

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
MILITARY AND VETERANS AFFAIRS, SPACE, AND
DOMESTIC SECURITY
Senator Gibson, Chair
Senator Broxson, Vice Chair

MEETING DATE: Monday, April 17, 2017
TIME: 4:00—6:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Gibson, Chair; Senator Broxson, Vice Chair; Senators Bradley, Stargel, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 476 Criminal Justice / Bean (Similar H 457)	Terrorism and Terrorist Activities; Extending the applicability of the definition of the term "terrorism" to other sections of ch. 775, F.S.; prohibiting a person from using, attempting to use, or conspiring to use military-type training received from a designated foreign terrorist organization for certain purposes; prohibiting a person from providing material support or resources, or engaging in other specified actions, to violate specified criminal provisions, etc. CJ 04/03/2017 Fav/CS MS 04/17/2017 Favorable ACJ AP	Favorable Yeas 3 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Military and Veterans Affairs, Space, and Domestic Security

BILL: CS/SB 476

INTRODUCER: Criminal Justice Committee and Senator Bean

SUBJECT: Terrorism and Terrorist Activities

DATE: April 14, 2017

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

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

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

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

II. Present Situation:

Florida Law on Terrorism

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

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

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

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

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

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

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

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

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

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

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

² Sections 775.082 and 775.083, F.S.

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

Federal Laws on Terrorism

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

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

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

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

- Is a designated terrorist organization;
- Has engaged or engages in terrorist activity as defined in Section 212(a)(3)(B) of the Immigration and Nationality Act (INA);³ or
- Has engaged or engages in terrorism as defined in Section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.⁴

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

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

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

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

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

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

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

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

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

Felony Murder

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

⁵ 8 U.S.C. Section 1189.

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

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

⁸ Section 782.04(1)(a)2.r., F.S.

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

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

III. Effect of Proposed Changes:

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

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

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

Crime of Terrorism (Section 1)

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

⁹ Section 775.082, F.S.

¹⁰ Section 782.04(3)(r), F.S.

¹¹ Section 775.082, F.S.

¹² Section 782.04(4)(s), F.S.

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

The listed statutes or statutory provisions are:

- Section 782.04(1)(a)1. or (2), F.S., which, respectively, punish first degree murder (premeditated design) and first degree murder (felony murder);
- Section 782.065, F.S., which punishes murder of a law enforcement officer;
- Section 782.07(1), F.S., which punishes manslaughter;
- Section 782.09, F.S., which punishes the killing of an unborn child by injury to the mother;
- Section 784.045, F.S., which punishes aggravated battery;
- Section 784.07, F.S., which punishes assault or battery on a law enforcement officer or other specified persons;
- Section 787.01, F.S., which punishes kidnapping;
- Section 787.02, F.S., which punishes false imprisonment;
- Section 787.07, F.S., which punishes human smuggling;
- Section 790.115, F.S., which punishes possessing or discharging a weapon or firearm at a school-sponsored event or on school property;
- Section 790.15, F.S., which punishes discharging a firearm in public or on residential property;
- Section 790.16, F.S., which punishes discharging a machine gun;
- Section 790.161, F.S., which punishes making, possessing, throwing, projecting, placing, or discharging a destructive device;
- Section 790.1615, F.S., which punishes throwing, projecting, placing, or discharging a destructive device or bomb resulting in injury to another;
- Section 790.162, F.S., which punishes threatening to throw, project, place, or discharge any destructive device;
- Section 790.166, F.S., which punishes manufacturing, possessing, selling, delivering, displaying, using, or attempting or threatening to use a weapon of mass destruction or a hoax weapon of mass destruction;
- Section 790.19, F.S., which punishes shooting or throwing a deadly missile into dwellings, public or private buildings, or designated vehicle;
- Section 806.01, F.S., which punishes arson;
- Section 806.031, F.S., which punishes arson resulting in injury to another person;
- Section 806.111, F.S., which punishes possessing, manufacturing, transporting, or disposing fire bombs;
- Section 815.06, F.S., which punishes unlawful acts against users of computers, computer systems, computer networks, or electronic devices;
- Section 815.061, F.S., which punishes unlawful acts against public utilities;
- Section 859.01, F.S., which punishes poisoning food or water; and
- Section 876.34, F.S., which punishes combinations by force to usurp or overturn state government or forcibly interfere in government administration.

