Tab 1	**SB 408** by **Brandes (CO-INTRODUCERS) Perry**; Drug Offenses

447180	A	S	RCS	CJ, Brandes	Delete L.39 - 49.	02/19 12:26 PM

Tab 2	**SB 498** by **Powell**; (Identical to H 00433) Fire Safety and Prevention

785678	A	S	RCS	CJ, Powell	Delete L.25 - 28:	02/19 12:26 PM

Tab 3	**SB 530** by **Brandes**; (Similar to H 00595) Alcohol or Drug Overdose Prosecutions

Tab 4	**SB 540** by **Book**; (Identical to H 00851) Human Trafficking

494714	A	S	RS	CJ, Book	Delete L.71 - 109:	02/19 12:26 PM
891934	SA	S	RCS	CJ, Perry	Delete L.64 - 109:	02/19 12:26 PM
430052	A	S	RCS	CJ, Book	Delete L.302 - 306:	02/19 12:26 PM
~~619312~~	A	S	WD	CJ, Perry	Delete L.64 - 86:	02/19 08:43 AM

Tab 5	**SB 554** by **Pizzo**; (Identical to H 00187) Offenses Against Brokers, Broker Associates, or Sales Associates

Tab 6	**SPB 7044** by **CJ**; OGSR/Concealed Carry License/Department of Agriculture and Consumer Services

Tab 7	**SPB 7046** by **CJ**; Critical Infrastructure Facilities and Staff

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Perry, Chair
Senator Brandes, Vice Chair

MEETING DATE: Tuesday, February 19, 2019
TIME: 10:00—11:30 a.m.
PLACE: *Mallory Horne Committee Room,* 37 Senate Building

MEMBERS: Senator Perry, Chair; Senator Brandes, Vice Chair; Senators Bracy, Flores, and Pizzo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 408** Brandes	Drug Offenses; Prohibiting the use or possession of a pill press or similar device with the intent to unlawfully manufacture a pill, tablet, or capsule containing certain controlled substances; prohibiting the sale, purchase, delivery, bringing into this state, or actual or constructive possession of specified amounts of dosage units of certain controlled substances; creating the offense of "trafficking in pharmaceuticals", etc. CJ 02/11/2019 Not Considered CJ 02/19/2019 Fav/CS JU AP	Fav/CS Yeas 5 Nays 0
2	**SB 498** Powell (Identical H 433)	Fire Safety and Prevention; Prohibiting a person from committing or attempting to commit certain acts to influence firesafety inspectors, etc. CJ 02/19/2019 Fav/CS GO RC	Fav/CS Yeas 3 Nays 0
3	**SB 530** Brandes (Similar H 595)	Alcohol or Drug Overdose Prosecutions; Prohibiting the arrest, charge, prosecution, or penalization under specified provisions of a person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, an alcohol-related overdose; prohibiting the arrest, charge, prosecution, or penalization under specified provisions of a person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, a drug-related overdose, etc. CJ 02/19/2019 Favorable JU RC	Favorable Yeas 5 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 540** Book (Identical H 851)	Human Trafficking; Requiring the owner or operator of a public lodging establishment to train certain employees and create certain policies relating to human trafficking by a specified date; requiring the Department of Children and Families, in consultation with the Department of Law Enforcement and the Attorney General, to establish a certain direct-support organization; requiring that the criminal history record of a person who is convicted of, or enters a plea of guilty or nolo contendere to, soliciting, inducing, enticing, or procuring another to commit prostitution, lewdness, or assignation be added to the Soliciting for Prostitution Registry, etc. CJ 02/19/2019 Fav/CS CA AP	Fav/CS Yeas 4 Nays 0
5	**SB 554** Pizzo (Identical H 187)	Offenses Against Brokers, Broker Associates, or Sales Associates; Providing for reclassification of specified offenses committed against brokers, broker associates, or sales associates, etc. CJ 02/19/2019 Favorable ACJ AP	Favorable Yeas 2 Nays 1
	Consideration of proposed bill:		
6	**SPB 7044**	OGSR/Concealed Carry License/Department of Agriculture and Consumer Services; Amending provisions relating to an exemption from public records requirements for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm through a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees; abrogating the scheduled repeal of the exemption, etc.	Submitted and Reported Favorably as Committee Bill Yeas 5 Nays 0
	Consideration of proposed bill:		
7	**SPB 7046**	Critical Infrastructure Facilities and Staff; Redefining the term “critical infrastructure facility”; requiring any person employed as a full-time, a part-time, or an auxiliary correctional officer be at least 18 years of age, etc.	Submitted and Reported Favorably as Committee Bill Yeas 5 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 Criminal Justice

BILL:	CS/SB 408
INTRODUCER:	Criminal Justice Committee and Senators Brandes and Perry
SUBJECT:	Drug Offenses
DATE:	February 20, 2019
REVISED:	

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 408 creates a new drug trafficking offense called "trafficking in pharmaceuticals," a first degree felony. This offense involves the unlawful possession, sale, etc., of 120 or more dosage units containing a controlled substance described in s. 893.135, F.S.

A "dosage unit" is defined as "an individual tablet, capsule, pill, transdermal patch, unit of sublingual gelatin, or other visually distinctive form, with a clear manufacturer marking on each unit, of a commercial drug product approved by the Food and Drug Administration and manufactured and distributed by a pharmaceutical company lawfully doing business in the United States."

A person who unlawfully possesses, sells, etc., 120 or more dosage units containing a controlled substance described in s. 893.135, F.S., must be prosecuted for the new "trafficking in pharmaceuticals" offense. No other drug trafficking offense can be charged. If there are fewer than 120 dosage units involved, the person may not be charged with drug trafficking.

The bill does not affect prosecution of any current drug trafficking offense, if the controlled substance is not contained in a dosage unit.

The new "trafficking in pharmaceuticals" offense contains 3, 7, 15, and 25-year mandatory minimum terms of imprisonment and mandatory fines. The applicable mandatory minimum term

and mandatory fine are determined by the specified dosage unit range relevant to the number of dosage units trafficked.

The Legislature's Office of Economic and Demographic Research preliminarily estimates that the bill will have a "positive/negative indeterminate" prison bed impact, which means that the impact of the bill could be an unquantifiable increase or decrease in prison beds. See Section V. Fiscal Impact Statement.

The bill is effective on October 1, 2019.

II. Present Situation:

Florida's Controlled Substance Schedules

Section 893.03, F.S., classifies controlled substances into five categories or classifications, known as schedules. These schedules regulate the manufacture, distribution, preparation, and dispensing of the substances listed in the schedules. The most important factors in determining which schedule may apply to a substance are the "potential for abuse"[1] of the substance and whether there is a currently accepted medical use for the substance. The controlled substance schedules are as follows:

- Schedule I substances (s. 893.03(1), F.S.) have a high potential for abuse and no currently accepted medical use in treatment in the United States. Use of these substances under medical supervision does not meet accepted safety standards.
- Schedule II substances (s. 893.03(2), F.S.) have a high potential for abuse and a currently accepted but severely restricted medical use in treatment in the United States. Abuse of these substances may lead to severe psychological or physical dependence.
- Schedule III substances (s. 893.03(3), F.S.) have a potential for abuse less than the Schedule I and Schedule II substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to moderate or low physical dependence or high psychological dependence. Abuse of anabolic steroids may lead to physical damage.
- Schedule IV substances (s. 893.03(4), F.S.) have a low potential for abuse relative to Schedule III substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule III substances.
- Schedule V substances (s. 893.03(5), F.S.) have a low potential for abuse relative to the substances in Schedule IV and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule IV substances.

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

Punishment of Prohibited Drug Acts

Section 893.13, F.S., in part, punishes unlawful possession, sale, purchase, manufacture, and delivery of a controlled substance.[2] The penalty for violating s. 893.13, F.S., can depend on the act committed, the substance and quantity of the substance involved, and the location in which the violation occurred. For example, selling a controlled substance listed in s. 893.03(1)(c), F.S., which includes many synthetic controlled substances, is a third degree felony.[3] However, if that substance is sold within 1,000 feet of a K-12 school or other designated facility or location, the violation is a second degree felony.[4]

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

Most drug trafficking offenses are first degree felonies[5] and are subject to a mandatory minimum term of imprisonment and a mandatory fine, which is determined by the weight or quantity of the substance.[6] For example, trafficking in 28 grams or more, but less than 200 grams, of cocaine, a first degree felony, is punishable by a 3-year mandatory minimum term and a mandatory fine of $50,000.[7] Trafficking in 200 grams or more, but less than 400 grams, of cocaine, a first degree felony, is punishable by a 7-year mandatory minimum term and a mandatory fine of $100,000.[8]

Trafficking Exception

Pharmaceutical drugs are approved by the Food and Drug Administration for many medical uses. Some of these drugs may contain a controlled substance described in the s. 893.135, F.S. For example, some of these drugs may contain amphetamine, codeine, morphine, hydromorphone, hydrocodone, oxycodone, fentanyl (and some of its analogs and derivatives), and methaqualone. All of these controlled substances are described in s. 893.135, F.S.

Section 893.135, F.S., does not apply to possession, sale, etc., of a pharmaceutical drug when that possession, sale, etc., is authorized by ch. 893, F.S. (Controlled Substance Act) or ch. 499, F.S. (Florida Drug and Cosmetic Act). Section 893.135(1), F.S., which proscribes numerous drug

[2] *See e.g.*, s. 893.13(1)(a) and (b), F.S.
[3] Section 893.13(1)(a)2., F.S. A third degree felony is punishable by up to 5 years in state prison and a fine of up to $5,000. Sections 775.082 and 775.083, F.S.
[4] Section 893.13(1)(c)2., F.S. A second-degree felony is punishable by up to 15 years in state prison, a fine of up to $10,000, or both. Sections 775.082 and 775.083, F.S.
[5] A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to $10,000. However, when specifically provided by statute, a first degree felony may be punished by imprisonment for a term of years not exceeding life imprisonment. Sections 775.082 and 775.083, F.S. Section 893.135, F.S., prescribes specific mandatory fines which are greater than the $10,000 fine prescribed in s. 775.083, F.S., for a first degree felony. However, s. 772.083, F.S., authorizes any higher amount if specifically authorized by statute.
[6] *See* s. 893.135, F.S.
[7] Section 893.135(1)(b)1.a., F.S.
[8] Section 893.135(1)(b)1.b., F.S.

trafficking acts, is "prefaced by the following qualification: 'Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13[.]'"[9]

An example of this exception is possession of a lawfully-prescribed pharmaceutical drug containing hydrocodone, a controlled substance described in s. 893.135(1)(c)2., 5., and 6., F.S. Section 499.03(1), F.S., in part, prohibits a person from possessing or possessing with intent to sell, dispense or deliver, "any prescription drug as defined in s. 499.003(40), *unless the possession of the drug has been obtained by a valid prescription by a practitioner licensed by law to prescribe the drug*."[10]

Section 499.003(40), F.S., defines a "prescription drug" as

> a prescription, medicinal, or legend drug, including, but not limited to, finished dosage forms or active pharmaceutical ingredients subject to, defined by, or described by s. 503(b) of the federal act or s. 465.003(8), s. 499.007(13), subsection (31), or subsection (47), except that an active pharmaceutical ingredient is a prescription drug only if substantially all finished dosage forms in which it may be lawfully dispensed or administered in this state are also prescription drugs.

