17 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
18 of the State Constitution. This subsection is subject to the  
19 Open Government Sunset Review Act in accordance with s. 119.15  
20 and shall stand repealed on October 2, 2022, unless reviewed and  
21 saved from repeal through reenactment by the Legislature.

22 (2) COUNCIL RECORDS.—At the victim's request, any personal  
23 identifying information of the victim of human trafficking held  
24 by the council under s. 787.063 is confidential and exempt from  
25 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.  
26 This subsection is subject to the Open Government Sunset Review  
27 Act in accordance with s. 119.15 and shall stand repealed on  
28 October 2, 2022, unless reviewed and saved from repeal through  
29 reenactment by the Legislature.

30 Section 2. (1) The Legislature finds that hearings  
31 conducted pursuant to s. 787.063, Florida Statutes, for victims  
32 of human trafficking should be closed to the public at the  
33 request of the victim or the Statewide Council on Human  
34 Trafficking on behalf of the victim. Preventing public access to  
35 such hearings will allow victims of human trafficking to seek  
36 relief in the courts of the state without exposing their  
37 victimization to the public and to protect their identities as  
38 they continue to recover from their time as victims of human  
39 trafficking. For these reasons, the Legislature finds that it is



744366

40 a public necessity that, upon the request of the victim or the  
41 council on behalf of the victim, hearings conducted pursuant to  
42 s. 787.063, Florida Statutes, be closed to the public.

43 (2) The Legislature further finds that any personal  
44 identifying information of victims of human trafficking which,  
45 upon request, is redacted or sealed in the court files and  
46 online dockets of actions brought by, or on behalf of, victims  
47 of human trafficking under s. 787.063, Florida Statutes, and any  
48 personal identifying information held by the council should be  
49 made confidential and exempt from s. 119.07(1), Florida  
50 Statutes, and s. 24(a), Article I of the State Constitution. The  
51 identity of these victims and the details of their victimization  
52 are information of a sensitive, personal nature. As such, this  
53 exemption serves to minimize the trauma to victims because the  
54 release of such information would compound the tragedy already  
55 visited upon their lives and would be defamatory, or cause  
56 unwarranted damage, to the good name and reputation of the  
57 victims. For these reasons, the Legislature finds that it is a  
58 public necessity that any personal identifying information of  
59 victims of human trafficking which, upon request, is redacted or  
60 sealed in the court files and online dockets of actions by  
61 victims of human trafficking under s. 787.063, Florida Statutes,  
62 and any personal identifying information held by the council be  
63 made confidential and exempt from s. 119.07(1), Florida  
64 Statutes, and s. 24(a), Article I of the State Constitution.

65 Section 3. This act shall take effect on the same date that  
66 SB 972 or similar legislation takes effect, if such legislation  
67 is adopted in the same legislative session or an extension  
68 thereof and becomes a law.



744366

69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90

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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to public records; creating s.  
787.065, F.S.; providing for closed hearings in  
certain civil actions upon the request of victims, or  
the Statewide Council on Human Trafficking on behalf  
of the victims, of human trafficking; providing for  
redaction and sealing of personal identifying  
information of victims of human trafficking upon  
request; exempting from public records requirements  
the redacted and sealed information; providing for  
future review and repeal of the exemption; exempting  
from public records requirements the personal  
identifying information of victims of human  
trafficking held by the council; providing for future  
review and repeal of the exemption; providing a  
statement of public necessity; providing a contingent  
effective date.

By Senator Bracy

11-02454B-17

20171788\_\_

A bill to be entitled

An act relating to public records; amending s. 787.061, F.S.; providing an exemption from public records requirements for specified redacted and sealed information identifying a victim of human trafficking; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (9) is added to section 787.061, Florida Statutes, as created by SB 972, 2017 Regular Session, to read:

787.061 Human trafficking; civil action.—

(9) EXEMPTION.—A court file of a victim of human trafficking sealed under subsection (7) and any information identifying a victim of human trafficking in an online docket which is redacted under subsection (7) is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that a sealed court file of a victim of human trafficking and any redacted information identifying a victim of human trafficking in an online docket in a civil action brought by a victim of human trafficking under s. 787.061, Florida

Page 1 of 2

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

11-02454B-17

20171788\_\_

Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The identity of these victims and details of their victimization are information of a sensitive, personal nature. As such, this exemption serves to minimize the trauma to victims because the release of such information would compound the tragedy they have already endured and would be defamatory or cause unwarranted damage to the good name and reputation of these victims. For these reasons, the Legislature finds that it is a public necessity that any information identifying victims of human trafficking which is redacted or sealed in court files and online dockets in civil actions by victims of human trafficking under s. 787.061, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution upon request of the plaintiff in such an action.