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

Section 3 of the bill creates s. 775.32, F.S., which provides that a person commits a second degree felony if he or she receives military-type training from a designated foreign terrorist organization and uses, attempts to use, or conspires to use such training with the intent to

unlawfully harm another person or damage critical infrastructure facilities.¹⁴ However, it is a first degree felony if this violation results in death or serious bodily injury.

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

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

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

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

- Section 775.30, F.S. (created by the bill), which includes the new crime of terrorism;
- Section 775.32, F.S. (created by the bill), which includes the new crime of unlawful use of military-type training from a designated foreign terrorist organization;
- Section 775.34, F.S. (created by the bill), which includes the new crime of membership in a designated foreign terrorist organization (discussed below);
- Section 775.35, F.S., which includes the new crime of agroterrorism (discussed below);
- Section 790.16, F.S., which punishes discharging a machine gun;
- Section 790.161(2), (3), or (4), F.S., which punishes making, possessing, throwing, projecting, placing, or discharging a destructive device if the act was perpetrated with the

¹⁴ “Critical infrastructure facility” is defined by reference to the definition of that term in s. 493.631, F.S. Section 493.631(1), F.S., defines a “critical infrastructure facility as any of the following if the facility employs measures such as fences, barriers, or guard posts that are designed to exclude unauthorized persons: (1) a chemical manufacturing facility; (2) a refinery; (3) an electrical power plant, including a substation, switching station, electrical control center, or electric transmission or distribution facility; (4) a water intake structure, water treatment facility, wastewater treatment plant, or pump station; (5) a natural gas transmission compressor station; (6) a liquid natural gas terminal or storage facility; (7) a telecommunications central switching office; (8) a deepwater port or railroad switching yard; or (9) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas.

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

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

intent to do bodily harm, damage property, or disrupt governmental operations, commerce, or a person's private affairs, or resulted in bodily harm or death;

- Section 790.166, F.S., which punishes manufacturing, possessing, selling, delivering, displaying, using, or attempting or threatening to use a weapon of mass destruction or a hoax weapon of mass destruction;
- Section 790.19, F.S., which punishes shooting or throwing a deadly missile into dwellings, public or private buildings, or designated vehicles;
- Section 815.06, F.S., which punishes unlawful acts against users of computers, computer systems, computer networks, or electronic devices;
- Section 859.01, F.S., which punishes poisoning food or water;
- Section 860.121, F.S., which punishes shooting at, throwing any object capable of causing death or great bodily harm at, or placing any object capable of causing death or great bodily harm in the path of any railroad train or other railroad vehicle;
- Section 860.16, F.S., which punishes aircraft piracy;
- Section 876.32, F.S., which punishes treason;
- Section 876.34, F.S., which punishes combinations by force to usurp or overturn state government or forcibly interfere in government administration; or
- Section 876.36, F.S., which punishes inciting insurrection.

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

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

The bill also creates s. 775.33(3), F.S., which is patterned after 18 U.S.C. Section 2339B. Subsection (3) provides that it is a first degree felony to knowingly provide material support or resources to a designated foreign terrorist organization, or to attempt or conspire to do so. To commit this offense, a person must have knowledge that the organization is a designated foreign terrorist organization or that the organization has engaged in or engages in terrorism or terrorist activity.

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

¹⁷ "Training" means instruction or teaching designed to impart a specific skill rather than general knowledge.

¹⁸ "Expert advice or assistance" means advice or assistance derived from scientific, technical, or other specialized knowledge.

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

- To a person engaged in, or intending to engage in, an act of terrorism to work under the direction and control of the person engaged in, or intending to engage in, an act of terrorism, or to organize, manage, supervise, or otherwise direct the operations of the person engaged in, or intending to engage in, an act of terrorism; or
- To work under the direction and control of a designated foreign terrorist organization, or to organize, manage, supervise, or otherwise direct the operation of that organization.¹⁹

Section 775.33, F.S., also:

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

Membership in a Designated Foreign Terrorist Organization (Section 5)

Section 5 of the bill creates s. 775.34, F.S., which provides that it is a second degree felony to willfully become a member of a designated foreign terrorist organization and serve under the

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

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

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

direction or control of that organization *with the intent to further the illegal acts of the organization*. As provided in the bill, membership alone does not constitute a crime.