Section 465.003(8), F.S., defines "medicinal drugs" or "drugs" as "those substances or preparations commonly known as 'prescription' or 'legend' drugs which are required by federal or state law to be dispensed only on a prescription, but shall not include patents or proprietary preparations as hereafter defined." Section 893.04(1), F.S., provides that "[a] pharmacist, in good faith and in the course of professional practice only, may dispense controlled substances upon a written, oral, or electronic prescription of a practitioner" under the conditions prescribed in that subsection.

Section 893.02(4), F.S., defines a "controlled substance" as "any substance named or described in Schedules I-V of s. 893.03." Hydrocodone is a controlled substance, since it is scheduled in s. 893.03, F.S.[11] Therefore, hydrocodone is a "prescription drug" for purposes of s. 499.03(1), F.S., and its possession by lawful prescription is not prohibited by that subsection. Further, its possession by lawful prescription is not prohibited by s. 893.135, F.S., because the possession is authorized by chs. 893 and 499, F.S.

Determining Trafficking Weight of a Controlled Substance Contained in a Pharmaceutical Drug

In order to determine if the unlawfully possessed, sold, etc., dosage units (pills, tablets, etc.) of a pharmaceutical drug containing a controlled substance described in s. 893.135, F.S., meet the threshold gram weight for charging drug trafficking, the gram weight of the dosage units must be weighed. Trafficking offenses include the described controlled substances and "mixtures"

[9] *O'Hara v. State*, 964 So.2d 839, 841 (Fla. 2d. DCA 2007).
[10] Emphasis provided by staff.
[11] Section 893.03(2)(a)1.k. and (3)(c)3. and 4., F.S. A similar statutory analysis was conducted using earlier statutory provisions in *O'Hara v. State*, 964 So.2d 839, 841-842 (Fla. 2d. DCA 2007).

containing those controlled substances.[12] If a dosage unit of a pharmaceutical drug contains a controlled substance described in s. 893.135, F.S., and constituents which are not a controlled substance (as is almost invariably the case), the dosage unit is treated as a mixture.[13] For example, in the case of a pharmaceutical drug pill which contains a controlled substance, the weight of the controlled substance is the total weight of the pill. If a person unlawfully possesses, sells, etc., more than one pill containing the same controlled substance, the weight of the controlled substance possessed is calculated by aggregating the total weight of each pill.[14]

Criminal Punishment Code

The Criminal Punishment Code[15] (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (levels 1-10).[16] Points are assigned and accrue based upon the severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses like a level 7 or 8 drug trafficking offense. The lowest permissible sentence is any nonstate prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.[17] Absent mitigation,[18] the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.[19]

Mandatory Minimum Sentences

Mandatory minimum terms of imprisonment limit judicial discretion in Code sentencing: "If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory

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[12] *See e.g.*, s. 893.135(1)(f)1., F.S., which punishes trafficking in amphetamines and methamphetamines, and includes "any mixture containing amphetamine or methamphetamine[.]"

[13] Section 893.02(16), F.S., defines a "mixture" as "any physical combination of two or more substances, including, but not limited to, a blend, an aggregation, a suspension, an emulsion, a solution, or a dosage unit, whether or not such combination can be separated into its components by physical means, whether mechanical or thermal." Section 893.135(6), F.S., provides that "[a] mixture, as defined in s. 893.02, containing any controlled substance described in this section includes, but is not limited to, a solution or a dosage unit, including but not limited to, a gelatin capsule, pill, or tablet, containing a controlled substance. For the purpose of clarifying legislative intent regarding the weighing of a mixture containing a controlled substance described in this section, the weight of the controlled substance is the total weight of the mixture, including the controlled substance and any other substance in the mixture. If there is more than one mixture containing the same controlled substance, the weight of the controlled substance is calculated by aggregating the total weight of each mixture."

[14] *Id*.

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

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

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

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

[19] If the scored lowest permissible sentence exceeds the maximum penalty in s. 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment. Section 921.0024(2), F.S.

minimum sentence takes precedence. If the lowest permissible sentence exceeds the mandatory sentence, the requirements of the Criminal Punishment Code and any mandatory minimum penalties apply."[20] As previously noted, the sentencing range under the Code is generally the scored lowest permissible sentence up to and including the statutory maximum penalty. However, if there is a mandatory minimum sentence that is longer than the scored lowest permissible sentence, the sentencing range is narrowed to the mandatory minimum sentence up to and including the statutory maximum penalty.

III. Effect of Proposed Changes:

The bill creates a new drug trafficking offense called "trafficking in pharmaceuticals," which is committed if a person knowingly sells, purchases, delivers, or brings into this state, or is knowingly in actual or constructive possession of, 120 or more dosage units containing a controlled substance described in s. 893.135, F.S.

A person who unlawfully possesses, sells, etc., 120 or more dosage units containing a controlled substance described in s. 893.135, F.S., must be prosecuted for the new "trafficking in pharmaceuticals" offense. No other drug trafficking offense can be charged.

If there are fewer than 120 dosage units involved in the trafficking, the person may not be charged with drug trafficking, though a person could be charged under s. 893.13, F.S., which also punishes controlled substance offenses. However, penalties in s. 893.13, F.S., are generally lower than penalties in s. 893.135, F.S., and most violations of s. 893.13, F.S., do not involve a mandatory minimum term of imprisonment.

The bill does not affect prosecution of any current drug trafficking offense, if the controlled substance is not contained in a dosage unit.

The new "trafficking in pharmaceuticals" offense contains 3, 7, 15, and 25-year mandatory minimum terms of imprisonment and mandatory fines. The mandatory minimum term and mandatory fine are determined by the specified dosage unit range applicable to dosage units trafficked. Specifically, the bill provides for the following penalties:

- If the quantity involved is 120 or more dosage units, but less than 500 dosage units, a person is sentenced to a mandatory minimum term of imprisonment of 3 years and is ordered to pay a fine of up to $25,000;
- If the quantity involved is 500 or more dosage units, but less than 1,000 dosage units, a person is sentenced to a mandatory minimum term of imprisonment of 7 years and is ordered to pay a fine of up to $50,000;
- If the quantity involved is 1,000 or more dosage units, but less than 5,000 dosage units, a person is sentenced to a mandatory minimum term of imprisonment of 15 years and is ordered to pay a fine of up to $100,000; and
- If the quantity involved is 5,000 or more dosage units, a person is sentenced to a mandatory minimum term of imprisonment of 25 years and is ordered to pay a fine of up to $250,000.

[20] Fla. R. Crim. P. 3.704(d)(26).

It is not possible to make a general comparison of trafficking penalties based upon dosage units (new "trafficking in pharmaceuticals" offense) and trafficking penalties based upon gram weight (current law),[21] but some drug offenders could receive a mandatory minimum term under the bill that is substantially less than the mandatory minimum term they could receive under current law. For example, the Office of Program Policy Analysis and Government Accountability determined that 215 oxycodone pills, each weighing 0.13 grams, equals 28 grams.[22] Under current law, trafficking in 28 grams of these pills would require a 15-year mandatory minimum term;[23] under the bill, 215 dosage units (pills) would require a 3-year mandatory term.

Some drug offenders could also receive a mandatory fine that is less than the mandatory fine under current law. The new trafficking in pharmaceuticals offense requires that a fine be imposed up to a specified cap (e.g., "fine of up to $100,000"). Current trafficking offenses require a specified fine be imposed (e.g., "fine of 100,000"); there is no mandatory fine range.

Another difference between the new trafficking offense and current trafficking offense relates to ranking of offenses in the Code offense severity ranking chart.[24] Current trafficking offenses contain escalating (or tiered) gram weight ranges with escalating penalties and escalating rankings in the offense severity level ranking chart. For example, trafficking in "14 grams or more, but less than 28 grams" of amphetamines requires a 3-year mandatory minimum term,[25] and the offense is ranked in level 7 of the chart.[26] Trafficking in "28 grams or more, but less than 200 grams" of amphetamines requires a 7-year mandatory minimum term,[27] and the offense is ranked in level 8 of the chart.[28] The higher the ranking, the more sentence points. These sentence points are used in the calculation of the lowest permissible sentence (in prison months).[29]

In contrast, the bill also contains escalating ranges (or tiers) with escalating penalties for the new "trafficking in pharmaceuticals" offense, though these are dosage unit ranges rather than weight ranges. However, there is no escalation in the severity level ranking based on the dosage units tiers, and the bill does not rank the new offense. A first degree felony that is not ranked in the chart defaults to a level 7 ranking.[30] Therefore, regardless of the number of dosage units trafficked, the offense remains a level 7 offense. This could impact the scored lowest permissible sentence (in prison months) but would not preclude the court from imposing a sentence up to and including 30 years (the maximum penalty for a first degree felony).[31]

The bill is effective on October 1, 2019.

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[21] Gram weight of a dosage unit will vary depending on the pharmaceutical drug and its constituents, and gram weight thresholds for trafficking will vary depending on the controlled substance in the dosage units.
[22] *Opinions Are Mixed About Sentencing Laws for Painkiller Trafficking*, Report No. 12-02 (January 2012), at p. 5 (Exhibit 6), Office of Program Policy Analysis and Government Accountability, available at http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1202rpt.pdf (last visited on Feb. 4, 2019).
[23] Section 893.135(1)(c)3.c., F.S.
[24] Section 921.0022, F.S.
[25] Section 893.135(1)(f)1.a., F.S.
[26] Section 921.0022(3)(g), F.S.
[27] Section 893.135(1)(f)1.b., F.S
[28] Section 921.0022(3)(h), F.S.
[29] See discussion of the Code in the "Present Situation" section of this analysis.
[30] Section 921.0023(3), F.S.
[31] Section 775.082, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official prison bed impact, if any, of legislation has not yet reviewed the bill. The Legislature's Office of Economic and Demographic Research (EDR) preliminarily estimates that the bill will have a "positive/negative indeterminate " prison bed impact, which means that the effect of the bill could be an unquantifiable increase or decrease in prison beds.

The EDR notes:

> …. [F]or certain drugs, these new thresholds could lower the number of offenders receiving drug trafficking mandatory minimum sentences, as well as the number of mandatory minimum years served, due to the dosage unit number thresholds allowing greater weights for controlled substances before triggering mandatory minimum sentences than existing weight thresholds for the same substances. However, there isn't enough data on dosage units for commercial drug products containing substances listed under s. 893.135, F.S. to determine how prisons might be impacted….[32]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 893.135 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 373.6055, 397.4073, 414.095, 772.12, 775.087, 782.04, 810.02, 812.014, 893.13, 893.1351, 900.05, 903.133, 907.041, and 921.0024.

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 February 19, 2019:
The committee substitute removes from the bill a newly created offense involving unlawful use or possession of a pill press or similar mechanical device.

B. Amendments:

None.

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

[32] This EDR estimate is on file with the Senate Committee on Criminal Justice.

447180

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/19/2019	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 39 - 49.