Section 3. This act shall take effect on the same date that SB 972 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Page 2 of 2

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

# CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Criminal Justice Committee

Judge:

Started: 4/17/2017 1:39:03 PM

Ends: 4/17/2017 3:24:03 PM

Length: 01:45:01

1:39:02 PM Meeting called to order  
1:39:11 PM Roll call  
1:39:21 PM Tab 2- CS/SB 588- Drug Overdoses- Health Policy/Passidomo  
1:40:11 PM Amendment Barcode 970258  
1:41:10 PM Back on SB 588 as amended  
1:41:58 PM Speakers waive in support  
1:42:17 PM Roll call on CS/SB 588  
1:42:31 PM Tab 3- CS/CS/SB 680- Bail Bonds- Banking and Insurance/Judiciary/Baxley  
1:43:49 PM Roll call on CS/CS/SB 680  
1:44:36 PM Tab 1- Senate Confirmation Hearing of David A. Wyant to Florida Commission on Offender  
1:47:47 PM Roll call on Confirmation of David A. Wyant  
1:49:56 PM Tab 4- SB 848- Suspension of Civil Rights- Rouson  
1:51:22 PM Comments on SB 848  
2:01:05 PM Temporary Postpone SB 848  
2:02:06 PM Tab 8- SB 1248- Breach of the Peace- Steube  
2:02:26 PM Amendment Barcode 424774  
2:02:42 PM Amendment Barcode 214914  
2:08:14 PM Back to SB 1248 as amended  
2:10:57 PM Close on SB 1248  
2:11:57 PM Roll call on SB 1248  
2:12:07 PM Tab 6- SB 970- Florida Compensation Trust Fund for Survivors of Human Trafficking/Depar  
2:13:12 PM tment of Law Enforcement- Bracy  
2:13:23 PM Amendment Barcode 149896  
2:13:43 PM Amendment Barcode 635414  
2:14:38 PM Back on SB 970 as amended  
2:15:48 PM Roll call on SB 970  
2:15:52 PM Tab7- SB 972- Human Trafficking- Bracy  
2:16:50 PM Amendment Barcode 228352  
2:17:32 PM Amendment Barcode 176364  
2:17:36 PM Amendment Barcode 129704  
2:18:16 PM Speaker Cj Johnson from Community Champions  
2:19:16 PM Speaker Lieutenant Rob Vitaliano from Brevard County Sheriff's Office  
2:23:21 PM Back on Amendment Barcode 176364  
2:24:25 PM Speaker Nichole Whitaker  
2:27:43 PM Back on SB 972 as amended  
2:28:54 PM Close on SB 972  
2:29:42 PM Roll call on SB 972  
2:30:16 PM Tab 11- SB 1788- Public Records/Victims of Human Trafficking- Bracy  
2:31:34 PM Amendment Barcode 744366  
2:32:29 PM Back on SB 1788 as amended  
2:33:09 PM Roll call on SB 1788  
2:34:05 PM Tab 9- SB 1436- Controlled Substance Offenses- Clemens  
2:37:46 PM Speaker Greg Newborn from Families Against Mandatory Minimums  
2:38:51 PM Close on SB 1436  
2:40:30 PM Roll call on SB 1436  
2:41:31 PM Tab 10- SB 1662- Cannabis- Clemens  
2:42:40 PM Speaker Christopher Cano from CFC NORML  
2:44:28 PM Speaker Ethel Rowland from Florida Cannabis Action Network  
2:45:30 PM Speaker Kara Kampmeyer from Florida Angels of Mercy and Patients Everywhere  
2:56:34 PM Temporary Postponement of SB 1622  
2:57:41 PM Tab 5- SB 934- Restoration of Civil Rights- Thurston  
3:14:58 PM Temporary Postponement of SB 934

**3:18:38 PM** Closing comments from the Senators  
**3:22:57 PM** Meeting moved to ajourn by Senator Clemens