Agroterrorism (Section 6)

Section 6 of the bill creates s. 775.35, F.S., which provides that it is a second degree felony for a person to intentionally disseminate or spread any type of contagious, communicable, or infectious disease among crops, poultry, livestock, or other animals. However, it is a life felony if this violation results in death or serious bodily injury.

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

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

Felony Murder (Section 7)

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

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

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

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

Reenactments (Sections 8-33)

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

²² MO Rev. Stat. section 574.130 (2016).

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:

Most constitutional challenges to federal terrorism statutes appear to be directed at 18 U.S.C. Section 2339B²³ and involve First Amendment challenges to that statute (freedom of speech and association). One reason for the focus on this statute may be that “[u]nder Section 2339B, a person just has to attempt, conspire, or actually provide support to a *terrorist organization*, while under Section 2339A a person has to attempt, conspire, or actually provide support to a specific *terroristic act*.”²⁴

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

Before addressing the Plaintiffs’ vagueness, free speech, and free association claims, the U.S. Supreme Court considered and rejected the plaintiffs’ contention that the Court should interpret the statute, when applied to speech, to require proof that a defendant intended to further illegal activities of a FTO. The Court found that the text of the statute did not support this interpretation and that a case on which the plaintiffs had heavily relied for support, *Scales v. United States*,²⁶ did not apply to 18 U.S.C. Section 2339B: “Section 2339B does not criminalize mere membership in a designated foreign terrorist

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

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

²⁵ 561 U.S. 1 (2010).

²⁶ 376 U.S. 203 (1961).

organization. It instead prohibits ‘material support’ to such a group.”²⁷ In *Scales*, the Court held that a person could not be convicted under a federal law which prohibited membership in a group advocating the violent overthrow of the government, unless the person had knowledge of the group’s illegal advocacy and a specific intent to violently overthrow the government.

The Court limited its analysis of the vagueness claim to addressing “whether the statute ‘provide[s] a person of ordinary intelligence fair notice of what is prohibited’”²⁸ The Court determined that the statute did provide fair notice to the plaintiffs. While acknowledging that the statute might not be clear in every application, the Court found that the statutory terms clearly applied to the plaintiffs’ proposed conduct. The Court’s findings that the terms “personnel” and “service” do not cover “independent advocacy” were important to its later analysis of the free speech claim.

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

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

²⁷ *Holder*, 561 U.S. at 18.

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

²⁹ *Holder*, 561 U.S. at 26 (footnote omitted).

³⁰ *Holder*, 561 U.S. at 28.

³¹ *Id.*

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

advocacy, or indeed any activities not directed to, coordinated with, or controlled by” FTOs.³³

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

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of criminal legislation, estimated that the original bill would have a “positive indeterminate” prison bed impact (an unquantifiable increase in prison beds).³⁴ The nominal changes to the original bill should not change that estimate.

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

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

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

³³ *Holder*, 561 U.S. at 36.

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

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

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

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

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

VIII. Statutes Affected:

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

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

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

IX. Additional Information:

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

CS by Criminal Justice on April 3, 2017:

The committee substitute:

- Revises the elements of the crime of terrorism to provide that a person commits this crime by violating any listed statute or statutory provision in furtherance of intimidating or coercing the policy of a government, or in furtherance of affecting the conduct of a government by mass destruction, assassination, or kidnapping.

³⁶ Section 921.0024, F.S.

³⁷ *Id.*

³⁸ *Id.*

- Revises the elements of the crime of unlawful use of military-type training from a designated foreign terrorist organization to provide that a person commits this crime if he or she receives military-type training from a designated foreign terrorist organization and uses, attempts to use, or conspires to use such training with the intent to *unlawfully* harm another person or damage critical infrastructure facilities.

B. Amendments:

None.

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

By the Committee on Criminal Justice; and Senator Bean

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

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

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

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

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

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

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

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

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

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

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

96 775.30 Terrorism; defined; penalties.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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175 read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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262 direct the operations of the person engaged in, or intending to
 263 engage in, an act of terrorism; or
 264 2. To work under the direction and control of a designated
 265 foreign terrorist organization, or to organize, manage,
 266 supervise, or otherwise direct the operation of that
 267 organization.