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

And the title is amended as follows:

Delete lines 2 - 7

and insert:

An act relating to drug offenses; amending s. 893.135, F.S.; defining the

447180

11

By Senator Brandes

24-00739-19 2019408__

A bill to be entitled

An act relating to drug offenses; creating s. 893.066, F.S.; prohibiting the use or possession of a pill press or similar device with the intent to unlawfully manufacture a pill, tablet, or capsule containing certain controlled substances; providing criminal penalties; amending s. 893.135, F.S.; defining the term "dosage unit"; providing applicability; prohibiting the sale, purchase, delivery, bringing into this state, or actual or constructive possession of specified amounts of dosage units of certain controlled substances; creating the offense of "trafficking in pharmaceuticals"; providing criminal penalties; reenacting ss. 373.6055(3)(c), 397.4073(6), 414.095(1), 772.12(2), 775.087(2)(a) and (3)(a), 782.04(1)(a), (3)(a), and (4)(a), 810.02(3)(f), 812.014(2)(c), 893.13(8)(d), 893.1351(1) and (2), 900.05(3)(e), 903.133, 907.041(4)(c), and 921.0024(1)(b), F.S., relating to criminal history checks for certain water management district employees and others; background checks of service provider personnel; the determination of eligibility for temporary cash assistance; the Drug Dealer Liability Act; felony reclassification of the possession or use of a weapon in an aggravated battery; murder; burglary; theft; prohibited acts that relate to the prescription of controlled substances; ownership, lease, rental, or possession for trafficking in or manufacturing controlled substances; criminal justice

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

24-00739-19 2019408__

data collection; the prohibition of bail on appeal for certain felony convictions; pretrial detention and release; the scoresheet worksheet key for computation in the Criminal Punishment Code; respectively, to incorporate the amendment made to s. 893.135, F.S., in references thereto; providing an effective date.

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

Section 1. Section 893.066, Florida Statutes, is created to read:

893.066 Unlawful possession of pill press; penalty.—Except as authorized in this chapter, a person may not use or possess a pill press or other similar mechanical device capable of compressing powder into pills, tablets, or capsules of uniform size and weight, with the intent to unlawfully manufacture a pill, tablet, or capsule containing a controlled substance as described in s. 893.03. A person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Paragraph (o) is added to subsection (1) of section 893.135, Florida Statutes, to read:

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

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(o) 1. As used in this paragraph, the term "dosage unit" means an individual tablet, capsule, pill, transdermal patch, unit of sublingual gelatin, or other visually distinctive form,

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

with a clear manufacturer marking on each unit, of a commercial drug product approved by the federal Food and Drug Administration and manufactured and distributed by a pharmaceutical company lawfully doing business in the United States.

2. Notwithstanding any other provision of this section, the sale, purchase, manufacture, delivery, or actual or constructive possession of fewer than 120 dosage units containing any controlled substance described in this section is not a violation of any other provision of this section.

3. A person who knowingly sells, purchases, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 120 or more dosage units containing a controlled substance described in this section commits a felony of the first degree, which felony shall be known as "trafficking in pharmaceuticals," punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and must be prosecuted under this paragraph. If the quantity involved:

a. Is 120 or more dosage units, but less than 500 dosage units, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of up to $25,000.

b. Is 500 or more dosage units, but less than 1,000 dosage units, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of up to $50,000.

c. Is 1,000 or more dosage units, but less than 5,000 dosage units, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to

pay a fine of up to $100,000.

d. Is 5,000 or more dosage units, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of up to $250,000.

Section 3. For the purpose of incorporating the amendment made by this act to section 893.135, Florida Statutes, in a reference thereto, paragraph (c) of subsection (3) of section 373.6055, Florida Statutes, is reenacted to read:

373.6055 Criminal history checks for certain water management district employees and others.—

(3)

(c) In addition to other requirements for employment or access established by any water management district pursuant to its water management district's security plan for buildings, facilities, and structures, each water management district's security plan shall provide that:

1. Any person who has within the past 7 years been convicted, regardless of whether adjudication was withheld, for a forcible felony as defined in s. 776.08; an act of terrorism as defined in s. 775.30; planting of a hoax bomb as provided in s. 790.165; any violation involving the manufacture, possession, sale, delivery, display, use, or attempted or threatened use of a weapon of mass destruction or hoax weapon of mass destruction as provided in s. 790.166; dealing in stolen property; any violation of s. 893.135; any violation involving the sale, manufacturing, delivery, or possession with intent to sell, manufacture, or deliver a controlled substance; burglary; robbery; any felony violation of s. 812.014; any violation of s. 790.07; any crime an element of which includes use or possession

of a firearm; any conviction for any similar offenses under the laws of another jurisdiction; or conviction for conspiracy to commit any of the listed offenses may not be qualified for initial employment within or authorized regular access to buildings, facilities, or structures defined in the water management district's security plan as restricted access areas.

2. Any person who has at any time been convicted of any of the offenses listed in subparagraph 1. may not be qualified for initial employment within or authorized regular access to buildings, facilities, or structures defined in the water management district's security plan as restricted access areas unless, after release from incarceration and any supervision imposed as a sentence, the person remained free from a subsequent conviction, regardless of whether adjudication was withheld, for any of the listed offenses for a period of at least 7 years prior to the employment or access date under consideration.

Section 4. For the purpose of incorporating the amendment made by this act to section 893.135, Florida Statutes, in a reference thereto, subsection (6) of section 397.4073, Florida Statutes, is reenacted to read:

397.4073 Background checks of service provider personnel.—

(6) DISQUALIFICATION FROM RECEIVING STATE FUNDS.—State funds may not be disseminated to any service provider owned or operated by an owner, director, or chief financial officer who has been convicted of, has entered a plea of guilty or nolo contendere to, or has had adjudication withheld for, a violation of s. 893.135 pertaining to trafficking in controlled substances, or a violation of the law of another state, the

District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction which is substantially similar in elements and penalties to a trafficking offense in this state, unless the owner's or director's civil rights have been restored.

Section 5. For the purpose of incorporating the amendment made by this act to section 893.135, Florida Statutes, in a reference thereto, subsection (1) of section 414.095, Florida Statutes, is reenacted to read:

414.095 Determining eligibility for temporary cash assistance.—

(1) ELIGIBILITY.—An applicant must meet eligibility requirements of this section before receiving services or temporary cash assistance under this chapter, except that an applicant shall be required to register for work and engage in work activities in accordance with s. 445.024, as designated by the local workforce development board, and may receive support services or child care assistance in conjunction with such requirement. The department shall make a determination of eligibility based on the criteria listed in this chapter. The department shall monitor continued eligibility for temporary cash assistance through periodic reviews consistent with the food assistance eligibility process. Benefits may not be denied to an individual solely based on a felony drug conviction, unless the conviction is for trafficking pursuant to s. 893.135. To be eligible under this section, an individual convicted of a drug felony must be satisfactorily meeting the requirements of the temporary cash assistance program, including all substance abuse treatment requirements. Within the limits specified in

this chapter, the state opts out of the provision of Pub. L. No. 104-193, s. 115, that eliminates eligibility for temporary cash assistance and food assistance for any individual convicted of a controlled substance felony.

Section 6. For the purpose of incorporating the amendment made by this act to section 893.135, Florida Statutes, in a reference thereto, subsection (2) of section 772.12, Florida Statutes, is reenacted to read:

772.12 Drug Dealer Liability Act.—

(2) A person, including any governmental entity, has a cause of action for threefold the actual damages sustained and is entitled to minimum damages in the amount of $1,000 and reasonable attorney's fees and court costs in the trial and appellate courts, if the person proves by the greater weight of the evidence that:

(a) The person was injured because of the defendant's actions that resulted in the defendant's conviction for:

1. A violation of s. 893.13, except for a violation of s. 893.13(2)(a) or (b), (3), (5), (6)(a), (b), or (c), (7); or

2. A violation of s. 893.135; and

(b) The person was not injured by reason of his or her participation in the same act or transaction that resulted in the defendant's conviction for any offense described in subparagraph (a)1.

Section 7. For the purpose of incorporating the amendment made by this act to section 893.135, Florida Statutes, in references thereto, paragraph (a) of subsection (2) and paragraph (a) of subsection (3) of section 775.087, Florida Statutes, are reenacted to read:

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

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

a. Murder;

b. Sexual battery;

c. Robbery;

d. Burglary;

e. Arson;

f. Aggravated battery;

g. Kidnapping;

h. Escape;

i. Aircraft piracy;

j. Aggravated child abuse;

k. Aggravated abuse of an elderly person or disabled adult;

l. Unlawful throwing, placing, or discharging of a destructive device or bomb;

m. Carjacking;

n. Home-invasion robbery;

o. Aggravated stalking;

p. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in

Phenethylamines, or other violation of s. 893.135(1); or

q. Possession of a firearm by a felon

and during the commission of the offense, such person actually possessed a "firearm" or "destructive device" as those terms are defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 10 years, except that a person who is convicted for possession of a firearm by a felon or burglary of a conveyance shall be sentenced to a minimum term of imprisonment of 3 years if such person possessed a "firearm" or "destructive device" during the commission of the offense. However, if an offender who is convicted of the offense of possession of a firearm by a felon has a previous conviction of committing or attempting to commit a felony listed in s. 775.084(1)(b)1. and actually possessed a firearm or destructive device during the commission of the prior felony, the offender shall be sentenced to a minimum term of imprisonment of 10 years.

2. Any person who is convicted of a felony or an attempt to commit a felony listed in sub-subparagraphs (a)1.a.-p., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a "firearm" or "destructive device" as defined in s. 790.001 shall be sentenced to a minimum term of imprisonment of 20 years.

3. Any person who is convicted of a felony or an attempt to commit a felony listed in sub-subparagraphs (a)1.a.-p., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a "firearm" or "destructive device" as

defined in s. 790.001 and, as the result of the discharge, death or great bodily harm was inflicted upon any person, the convicted person shall be sentenced to a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison.

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

a. Murder;

b. Sexual battery;

c. Robbery;

d. Burglary;

e. Arson;

f. Aggravated battery;

g. Kidnapping;

h. Escape;

i. Sale, manufacture, delivery, or intent to sell, manufacture, or deliver any controlled substance;

j. Aircraft piracy;

k. Aggravated child abuse;

l. Aggravated abuse of an elderly person or disabled adult;

m. Unlawful throwing, placing, or discharging of a destructive device or bomb;

n. Carjacking;

o. Home-invasion robbery;

p. Aggravated stalking; or

q. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine,

capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1);

and during the commission of the offense, such person possessed a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun as defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 15 years.

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

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

Section 8. For the purpose of incorporating the amendment made by this act to section 893.135, Florida Statutes, in references thereto, paragraph (a) of subsection (1), paragraph (a) of subsection (3), and paragraph (a) of subsection (4) of section 782.04, Florida Statutes, are reenacted to read:

782.04 Murder.—

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

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

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

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

b. Arson,

c. Sexual battery,

d. Robbery,

e. Burglary,

f. Kidnapping,

g. Escape,

h. Aggravated child abuse,

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

j. Aircraft piracy,

k. Unlawful throwing, placing, or discharging of a destructive device or bomb,

l. Carjacking,

m. Home-invasion robbery,

n. Aggravated stalking,

o. Murder of another human being,

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

q. Aggravated fleeing or eluding with serious bodily injury

or death,

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

s. Human trafficking; or

3. Which resulted from the unlawful distribution by a person 18 years of age or older of any of the following substances, or mixture containing any of the following substances, when such substance or mixture is proven to be the proximate cause of the death of the user:

a. A substance controlled under s. 893.03(1);

b. Cocaine, as described in s. 893.03(2)(a)4.;

c. Opium or any synthetic or natural salt, compound, derivative, or preparation of opium;

d. Methadone;

e. Alfentanil, as described in s. 893.03(2)(b)1.;

f. Carfentanil, as described in s. 893.03(2)(b)6.;

g. Fentanyl, as described in s. 893.03(2)(b)9.;

h. Sufentanil, as described in s. 893.03(2)(b)30.; or

i. A controlled substance analog, as described in s. 893.0356, of any substance specified in sub-subparagraphs a.-h.,

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

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

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

by a person other than the person engaged in the perpetration of

or in the attempt to perpetrate such felony, the person perpetrating or attempting to perpetrate such felony commits murder in the second degree, which constitutes a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) 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 any:

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

is murder in the third degree and constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 9. For the purpose of incorporating the amendment made by this act to section 893.135, Florida Statutes, in a reference thereto, paragraph (f) of subsection (3) of section 810.02, Florida Statutes, is reenacted to read:

810.02 Burglary.—

(3) Burglary is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the course of committing the offense, the offender does not make an assault or battery and is not and does not become armed with a dangerous weapon or explosive, and the offender enters or remains in a:

(f) Structure or conveyance when the offense intended to be committed therein is theft of a controlled substance as defined in s. 893.02. Notwithstanding any other law, separate judgments

and sentences for burglary with the intent to commit theft of a controlled substance under this paragraph and for any applicable possession of controlled substance offense under s. 893.13 or trafficking in controlled substance offense under s. 893.135 may be imposed when all such offenses involve the same amount or amounts of a controlled substance.