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

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

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

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

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

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

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

301 775.35 Agroterrorism; penalties.—

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

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

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

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320 782.04 Murder.—

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

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

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

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

327 b. Arson,

328 c. Sexual battery,

329 d. Robbery,

330 e. Burglary,

331 f. Kidnapping,

332 g. Escape,

333 h. Aggravated child abuse,

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

335 j. Aircraft piracy,

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

337 destructive device or bomb,

338 l. Carjacking,

339 m. Home-invasion robbery,

340 n. Aggravated stalking,

341 o. Murder of another human being,

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

343 q. Aggravated fleeing or eluding with serious bodily injury

344 or death,

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

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

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

348 s. Human trafficking; or

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349 3. Which resulted from the unlawful distribution of any
 350 substance controlled under s. 893.03(1), cocaine as described in
 351 s. 893.03(2) (a)4., opium or any synthetic or natural salt,
 352 compound, derivative, or preparation of opium, or methadone by a
 353 person 18 years of age or older, when such drug is proven to be
 354 the proximate cause of the death of the user,
 355
 356 is murder in the first degree and constitutes a capital felony,
 357 punishable as provided in s. 775.082.
 358 (3) When a human being is killed during the perpetration
 359 of, or during the attempt to perpetrate, any:
 360 (a) Trafficking offense prohibited by s. 893.135(1),
 361 (b) Arson,
 362 (c) Sexual battery,
 363 (d) Robbery,
 364 (e) Burglary,
 365 (f) Kidnapping,
 366 (g) Escape,
 367 (h) Aggravated child abuse,
 368 (i) Aggravated abuse of an elderly person or disabled
 369 adult,
 370 (j) Aircraft piracy,
 371 (k) Unlawful throwing, placing, or discharging of a
 372 destructive device or bomb,
 373 (l) Carjacking,
 374 (m) Home-invasion robbery,
 375 (n) Aggravated stalking,
 376 (o) Murder of another human being,
 377 (p) Aggravated fleeing or eluding with serious bodily

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378 injury or death,
 379 (q) Resisting an officer with violence to his or her
 380 person, or
 381 (r) Felony that is an act of terrorism or is in furtherance
 382 of an act of terrorism, including a felony under s. 775.30, s.
 383 775.32, s. 775.33, s. 775.34, or s. 775.35,
 384
 385 by a person other than the person engaged in the perpetration of
 386 or in the attempt to perpetrate such felony, the person
 387 perpetrating or attempting to perpetrate such felony commits
 388 murder in the second degree, which constitutes a felony of the
 389 first degree, punishable by imprisonment for a term of years not
 390 exceeding life or as provided in s. 775.082, s. 775.083, or s.
 391 775.084.
 392 (4) The unlawful killing of a human being, when perpetrated
 393 without any design to effect death, by a person engaged in the
 394 perpetration of, or in the attempt to perpetrate, any felony
 395 other than any:
 396 (a) Trafficking offense prohibited by s. 893.135(1),
 397 (b) Arson,
 398 (c) Sexual battery,
 399 (d) Robbery,
 400 (e) Burglary,
 401 (f) Kidnapping,
 402 (g) Escape,
 403 (h) Aggravated child abuse,
 404 (i) Aggravated abuse of an elderly person or disabled
 405 adult,
 406 (j) Aircraft piracy,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

604 (2) The intelligence center shall:

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

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

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

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

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

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

622 (2) Notwithstanding ss. 27.40 and 27.5305:

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

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

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

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

655 39.806 Grounds for termination of parental rights.—

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

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

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

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

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

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

687 a. The age of the child.

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

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

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

695 e. Any other factor the court deems relevant.

696 Section 17. For the purpose of incorporating the amendment

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

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

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

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

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

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

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

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

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

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

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

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

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

765 435.04 Level 2 screening standards.—

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

775 (e) Section 782.04, relating to murder.

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

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

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

786 (4)

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

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

803 a. Chapter 741, relating to domestic violence.

804 b. Section 782.04, relating to murder.

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

810 d. Section 784.021, relating to aggravated assault.

811 e. Section 784.045, relating to aggravated battery.