However, if the burglary is committed within a county that is subject to a state of emergency declared by the Governor under chapter 252 after the declaration of emergency is made and the perpetration of the burglary is facilitated by conditions arising from the emergency, the burglary is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this subsection, the term "conditions arising from the emergency" means civil unrest, power outages, curfews, voluntary or mandatory evacuations, or a reduction in the presence of or response time for first responders or homeland security personnel. A person arrested for committing a burglary within a county that is subject to such a state of emergency may not be released until the person appears before a committing magistrate at a first appearance hearing. For purposes of sentencing under chapter 921, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 10. For the purpose of incorporating the amendment made by this act to section 893.135, Florida Statutes, in a reference thereto, paragraph (c) of subsection (2) of section 812.014, Florida Statutes, is reenacted to read:

812.014 Theft.—

(2)

(c) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is:

1. Valued at $300 or more, but less than $5,000.

2. Valued at $5,000 or more, but less than $10,000.

3. Valued at $10,000 or more, but less than $20,000.

4. A will, codicil, or other testamentary instrument.

5. A firearm.

6. A motor vehicle, except as provided in paragraph (a).

7. Any commercially farmed animal, including any animal of the equine, avian, bovine, or swine class or other grazing animal; a bee colony of a registered beekeeper; and aquaculture species raised at a certified aquaculture facility. If the property stolen is a commercially farmed animal, including an animal of the equine, avian, bovine, or swine class or other grazing animal; a bee colony of a registered beekeeper; or an aquaculture species raised at a certified aquaculture facility, a $10,000 fine shall be imposed.

8. Any fire extinguisher.

9. Any amount of citrus fruit consisting of 2,000 or more individual pieces of fruit.

10. Taken from a designated construction site identified by the posting of a sign as provided for in s. 810.09(2)(d).

11. Any stop sign.

12. Anhydrous ammonia.

13. Any amount of a controlled substance as defined in s. 893.02. Notwithstanding any other law, separate judgments and

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

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

Section 11. For the purpose of incorporating the amendment made by this act to section 893.135, Florida Statutes, in a reference thereto, paragraph (d) of subsection (8) of section 893.13, Florida Statutes, is reenacted to read:

893.13 Prohibited acts; penalties.—

(8)

(d) Notwithstanding paragraph (c), if a prescribing practitioner has violated paragraph (a) and received $1,000 or more in payment for writing one or more prescriptions or, in the case of a prescription written for a controlled substance described in s. 893.135, has written one or more prescriptions for a quantity of a controlled substance which, individually or in the aggregate, meets the threshold for the offense of trafficking in a controlled substance under s. 893.135, the violation is reclassified as a felony of the second degree and ranked in level 4 of the Criminal Punishment Code.

Section 12. For the purpose of incorporating the amendment made by this act to section 893.135, Florida Statutes, in references thereto, subsections (1) and (2) of section 893.1351, Florida Statutes, are reenacted to read:

893.1351 Ownership, lease, rental, or possession for trafficking in or manufacturing a controlled substance.—

(1) A person may not own, lease, or rent any place, structure, or part thereof, trailer, or other conveyance with the knowledge that the place, structure, trailer, or conveyance will be used for the purpose of trafficking in a controlled substance, as provided in s. 893.135; for the sale of a controlled substance, as provided in s. 893.13; or for the manufacture of a controlled substance intended for sale or distribution to another. A person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A person may not knowingly be in actual or constructive

possession of any place, structure, or part thereof, trailer, or other conveyance with the knowledge that the place, structure, or part thereof, trailer, or conveyance will be used for the purpose of trafficking in a controlled substance, as provided in s. 893.135; for the sale of a controlled substance, as provided in s. 893.13; or for the manufacture of a controlled substance intended for sale or distribution to another. A person who violates this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 13. For the purpose of incorporating the amendment made by this act to section 893.135, Florida Statutes, in a reference thereto, paragraph (e) of subsection (3) of section 900.05, Florida Statutes, is reenacted to read:

900.05 Criminal justice data collection.—

(3) DATA COLLECTION AND REPORTING.—Beginning January 1, 2019, an entity required to collect data in accordance with this subsection shall collect the specified data required of the entity on a biweekly basis. Each entity shall report the data collected in accordance with this subsection to the Department of Law Enforcement on a monthly basis.

(e) *Department of Corrections*.—The Department of Corrections shall collect the following data:

1. Information related to each inmate, including:

a. Identifying information, including name, date of birth, race or ethnicity, and identification number assigned by the department.

b. Number of children.

c. Education level, including any vocational training.

d. Date the inmate was admitted to the custody of the

department.

e. Current institution placement and the security level assigned to the institution.

f. Custody level assignment.

g. Qualification for a flag designation as defined in this section, including sexual offender flag, habitual offender flag, gang affiliation flag, or concurrent or consecutive sentence flag.

h. County that committed the prisoner to the custody of the department.

i. Whether the reason for admission to the department is for a new conviction or a violation of probation, community control, or parole. For an admission for a probation, community control, or parole violation, the department shall report whether the violation was technical or based on a new violation of law.

j. Specific statutory citation for which the inmate was committed to the department, including, for an inmate convicted of drug trafficking under s. 893.135, the statutory citation for each specific drug trafficked.

k. Length of sentence or concurrent or consecutive sentences served.

l. Tentative release date.

m. Gain time earned in accordance with s. 944.275.

n. Prior incarceration within the state.

o. Disciplinary violation and action.

p. Participation in rehabilitative or educational programs while in the custody of the department.

2. Information about each state correctional institution or

facility, including:

a. Budget for each state correctional institution or facility.

b. Daily prison population of all inmates incarcerated in a state correctional institution or facility.

c. Daily number of correctional officers for each state correctional institution or facility.

3. Information related to persons supervised by the department on probation or community control, including:

a. Identifying information for each person supervised by the department on probation or community control, including his or her name, date of birth, race or ethnicity, sex, and department-assigned case number.

b. Length of probation or community control sentence imposed and amount of time that has been served on such sentence.

c. Projected termination date for probation or community control.

d. Revocation of probation or community control due to a violation, including whether the revocation is due to a technical violation of the conditions of supervision or from the commission of a new law violation.

4. Per diem rates for:

a. Prison bed.

b. Probation.

c. Community control.

This information only needs to be reported once annually at the time the most recent per diem rate is published.

Section 14. For the purpose of incorporating the amendment made by this act to section 893.135, Florida Statutes, in a reference thereto, section 903.133, Florida Statutes, is reenacted to read:

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

Section 15. For the purpose of incorporating the amendment made by this act to section 893.135, Florida Statutes, in a reference thereto, paragraph (c) of subsection (4) of section 907.041, Florida Statutes, is reenacted to read:

907.041 Pretrial detention and release.—

(4) PRETRIAL DETENTION.—

(c) The court may order pretrial detention if it finds a substantial probability, based on a defendant's past and present patterns of behavior, the criteria in s. 903.046, and any other relevant facts, that any of the following circumstances exist:

1. The defendant has previously violated conditions of release and that no further conditions of release are reasonably likely to assure the defendant's appearance at subsequent proceedings;

2. The defendant, with the intent to obstruct the judicial process, has threatened, intimidated, or injured any victim, potential witness, juror, or judicial officer, or has attempted or conspired to do so, and that no condition of release will

reasonably prevent the obstruction of the judicial process;

3. The defendant is charged with trafficking in controlled substances as defined by s. 893.135, that there is a substantial probability that the defendant has committed the offense, and that no conditions of release will reasonably assure the defendant's appearance at subsequent criminal proceedings;

4. The defendant is charged with DUI manslaughter, as defined by s. 316.193, and that there is a substantial probability that the defendant committed the crime and that the defendant poses a threat of harm to the community; conditions that would support a finding by the court pursuant to this subparagraph that the defendant poses a threat of harm to the community include, but are not limited to, any of the following:

a. The defendant has previously been convicted of any crime under s. 316.193, or of any crime in any other state or territory of the United States that is substantially similar to any crime under s. 316.193;

b. The defendant was driving with a suspended driver license when the charged crime was committed; or

c. The defendant has previously been found guilty of, or has had adjudication of guilt withheld for, driving while the defendant's driver license was suspended or revoked in violation of s. 322.34;

5. The defendant poses the threat of harm to the community. The court may so conclude, if it finds that the defendant is presently charged with a dangerous crime, that there is a substantial probability that the defendant committed such crime, that the factual circumstances of the crime indicate a disregard for the safety of the community, and that there are no

conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons;

6. The defendant was on probation, parole, or other release pending completion of sentence or on pretrial release for a dangerous crime at the time the current offense was committed;

7. The defendant has violated one or more conditions of pretrial release or bond for the offense currently before the court and the violation, in the discretion of the court, supports a finding that no conditions of release can reasonably protect the community from risk of physical harm to persons or assure the presence of the accused at trial; or

8.a. The defendant has ever been sentenced pursuant to s. 775.082(9) or s. 775.084 as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal, or the state attorney files a notice seeking that the defendant be sentenced pursuant to s. 775.082(9) or s. 775.084, as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal;

b. There is a substantial probability that the defendant committed the offense; and

c. There are no conditions of release that can reasonably protect the community from risk of physical harm or ensure the presence of the accused at trial.

Section 16. For the purpose of incorporating the amendment made by this act to section 893.135, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 921.0024, Florida Statutes, is reenacted to read:

921.0024 Criminal Punishment Code; worksheet computations;

scoresheets.—

(1)

(b) WORKSHEET KEY:

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

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

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

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

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

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

II. The community sanction violation is not based solely on the probationer or offender's failure to pay costs or fines or

make restitution payments.

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

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

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

Prior capital felony points: If the offender has one or more prior capital felonies in the offender's criminal record, points shall be added to the subtotal sentence points of the offender equal to twice the number of points the offender receives for the primary offense and any additional offense. A prior capital felony in the offender's criminal record is a previous capital

felony offense for which the offender has entered a plea of nolo contendere or guilty or has been found guilty; or a felony in another jurisdiction which is a capital felony in that jurisdiction, or would be a capital felony if the offense were committed in this state.