812 f. Section 787.01, relating to kidnapping.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1021

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

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

1030 782.051 Attempted felony murder.—

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

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

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

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

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

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

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

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

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

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

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

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

1099 (3) OFFENSE SEVERITY RANKING CHART

1100 (h) LEVEL 8

1101

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

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

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

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

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

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

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

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

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

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

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

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

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			200 grams, less than 400 grams.	
1157	893.135	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.	
	(1) (e) 1.b.			
1158	893.135	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.	
	(1) (f) 1.b.			
1159	893.135	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.	
	(1) (g) 1.b.			
1160	893.135	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.	
	(1) (h) 1.b.			
1161	893.135	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.	
	(1) (j) 1.b.			
1162				

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

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

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

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

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

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

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

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

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

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

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

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

1227
 1228

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

921.16 When sentences to be concurrent and when
 consecutive.—

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

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

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

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

1282

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

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

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

1296 (8)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1333 14. Aggravated assault under s. 784.021.

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

1336 16. Aircraft piracy under s. 860.16.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1408 (d) Section 782.04, relating to murder.

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

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

1416 (2)

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

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

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

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

1432 4. Section 775.30, relating to terrorism.

1433 5. Section 782.04, relating to murder.

1434 6. Section 787.01, relating to kidnapping.

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

1437 8. Section 826.04, relating to incest.

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

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

Wed April 17, 2017

Meeting Date

476

Bill Number (if applicable)

Topic Terrorism

Amendment Barcode (if applicable)

Name Jennifer Cook Pritt

Job Title Assistant Commissioner

Address 2331 Phillips Road

Phone 850 410 8246

Street

Tallahassee FL 32306

City

State

Zip

Email jennifer.pritt@fdle.state.fl.us

Speaking: For Against Information

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

Representing FDLE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Finance and Tax, *Chair*
Appropriations Subcommittee on Health and Human Services, *Vice Chair*
Appropriations
Children, Families, and Elder Affairs
Communications, Energy, and Public Utilities
Military and Veterans Affairs, Space, and Domestic Security

SENATOR KELLI STARGEL

Deputy Majority Leader
22nd District

April 15, 2017

Chairman Gibson
Military and Veterans Affairs,
Space and Domestic Security

Dear Chair Gibson:

I am requesting permission to be excused from the upcoming Monday committee meeting, April 17th. There has been a death in the family and I will not be in Tallahassee for this meeting.

Thank you for this consideration,

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 15

Cc: Elizabeth Ryon / Staff Director
Lois Graham / CAA
Lily Tysinger / Legislative Analyst

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803 (863) 668-3028
- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

Graham, Lois

From: Broxson.Doug
Sent: Monday, April 17, 2017 4:35 PM
To: Ryon, Elizabeth
Cc: Graham, Lois
Subject: Request for permission to be excused for 4/17/18 meeting

TO: Committee on Military and Veterans Affairs, Space, and Domestic Security

I request permission to be excused from the Committee meeting on Military and Veterans Affairs, Space, and Domestic Security on 4/17/17.

Thank you for your attention to this matter.

Best regards,

Senator Doug Broxson
District 1

CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Military and Veterans Affairs, Space and Domestic Security Committee

Judge:

Started: 4/17/2017 4:11:02 PM

Ends: 4/17/2017 4:15:55 PM **Length:** 00:04:54

4:11:00 PM Meeting called to order by Chair Gibson
4:11:06 PM Roll Call by CAA Lois Graham
4:11:14 PM Quorum is announced
4:11:41 PM Chair Gibson with opening comments
4:11:54 PM Tab 1- CS/SB 476 Terrorism and Terrorist Activities by Senator Bean
4:12:02 PM Senator Bean explains the bill
4:13:17 PM Chair Gibson calls for questions/debate
4:13:23 PM Appearance Card - Jennifer Cook Pritt, Assistant Commissioner, FDLE
4:13:32 PM Ms. Pritt waives in support
4:13:37 PM Chair Gibson with comments
4:13:41 PM Senator Bean waives close, but thanks the committee
4:13:47 PM Roll Call by CAA
4:13:52 PM CS/SB 476 reported favorably
4:14:06 PM Chair Gibson with comments
4:14:39 PM Senator Torres with comments
4:15:33 PM Chair Gibson with comments and announcement
4:15:43 PM Senator Torres moves to adjourn
4:15:45 PM Without objection, meeting is adjourned