Possession of a firearm, semiautomatic firearm, or machine gun: If the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(2) while having in his or her possession: a firearm as defined in s. 790.001(6), an additional eighteen (18) sentence points are assessed; or if the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(3) while having in his or her possession a semiautomatic firearm as defined in s. 775.087(3) or a machine gun as defined in s. 790.001(9), an additional twenty-five (25) sentence points are assessed.

Sentencing multipliers:

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

Law enforcement protection: If the primary offense is a

violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), or (4), the subtotal sentence points are multiplied by 2.5. If the primary offense is a violation of s. 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points are multiplied by 2.0. If the primary offense is a violation of s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement Protection Act under s. 775.0823(10) or (11), the subtotal sentence points are multiplied by 1.5.

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

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

Domestic violence in the presence of a child: If the offender is convicted of the primary offense and the primary offense is a crime of domestic violence, as defined in s. 741.28, which was committed in the presence of a child under 16 years of age who

is a family or household member as defined in s. 741.28(3) with the victim or perpetrator, the subtotal sentence points are multiplied by 1.5.

Adult-on-minor sex offense: If the offender was 18 years of age or older and the victim was younger than 18 years of age at the time the offender committed the primary offense, and if the primary offense was an offense committed on or after October 1, 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed a sexual battery under chapter 794 or a lewd act under s. 800.04 or s. 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s. 800.04; or s. 847.0135(5), the subtotal sentence points are multiplied by 2.0. If applying the multiplier results in the lowest permissible sentence exceeding the statutory maximum sentence for the primary offense under chapter 775, the court may not apply the multiplier and must sentence the defendant to the statutory maximum sentence.

Section 17. This act shall take effect October 1, 2019.

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

SB 408 – Drug Offenses

This bill creates s. 893.066, F.S., creating an **unranked, 3rd degree felony** for using or possessing "a pill press or other similar mechanical device capable of compressing powder into pills, tablets, or capsules of uniform size and weight, with the intent to unlawfully manufacture a pill, tablet, or capsule containing a controlled substance as described in s. 893.03."

This bill also amends s. 893.135, F.S., adding "trafficking in pharmaceuticals" to the list of trafficking offenses under this statute, defined as "a person who knowingly sells, purchases, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 120 or more dosage units containing a controlled substance described in this section." Additionally, "the term 'dosage unit' means an individual tablet, capsule, pill, transdermal patch, unit of sublingual gelatin, or other visually distinctive form, with a clear manufacturer marking on each unit, of a commercial drug product approved by the federal Food and Drug Administration and manufactured and distributed by a pharmaceutical company lawfully doing business in the United States." Therefore, penalties will only apply to trafficking of commercial drug products that.

The bill notes that "the sale, purchase, manufacture, delivery, or actual or constructive possession of fewer than 120 dosage units containing any controlled substance described in this section" would not be a violation under s. 893.135, F.S. Therefore, any penalties applied would be under s. 893.13, F.S. Otherwise, anything above that threshold for dosage units that is already included under the drug trafficking statute will also be included under the following thresholds (unranked, 1st degree felonies, Level 7 by default):

- between 120-499 dosage units – 3 year mandatory minimum
- between 500-999 dosage units – 7 year mandatory minimum
- between 1,000-4,999 dosage units – 15 year mandatory minimum
- 5,000 or more dosage units – 25 year mandatory minimum

Per DOC, in FY 17-18, there were 32,369 (adj.) offenders sentenced for drug possession offenses under s. 893.13, F.S., and 2,831 (adj.) were sentenced to prison (mean sentence length=23.0 m, incarceration rate: 8.8% adj.-8.8% unadj.). There were 9,424 (adj.) offenders sentenced for sale, manufacture, and delivery penalties under s. 893.13, F.S., with 3,299 (adj.) sentenced to prison (mean sentence length=37.1 m, incarceration rate: 35.0% adj.-35.0% unadj.). Finally, there were 2,005 (adj.) offenders sentenced for drug trafficking offenses, and 1,502 (adj.) were sentenced to prison (mean sentence length=75.7 m, incarceration rate: 74.9% adj.-74.9% unadj.).

It is not known which of the offenses above involved substances in dosage unit form. Additionally, the current incarceration thresholds cannot be broken down any further to examine how possession, sale/manufacture/delivery, and trafficking offense sentences

might be structured under the new dosage unit thresholds. However, for certain drugs, these new thresholds could lower the number of offenders receiving drug trafficking mandatory minimum sentences, as well as the number of mandatory minimum years served, due to the dosage unit number thresholds allowing greater weights for controlled substances before triggering mandatory minimum sentences than existing weight thresholds for the same substances. However, there isn't enough data on dosage units for commercial drug products containing substances listed under s. 893.135, F.S. to determine how prisons might be impacted. Finally, while the addition of an unranked, 3rd degree felony for using or possessing mechanical devices that unlawfully manufacture pills would be expected to increase the number of offenders who might be sentenced to prison, the size of that population is not known and the incarceration rate for that type of felony is low (FY 17-18: 8.7%).

EDR PROPOSED ESTIMATE: Positive/Negative Indeterminate

Requested by: Senate

THE FLORIDA SENATE

APPEARANCE RECORD

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

2.19.18
Meeting Date

408
Bill Number (if applicable)

Topic CT

Amendment Barcode (if applicable)

Name SAL NUZZO

Job Title VP Policy

Address 100 N DUVAL
Street

TAL. FL 32301
City *State* *Zip*

Phone 850 322 9941

Email SNUZZO@JAMESMADISON.ORG

Speaking: ☑ For ☐ Against ☐ Information

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

Representing THE JAMES MADISON INST

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-19-19
Meeting Date

408
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Drug Offenses

Name Greg Newburn

Job Title State Policy Director

Address PO Box 142933 *Street*

Phone 352.682.2542

Gainesville *City* FL *State* 32614 *Zip*

Email gnewburn@famm.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FAMM

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/19
Meeting Date

408
Bill Number (if applicable)

Topic Drug offenses

Amendment Barcode (if applicable)

Name Chelsea Murphy

Job Title State Director

Address 605 Middle Brooks Cir
Street

Phone 9545570516

Tlh FL 32312
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Right on Crime

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/19
Meeting Date

SB 408
Bill Number (if applicable)

Topic DRUG OFFENSES

Amendment Barcode (if applicable)

Name CHRISTIAN MINOR

Job Title EXEC. DIRECTOR

Address 1300 N Adams St.
Street

Tallahassee, FL 32303
City *State* *Zip*

Phone 321-223-4232

Email cminor@fjja.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Juvenile Justice Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/2019
Meeting Date

Topic _____ Bill Number 408 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *Zip* E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 498
INTRODUCER:	Criminal Justice Committee and Senator Powell
SUBJECT:	Fire Safety and Prevention
DATE:	February 19, 2019 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Jones	CJ	**Fav/CS**
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 498 creates s. 633.217, F.S., which prohibits certain actions to influence a firesafety inspector to violate the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of ch. 633, F.S.

The bill provides that a first violation of the new statute is a second degree misdemeanor, and a second or subsequent violation is a first degree misdemeanor.

The bill does not create felony penalties so the bill does not have a prison bed impact. The misdemeanor penalties in the bill may have an indeterminate impact on county jails.

The bill is effective October 1, 2019.

II. Present Situation:

Division of the State Fire Marshal

State law on fire prevention and control is provided in ch. 633, F.S. Section 633.104(1), F.S., designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division of the State Fire Marshal (Division).[1] Pursuant to this authority, the State Fire Marshal:

[1] The head of the Department of Financial Services (DFS) is the Chief Financial Officer. The Division of the State Fire Marshal is located within the DFS. *See* s. 20.121, F.S.

- Regulates, educates or trains, and certifies fire service personnel;[2]
- Investigates the causes of fires;[3]
- Enforces arson laws;[4]
- Regulates the installation and maintenance of fire equipment;[5]
- Conducts firesafety inspections of state buildings;[6]
- Develops firesafety standards;[7]
- Provides testing facilities for testing firefighting equipment;[8] and
- Operates the Florida State Fire College.[9]

The Division consists of two bureaus: the Bureau of Fire Standards and Training (BFST), and the Bureau of Fire Prevention.[10] The Florida Fire College, part of the BFST, trains over 6,000 students per year.[11] The Inspections Section, under the Bureau of Fire Prevention, annually inspects more than 14,000 state-owned buildings and facilities. Over 1.8 million fire and emergency reports are collected every year. These reports are entered into a database to form the basis for the State Fire Marshal's annual report.[12]

Florida Fire Prevention Code

The State Fire Marshal adopts by rule the Florida Fire Prevention Code (FFPC), which contains all firesafety laws and rules that pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such firesafety laws and rules.[13] The State Fire Marshal adopts a new edition of the FFPC every three years.[14] The FFPC includes national firesafety and life safety standards set forth by the National Fire Protection Association (NFPA),[15] including the NFPA's Fire Code (1), Life Safety Code (101), and Guide on Alternative Approaches to Life Safety (101A).[16]

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[2] Section 633.128(1), F.S. *See* Part IV, ch. 633, F.S. (Fire Standards and Training).
[3] Sections 633.104(2)(e) and 633.112, F.S.
[4] Section 633.104(2), F.S.
[5] Section 633.104(2)(b), F.S. *See* s. 633.104(2)(c), F.S., and part II, ch. 633, F.S. (Fire Protection and Suppression).
[6] Section 633.218, F.S.
[7] Part II, ch. 633, F.S. (Fire Safety and Prevention).
[8] Section 633.432, F.S.
[9] Section 633.128(1)(h)–(q), F.S. *See* ss. 633.428–633.434, F.S.
[10] *What We Do*, State Fire Marshall, available at https://www.myfloridacfo.com/Division/sfm/ (last visited on Feb. 11, 2019).
[11] *About the Florida State Fire Marshall*, Division of State Fire Marshal, *About the Florida State Fire Marshal*, available at http://www.myfloridacfo.com/division/sfm/AbouttheStateFireMarshal.htm (last visited on Feb. 11, 2019).
[12] *Id*.
[13] Section 633.202(1), F.S. *See* ch. 69A-60, F.A.C.
[14] *Id*.
[15] Section 633.202(2), F.S. Founded in 1896, the NFPA is a global, nonprofit organization devoted to eliminating death, injury, property and economic loss due to fire, electrical and related hazards. It has developed over 300 voluntary consensus codes and standards in the areas of fire, electrical, and building safety which are widely used by state and local officials. *About NFPA*, National Fire Protection Association, available at http://www.nfpa.org/about-nfpa (last visited on Feb. 11, 2019).
[16] The NFPA states that the Guide on Alternative Approaches to Life Safety "is intended to be used in conjunction with the NFPA 101: Life Safety Code, not as a substitute." *NFPA 101A: Guide on Alternative Approaches to Life Safety*, National Fire Protection Association, available at https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=101A (last visited on Feb 11, 2019).

Firesafety Enforcement by Local Governments

State law requires all municipalities, counties, and special districts with firesafety responsibilities to enforce the FFPC as the minimum fire prevention code, which operates uniformly among local governments and in conjunction with the Florida Building Code.[17] These local enforcing authorities may adopt more stringent firesafety standards, subject to certain requirements in s. 633.208, F.S.,[18] but may not enact firesafety ordinances which conflict with ch. 633, F.S., or any other state law.[19]

The chiefs of local government fire service providers (or their designees) are authorized to enforce ch. 633, F.S., and the rules prescribed by the State Fire Marshal within their respective jurisdictions as agents of those jurisdictions, not agents of the State Fire Marshal.[20] Each county, municipality, and special district with firesafety enforcement responsibilities is also required to employ or contract with a firesafety inspector (certified by the State Fire Marshal) to conduct all firesafety inspections required by law.[21]

Firesafety Inspectors

Section 633.102(12), F.S., defines a firesafety inspector as an individual who holds a current and valid Fire Safety Inspector Certificate of Compliance issued by the Division under s. 633.216, F.S., who is officially assigned the duties of conducting firesafety inspections of buildings and facilities on a recurring or regular basis on behalf of the state or any county, municipality, or special district with fire safety responsibilities.[22] The BFST issues certifications for Firesafety Inspector I and Firesafety Inspector II.[23]

A person applying for certification as a Firesafety Inspector I must:
- Be a high school graduate or the equivalent and at least 18 years of age;
- Not have been convicted of a misdemeanor relating to the certification or to perjury or false statements, or a felony or a crime punishable by imprisonment of one year or more, or be dishonorably discharged from the Armed Forces of the United States;
- Submit a set of fingerprints to the Division with a current processing fee; and
- Have a good moral character.[24]

A Firesafety Inspector I Certificate of Compliance will be issued by the Division to an individual who:

[17] Sections 633.108 and 633.208, F.S.
[18] *See* Rule 69A-60.002, F.A.C.
[19] Section 633.214(4), F.S. The State Fire Marshal maintains a list of local amendments to the FFPC. This information is available at https://www.myfloridacfo.com/Division/SFM/bfp/LocalAmendments.htm (last visited on Feb. 11, 2019).
[20] Section 633.118, F.S.
[21] Section 633.216(1), F.S.
[22] *See* s. 633.214(1)(a), F.S.
[23] Section 633.216(2), F.S., and ch. 69A-39, F.A.C. *See Certification and Testing*, Division of State Fire Marshal, Bureau of Firefighter Standards and Training, available at https://www.myfloridacfo.com/Division/SFM/BFST/Standards/default.htm (last visited on Feb 11, 2019).
[24] Sections 633.216(2) and 633.412(1)-(4), F.S.

- Successfully completes a minimum of 200 hours of basic certification training for firesafety inspectors, or has received equivalent training in another state; and
- Passes a state written examination.[25]

The Firesafety Inspector I Certificate of Compliance is valid for a period of four years from the date of issuance. Renewal of this certificate includes completion of at least 54 hours of continuing education during the preceding four-year period.[26]

A Firesafety Inspector II Certificate of Compliance will be issued by the Division to an individual who:

- Is certified as a Firesafety Inspector I; and
- Successfully completes a minimum of 160 hours of certification training for Firesafety Inspector II, or has received equivalent training in another state.[27]

Criminal Penalties

Section 633.122, F.S., prohibits a person from falsely assuming or pretending to be the State Fire Marshal, an agent of the State Fire Marshal, a firefighter, a volunteer firefighter, or a firesafety inspector by identifying herself or himself as the State Fire Marshal, an agent of the State Fire Marshal, a firefighter, a volunteer firefighter, or a firesafety inspector by wearing a uniform or presenting or displaying a badge as credentials that would cause a reasonable person to believe that she or he is a State Fire Marshal, an agent of the State Fire Marshal, a firefighter, a volunteer firefighter, or firesafety inspector. A violation of this section is a third degree felony.[28] However, it is a first degree felony[29] if the impersonation occurs during the commission of a separate felony by that person.

Section 468.629, F.S., prohibits a person from influencing a building code enforcement official[30] by coercion or compensation. Any person who violates any provision of Part XII of ch. 468, F.S.,[31] relating to building code administrators and inspectors, commits a first degree misdemeanor.[32] A person who violates any provision of Part XII of ch. 468, F.S., after a previous conviction for such violation commits a third degree felony.

[25] *Supra*, n. 23.
[26] Section 633.216(4), F.S., and Rule 69A-39.009(1)(b), F.A.C.
[27] *See supra*, n. 24, and s. 633.216(8), F.S.
[28] A third degree felony is punishable by a term of imprisonment not to exceed 5 years and a fine not to exceed $5,000. Sections 775.082 and 775.083, F.S.
[29] A first degree felony is generally punishable by a term of imprisonment not to exceed 30 years and a fine not to exceed $10,000. Sections 775.082 and 775.083, F.S.
[30] Section 468.603(3), F.S., defines "building code enforcement official" (or "enforcement official") as a licensed building code administrator, building code inspector, or plans examiner.
[31] Sections 468.601-468.633, F.S.
[32] A first degree misdemeanor is punishable by a jail term not to exceed one year and a fine not to exceed $1,000. Sections 775.082 and 775.083, F.S.

III. Effect of Proposed Changes:

The bill creates s. 633.217, F.S., which prohibits:

- Influencing a firesafety inspector by threatening, coercing, tricking, persuading, interfering with, or otherwise influencing; or attempting to threaten, coerce, trick, persuade, interfere with, or otherwise attempting to influence, the firesafety inspector into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of ch. 633, F.S.; and
- Offering any compensation to the firesafety inspector to induce a violation of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of ch. 633, F.S.

The bill provides that a first violation of the new statute is a second degree misdemeanor,[33] and a second or subsequent violation is a first degree misdemeanor.

The bill is effective October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[33] A second degree misdemeanor is punishable by a jail term not to exceed 60 days and a fine not to exceed $500. Sections 775.082 and 775.083, F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not create felony penalties so the bill does not have a prison bed impact. The misdemeanor penalties in the bill may have an indeterminate impact on county jails.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 633.217 of the Florida Statutes.

IX. Additional Information:

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

CS by Criminal Justice on February 19, 2019:
The committee substitute revises penalties in the bill to provide that a first violation of newly created s. 633.217, F.S., is a second degree misdemeanor, and a second or subsequent violation is a first degree misdemeanor.

B. Amendments:

None.

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

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/19/2019	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 25 - 28
and insert:
misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A person who commits a second or subsequent violation of subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

By Senator Powell

30-00895-19 2019498__

A bill to be entitled

An act relating to fire safety and prevention; creating s. 633.217, F.S.; prohibiting a person from committing or attempting to commit certain acts to influence firesafety inspectors; providing criminal penalties; providing an effective date.

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

Section 1. Section 633.217, Florida Statutes, is created to read:

633.217 Influencing a firesafety inspector.—

(1) A person may not influence a firesafety inspector by:

(a) Threatening, coercing, tricking, persuading, interfering with, or otherwise influencing, or attempting to threaten, coerce, trick, persuade, interfere with, or otherwise influence, the firesafety inspector into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of this chapter.

(b) Offering any compensation to the firesafety inspector to induce a violation of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of this chapter.

(2) A person who violates subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person who violates subsection (1) a second or subsequent time commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

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

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

HB 433 – Fire Safety and Prevention (Identical SB 498)

This bill creates s. 633.217, F.S., prohibiting a person from "threatening, coercing, tricking, persuading, interfering with, or otherwise influencing, or attempting to threaten, coerce, trick, persuade, interfere with, or otherwise influence, the firesafety inspector into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of this chapter." Furthermore, it prohibits someone from "offering any compensation to the firesafety inspector to induce a violation." A first violation is a 1st degree misdemeanor, while a second or subsequent violation is an **unranked, 3rd degree felony**.

Per DOC, in FY 17-18, 24 (adj.) offenders were sentenced under s. 838.015, F.S. (Level 7, 2nd degree felony), involving bribery of a public servant, and 9 (adj.) were sentenced to prison (mean sentence length=29.9 m, incarceration rate: 37.5% adj.-36.4% unadj.). Nobody was sentenced under s. 836.12, F.S. (unranked, 3rd degree felony), for a second or subsequent act of threatening a public official with death or serious bodily harm.

In FY 17-18, the incarceration rate for an unranked, 3rd degree felony was 8.7%. While the number of potential offenders is not known, a second or subsequent offense would have to occur before the felony was triggered.

EDR PROPOSED ESTIMATE: Positive Insignificant

Requested by: House & Senate

THE FLORIDA SENATE

APPEARANCE RECORD

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

Feb. 19, 2019
Meeting Date

SB 498
Bill Number (if applicable)

Topic Fire Safety & Prevention

Amendment Barcode (if applicable)

Name Eric Prutsman

Job Title

Address P.O. Box 10448
Street

Tallahassee FL 32302
City *State* *Zip*

Phone 850-894-6602

Email eric@teamjb.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Fire Chiefs Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/2019
Meeting Date

Topic _____ Bill Number 498 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *Zip* E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/19
Meeting Date

SB 498
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Fire Safety

Name Buddy Dewar

Job Title

Address
Street

Phone

City *State* *Zip*

Email

Speaking: [X] For [ ] Against [ ] Information

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

Representing Florida Fire Sprinkler Assn

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

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

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

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S-001 (10/14/14)

The Florida Senate

Committee Agenda Request

To: Senator Keith Perry, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: February 11, 2019

I respectfully request that **Senate Bill #498**, relating to Fire Safety and Prevention, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Bobby Powell
Florida Senate, District 30

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 530
INTRODUCER:	Senator Brandes
SUBJECT:	Alcohol or Drug Overdose Prosecutions
DATE:	February 18, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Jones	CJ	**Favorable**
2.			JU	
3.			RC	

I. Summary:

SB 530 creates s. 562.112, F.S., which grants immunity from arrest, charge, prosecution, or penalty for certain alcohol-related offenses to a person who gives alcohol to an individual under 21 years of years of age and who, acting in good faith, seeks medical assistance for the individual experiencing, or believed to be experiencing, an alcohol-related overdose. Similar immunity for underage alcohol possession applies to a person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related overdose and is in need of medical assistance.

The bill requires the person who gives alcohol to an individual under 21 years of age and seeks medical assistance for this individual to remain at the scene until emergency medical services personnel arrive and cooperate with such personnel and law enforcement officers at the scene.

Currently, s. 893.21, F.S., provides that a person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for possession of a controlled substance under ch. 893, F.S. Similar immunity is provided for a person who experiences a drug-related overdose and is in need of medical assistance.

The bill amends s. 893.21, F.S., to grant immunity from arrest and:

- Extend immunity to the person acting in good faith who seeks medical assistance for an individual *believed to be experiencing* a drug-related overdose and the person who has a *good faith belief that he or she is experiencing* a drug-related overdose;
- Remove reference to immunity from charge, etc., for possession of a controlled substance;
- Provide immunity from arrest, etc., for homicide resulting from unlawful distribution of a specified controlled substance and various controlled substance-related offenses to the person seeking medical assistance for the overdosing (or believed to be overdosing) individual and

immunity from arrest, etc., for various controlled substance-related offenses to the overdosing (or believed to be overdosing) individual; and
- Prohibit both persons previously described from being penalized for a violation of a condition of probation, parole, or pretrial release.

The immunity provided under s. 562.112, F.S., or s. 893.21, F.S., only applies if the evidence for the offense was obtained as a result of the person's seeking medical assistance. Further, immunity protection under these statutes may not be grounds for suppression of evidence in other criminal prosecutions.

The bill is effective July 1, 2019.

II. Present Situation:

Overview

The Legislature enacted Florida's "911 Good Samaritan Act" in 2012 to encourage people to seek medical assistance for persons having a drug overdose.[1] The act, which is codified in s. 893.21, F.S., provides that a person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for possession of a controlled substance under ch. 893, F.S.[2] Similar immunity is provided for a person who experiences a drug-related overdose and is in need of medical assistance.[3]

"Good Samaritan" Laws Regarding Drug Overdoses

In addition to the 911 Good Samaritan Act, s. 381.887, F.S., grants civil immunity to a person who administers a drug such as naloxone hydrochloride, which blocks the effects of opioids. Most other states have similar immunity laws, and these laws have been studied by the National Conference of State Legislatures (NCSL).

According to the NCSL, drug overdose rates continue to rise and these deaths are increasingly caused by opioids and opiates. The NCSL notes that "[o]pioid overdoses can be reversed with the timely administration of a medication called naloxone[,]" an FDA-approved drug that "can be administered in a number of ways that make it possible for a lay person to use."[4] "Often family and friends are in the best position to administer this lifesaving drug to their loved ones who overdose. Access to naloxone, however, was relatively limited until legislatures provided specific statutory protections for nonmedical professionals to possess and administer naloxone without a prescription."[5] Many legislatures have enacted laws allowing naloxone administration which are often coupled with a law providing limited immunity from criminal prosecution for providing such medical assistance.[6]

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[1] Ch. 2012-36, L.O.F.
[2] Section 893.21(1), F.S.
[3] Section 893.21(2), F.S.
[4] *Drug Overdose Immunity and Good Samaritan Laws* (June 5, 2017), National Conference of State Legislatures, available at http://www.ncsl.org/research/civil-and-criminal-justice/drug-overdose-immunity-good-samaritan-laws.aspx (last visited on Feb. 11, 2019).
[5] *Id.*
[6] *Id.*

According to NCSL, 40 states and the District of Columbia have Good Samaritan laws. The NCSL's description of the components that these laws generally share reads quite similarly to this state's Good Samaritan statute. One notable common component in other states' laws which Florida's statute lacks is a prohibition on the arrest of a person covered by the immunity.[7]

Data on Drug-Overdose Deaths in Florida

A recent report by the Florida Medical Examiners Commission (FMEC) cited statistics that 104,519 deaths occurred in Florida during the first 6 months of 2017.[8] Of the cases seen by medical examiners, toxicology results determined that ethanol (ethyl alcohol) and/or various controlled substances were present at the time of death in 6,110 cases.[9]

Some of the general statewide trends[10] noted by the FMEC in its report when comparing statewide trends for the first half of 2017 (January to June) to the first half of 2016 include:

- Total drug-related deaths increased by 11.0 percent (604 more);
- 3,353 individuals (8.0 percent more) died with one or more prescription drugs in their system;[11]
- 1,712 individuals (4.0 percent or more) died with at least one prescription drug in their system that was identified as the cause of death;[12]
- The seven most frequently occurring drugs found in decedents were ethyl alcohol (2,594), benzodiazepines (2,506, including 912 alprazolam occurrences), cocaine (1,584), cannabinoids (1,124), morphine (1,032), fentanyl analogs (875), and fentanyl (825);[13] and
- The drugs that caused the most deaths were cocaine (1,029), fentanyl analogs (840), morphine (679), fentanyl (667), benzodiazepines (658, including 376 alprazolam deaths), heroin (509), ethyl alcohol (490), oxycodone (306), and methamphetamine (213).[14]

III. Effect of Proposed Changes:

The bill creates s. 562.112, F.S., which does the following:

- Grants immunity from arrest, charge, prosecution, or penalty for:

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[7] *Id.*

[8] *Drugs Identified in Deceased Persons by Florida Medical Examiners – 2017 Interim Report* (April 2018), p. 1, Florida Medical Examiners Commission, Florida Department of Law Enforcement, available at https://www.fdle.state.fl.us/MEC/Publications-and-Forms/Documents/Drugs-in-Deceased-Persons/2017-Interim-Drug-Report.aspx (last visited on Feb. 11, 2019).

[9] *Id.*

[10] *Id.* at p. ii.

[11] The drugs were identified as both the cause of death and present in the decedent. These drugs may have also been mixed with illicit drugs and/or alcohol. *Id.*

[12] These drugs may have been mixed with other prescription drugs, illicit drugs, and/or alcohol. *Id.*

[13] Since heroin is rapidly metabolized to morphine, this may lead to a substantial over-reporting of morphine-related deaths as well as significant under-reporting of heroin-related deaths. *Id.*

[14] Fentanyl analogs (96.0 percent), heroin (93.0 percent), fentanyl (81.0 percent), morphine (66.0 percent), cocaine (65.0 percent), and methamphetamine (51.0 percent) were listed as causing death in more than 50.0 percent of the deaths in which these drugs were found. *Id.*

  - Certain alcohol-related offenses[15] to a person who gives alcohol to an individual under 21 years of years of age and who, acting in good faith, seeks medical assistance for the individual experiencing, or believed to be experiencing, an alcohol-related overdose, if the evidence for such offense was obtained as a result of the person's seeking medical assistance, and
  - Underage alcohol possession[16] to a person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related overdose and is in need of medical assistance, if the evidence for such offense was obtained as a result of the person's seeking medical assistance;
- Requires the person who gives alcohol to an individual under 21 years of age and seeks medical assistance for this individual to remain at the scene until emergency medical services personnel arrive and cooperate with such personnel and law enforcement officers at the scene; and
- Provides that the immunity protection under s. 562.112, F.S., may not be grounds for suppression of evidence in other criminal prosecutions.

Currently, s. 893.21, F.S., provides that a person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for possession of a controlled substance under ch. 893, F.S. Similar immunity is provided for a person who experiences a drug-related overdose and is in need of medical assistance.

The bill amends s. 893.21, F.S., to:
- Grant immunity from *arrest*, charge, prosecution, or penalty for:
  - Homicide resulting from unlawful distribution of a specified controlled substance,[17] various controlled substance offenses,[18] drug trafficking,[19] or various drug paraphernalia offenses[20] to a person acting in good faith who seeks medical assistance for an individual experiencing, *or believed to be experiencing*, a drug-related overdose, if the evidence for such offense was obtained as a result of the person's seeking medical assistance, and
  - Various controlled substance offenses, drug trafficking, or various drug paraphernalia offenses,[21] to a person who experiences, *or has a good faith belief that he or she is experiencing*, a drug-related overdose and is in need of medical assistance, if the evidence for such offense was obtained as a result of the person's seeking medical assistance;
- Remove reference to immunity from charge, etc., for possession of a controlled substance;
- Prohibit both persons previously described from being penalized for a violation of a condition of probation, parole, or pretrial release, if the evidence of such violation was obtained as a result of seeking medical assistance; and

[15]Section 562.11, F.S. (selling alcohol to a person under 21 years of age) and s. 562.111, F.S. (underage possession of alcohol).
[16] Section 562.111, F.S.
[17] Section 782.04(1)(a)3., F.S.
[18] Section 893.13, F.S.
[19] Section 893.135, F.S.
[20] Section 893.147, F.S.
[21] See footnotes 16-18, *supra*.

- Provide that the immunity protection under s. 893.21, F.S., may not be grounds for suppression of evidence in other criminal prosecutions.

The bill is effective July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that the bill encourages people to seek medical assistance for drug and alcohol overdoses, the bill will increase medical costs. These additional costs will likely be borne by the person receiving treatment, insurers, health care providers, and the state.

C. Government Sector Impact:

To the extent that the bill encourages people to seek medical assistance for drug and alcohol overdoses, the bill will increase medical costs. These additional costs will likely be borne by the person receiving treatment, insurers, health care providers, and the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Most of the changes proposed by the bill are features of the overdose immunity laws of at least one other state,[22] and the inclusion of arrests in s. 893.21, F.S., was a recommendation of Florida's Statewide Drug Policy Advisory Council in 2016.[23] However, Senate Criminal Justice Committee staff was unable to find any overdose immunity law of another state that provides immunity from criminal arrest, charge, prosecution, or penalty for a law comparable to s. 782.04(1)(a)3., F.S., which punishes first degree murder involving unlawful distribution of a specified controlled substance. In fact, at least one state, Illinois, specifically states in its overdose immunity law that the law is not intended to prevent arrest or prosecution for drug-induced homicide.[24] As indicated by the NCSL, overdose immunity laws "generally provide immunity from arrest, charge or prosecution for certain controlled substance possession and paraphernalia offenses[.]"[25]

While the bill does not nullify s. 782.04(1)(a)3., F.S., the bill appears to effectively bar arrest or prosecution of a person who distributed a controlled substance to a user that was the proximate cause of the user's death but who also provided medical assistance to the user (albeit the user still died) in accordance with s. 893.21, F.S., as amended by the bill.

Staff was also unable to find any overdose immunity law of another state that provides immunity from criminal arrest, charge, prosecution, or penalty for a law comparable to s. 893.135, F.S., which punishes drug trafficking.[26]

VIII. Statutes Affected:

This bill substantially amends section 893.21 of the Florida Statutes.

This bill creates section 562.112 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

---

[22] Provided are a few examples: Georgia law (Ga. Code Ann. s. 16-13-5) includes arrests; Colorado law (Colo. Rev. Stat. s. 18-1-711) includes alcohol overdose; New York law (N.Y. Penal Law s. 220.78) provides immunity for possession of alcohol by a person under 21 years of age; Mississippi law (Miss. Code. Ann. s. 41-29-149.1) provides immunity for drug paraphernalia offenses; and Tennessee law (Tenn. Code Ann. s. 63-1-156) provides immunity for pretrial, probation, or parole violations.

[23] *Statewide Drug Policy Advisory Council – 2016 Annual Report* (December 1, 2016), p. 15, Florida Department of Health, available at http://www.floridahealth.gov/provider-and-partner-resources/dpac/DPAC-Annual-Report-2016-FINAL.pdf (last visited on Feb. 11, 2019).

[24] 720 Ill. Comp. Stat. Ann. 570/414.

[25] *Drug Overdose Immunity and Good Samaritan Laws* (June 5, 2017), National Conference of State Legislatures, available at http://www.ncsl.org/research/civil-and-criminal-justice/drug-overdose-immunity-good-samaritan-laws.aspx (last visited on Feb 11, 2019).

[26] The act of "trafficking" can include possession, purchase, sale, manufacture, delivery, or importation. *See generally* s. 893.135, F.S.

B. Amendments:

None.

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

By Senator Brandes

24-00741A-19 2019530__

A bill to be entitled

An act relating to alcohol or drug overdose prosecutions; creating s. 562.112, F.S.; prohibiting the arrest, charge, prosecution, or penalization under specified provisions of a person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, an alcohol-related overdose; providing requirements for that person; prohibiting the arrest, charge, prosecution, or penalization under specified provisions of a person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related overdose; prohibiting the protection from arrest, charge, prosecution, or penalization for certain offenses from being grounds for suppression of evidence in other criminal prosecutions; amending s. 893.21, F.S.; prohibiting the arrest, charge, prosecution, or penalization under specified provisions of a person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, a drug-related overdose; prohibiting the arrest, charge, prosecution, or penalization under specified provisions of a person who experiences, or has a good faith belief that he or she is experiencing, a drug-related overdose; prohibiting a person from being penalized for a violation of a condition of certain programs if that person in good faith seeks medical assistance for himself or herself or an individual experiencing, or

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

24-00741A-19 2019530__

believed to be experiencing, a drug-related overdose; prohibiting the protection from arrest, charge, prosecution, or penalization for certain offenses from being grounds for suppression of evidence in other criminal prosecutions; providing an effective date.

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

Section 1. Section 562.112, Florida Statutes, is created to read:

562.112 Alcohol-related overdoses; medical assistance; immunity from arrest, charge, prosecution, and penalization.—

(1) A person who gives alcohol to an individual under 21 years of age and who, acting in good faith, seeks medical assistance for the individual experiencing, or believed to be experiencing, an alcohol-related overdose may not be arrested, charged, prosecuted, or penalized for a violation of s. 562.11 or s. 562.111 if the evidence for such offense was obtained as a result of the person's seeking medical assistance. The person must remain at the scene until emergency medical services personnel arrive and must cooperate with the emergency medical services personnel and law enforcement officers at the scene.

(2) A person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related overdose and is in need of medical assistance may not be arrested, charged, prosecuted, or penalized for a violation of s. 562.111 if the evidence for such offense was obtained as a result of the person's seeking medical assistance.

(3) Protection under this section from arrest, charge,

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prosecution, or penalization for an offense listed in this section may not be grounds for suppression of evidence in other criminal prosecutions.

Section 2. Section 893.21, Florida Statutes, is amended to read:

893.21 Drug-related overdoses; medical assistance; immunity from arrest, charge, prosecution, and penalization.—

(1) A person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, a drug-related overdose may not be arrested, charged, prosecuted, or penalized ~~pursuant to this chapter~~ for a violation of s. 782.04(1)(a)3., s. 893.13, s. 893.135, or s. 893.147 ~~possession of a controlled substance~~ if the evidence for such offense ~~possession of a controlled substance~~ was obtained as a result of the person's seeking medical assistance.

(2) A person who experiences, or has a good faith belief that he or she is experiencing, a drug-related overdose and is in need of medical assistance may not be arrested, charged, prosecuted, or penalized ~~pursuant to this chapter~~ for a violation of s. 893.13, s. 893.135, or s. 893.147 ~~possession of a controlled substance~~ if the evidence for such offense ~~possession of a controlled substance~~ was obtained as a result of the person's seeking ~~the overdose and the need for~~ medical assistance.

(3) A person who experiences, or has a good faith belief that he or she is experiencing, a drug-related overdose and receives medical assistance, or a person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, a drug-related overdose, may not be

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penalized for a violation of a condition of pretrial release, probation, or parole if the evidence for such violation was obtained as a result of the person's seeking medical assistance.

(4)~~(3)~~ Protection under ~~in~~ this section from arrest, charge, prosecution, or penalization for an offense listed in this section ~~possession offenses under this chapter~~ may not be grounds for suppression of evidence in other criminal prosecutions.

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/2019
Meeting Date

Topic _____ Bill Number 530 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street

SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City *State* *Zip*

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/19/19
Meeting Date

SB 530
Bill Number (if applicable)

Topic Alcohol or Drug Overdose

Amendment Barcode (if applicable)

Name Greg Bunk

Job Title

Address 9166 Sonrise Dr.
Street

Phone

Largo FL 33773
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Saving Families from DCF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

19 Feb 2019
Meeting Date

SB 530
Bill Number (if applicable)

Topic Overdose Prevention

Amendment Barcode (if applicable)

Name Jill McCracken

Job Title Professor USF

Address 2815 Edwards Ave S.
Street

St. Pete, FL 33705
City *State* *Zip*

Phone 512 415 0623

Email mccracken.jill@gmail

Speaking: ☐ For ☐ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/19/19
Meeting Date

SB 530
Bill Number (if applicable)

Topic overdose prevention

Amendment Barcode (if applicable)

Name Christine Hanavan, MSW

Job Title Community Organizer

Address 208 Arrowhead Ct
Street

Phone 1 877 776 2004 ext 106

Winter Springs FL 32708
City *State* *Zip*

Email christine@swopbehindbars.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing SWOP USA, SWOP Behind Bars

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2-19-19 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) SB530

Meeting Date *Bill Number (if applicable)*

Topic Alcohol + Drug Overdoses *Amendment Barcode (if applicable)*

Name MARK FONTAINE

Job Title DIRECTOR

Address 2868 Mahan Drive Phone 850-878-2196

Street

Tallahassee FL 32308 Email mfontaine@fadaa.org

City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information Waive Speaking: ☑ In Support ☐ Against

(The Chair will read this information into the record.)

Representing FLORIDA Alcohol + Drug Abuse Assoc.

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-19-19
Meeting Date

530
Bill Number (if applicable)

Topic GOOD FAITH PRACTICE RE: OD

Amendment Barcode (if applicable)

Name SANDRA BROWNE

Job Title ADVOCATE

Address 345 ELIZABETH AVE
Street
CLW FL 33759
City *State* *Zip*

Phone 727.488-7734

Email staylorbrowne@outlook.com

Speaking: ☐ For ☐ Against ☑ Information

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

Representing SWOP USA

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

Committee Agenda Request

To: Senator Keith Perry
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: February 8, 2019

I respectfully request that **Senate Bill #530**, relating to **Alcohol or Drug Overdose Prosecutions**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Jeff Brandes
Florida Senate, District 24

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 540
INTRODUCER:	Criminal Justice Committee and Senator Book
SUBJECT:	Human Trafficking
DATE:	February 20, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Storch	Jones	CJ	**Fav/CS**
2.			CA	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 540 requires the creation and implementation of human trafficking awareness training for certain employees of public lodging establishments and law enforcement officers.

Additionally, the bill creates the Soliciting for Prostitution Registry (Registry) and requires certain criminal history records to be included in the Registry.

The bill also creates a direct-support organization (DSO) that will focus on human trafficking issues within the state by forming strategic partnerships to foster the development of community and private sector resources. The bill provides that the DSO is repealed October 1, 2024, unless reviewed and saved from repeal by the Legislature.

The bill also provides that a victim of human trafficking will be eligible to petition for the expunction of his or her criminal history record relating to the offense of kidnapping that resulted from the arrest or filing of charges that was committed or reported to have been committed as part of the human trafficking scheme of which he or she was a victim.

The implementation of the training required by the bill is expected to have a fiscal impact on both public lodging establishments and the Florida Department of Law Enforcement (FDLE). Additionally, the FDLE is expected to incur costs associated with the administration of the Registry. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2019.

II. Present Situation:

Human Trafficking

Human trafficking is a form of modern-day slavery. Young children, teenagers, and adults are all victims of human trafficking, who are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.[1] Human trafficking is the third-largest international crime industry, generating a profit of an estimated $32 billion every year.[2] In 2016, there were an estimated 40.3 million victims of human trafficking.[3]

From 2007-2017, there were 40,987 human trafficking cases reported to the National Human Trafficking Hotline (Hotline). In 2017, the Hotline and BeFree Textline recorded a total of 8,759 human trafficking cases in the U.S. alone, which represented a 13 percent jump in the number of identified human trafficking cases from the year prior.[4] The Hotline receives an average of 150 calls per day.[5]

Forced labor and sex trafficking are the most common types of human trafficking. Labor trafficking is "all work or service which is extracted from any person under the threat of penalty and for which the person has not offered himself or herself voluntarily."[6] Sex trafficking "occurs when someone uses force, fraud or coercion to cause a commercial sex act with an adult or causes a minor to commit a commercial sex act."[7] Sex trafficking accounted for 6,244 of the reported cases of human trafficking in 2017.[8]

Traffickers coerce victims into sex trafficking in numerous ways. Some victims may be forced into prostitution by an intimate partner while others may be recruited with a false job offer. Fake massage businesses, truck stops, and hotels and motels are all venues used in sex trafficking operations.[9]

In an effort to combat human trafficking in the United States, Congress passed the Trafficking Victims Protection Act (Act) in 2000 which established several methods of prosecuting

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[1] Section 787.06(1)(a), F.S.
[2] DoSomething.org, *11 Facts About Human Trafficking*, available at https://www.dosomething.org/us/facts/11-facts-about-human-trafficking (last visited February 13, 2019).
[3] International Labour Organization, *Forced labour, modern slavery and human trafficking*, available at http://www.ilo.org/global/topics/forced-labour/lang--en/index.htm (last visited February 13, 2019).
[4] Polaris, *Growing Awareness. Growing Impact. 2017 Statistics from the National Human Trafficking Hotline and BeFree Textline*, available at http://polarisproject.org/sites/default/files/2017NHTHStats%20%281%29.pdf (last visited February 13, 2019).
[5] Polaris, *The Facts*, available at https://polarisproject.org/human-trafficking/facts (last visited February 13, 2019).
[6] Polaris, *What is forced labour, modern slavery and human trafficking*, available at http://www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm (last visited February 13, 2019).
[7] Sharedhope International, *What is Sex Trafficking*, available at https://sharedhope.org/the-problem/what-is-sex-trafficking/ (last visited February 13, 2019).
[8] *Supra* n. 4.
[9] Polaris, *Sex Trafficking*, available at https://polarisproject.org/human-trafficking/sex-trafficking (last visited February 13, 2019).

traffickers, preventing human trafficking, and protecting victims and survivors of trafficking. The Act contained severe penalties and mandated restitution for victims of human trafficking.[10]

Human Trafficking in Florida

Florida ranks third in the nation for reported cases of human trafficking.[11] From January through June of 2018, the Hotline had 367 human trafficking cases reported in Florida.[12] Children are often those targeted in trafficking operations, with 12-14 being the average age that a trafficked victim is first used for commercial sex.[13]

Florida law defines "human trafficking" to mean the transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining of another person for the purpose of exploitation of that person.[14] In Florida, any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking commits the crime of human trafficking.[15] Such an offense is punishable as a first degree felony,[16] unless the person being sex trafficked is a child under the age of 18, mentally defective, or mentally incapacitated, then such an offense is punishable as a life felony.[17]

The number of human trafficking cases listed in reports may not accurately reflect the number of actual cases of human trafficking due to the fact that many traffickers are prosecuted for other crimes.[18] Additionally, prosecutors often have difficulty proving the relationship at issue is that of human trafficking or when dealing with a victim who might be unwilling to testify against his or her trafficker in court.[19]

Human trafficking cases are often hidden operations that require law enforcement agencies to engage in intricate investigations. In November 2018, an investigation in Polk County lead to the arrest of 103 people for charges including prostitution and human trafficking.[20] Similarly, in January 2019, a two month-long investigation lead to the arrest of a 36-year-old male in

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[10] Pub. L. No. 106-386 (2000).
[11] National Human Trafficking Hotline, *Hotline Statistics*, available at https://humantraffickinghotline.org/states (last visited February 13, 2019).
[12] National Human Trafficking Hotline, *Florida: Statistics*, available at https://humantraffickinghotline.org/state/florida (last visited February 13, 2019).
[13] Statewide Council on Human Trafficking, *Statewide Council on Human Trafficking Annual Reports*, available at http://myfloridalegal.com/pages.nsf/Main/8AEA5858B1253D0D85257D34005AFA72 (last visited February 13, 2019).
[14] Section 787.06(2)(d), F.S.
[15] Section 787.06(3), F.S.
[16] A first degree felony is punishable by a state prison term not exceeding 30 years, a fine not exceeding $10,000, or both. Sections 775.082 and 775.083, F.S.
[17] Section 787.06(3)(a)-(g), F.S. A life felony is punishable by a state prison term for life, by a term of imprisonment not exceeding 40 years, a fine not exceeding $15,000, or both. Sections 775.082 and 775.083, F.S.
[18] Nada Hassanein, *Preying on the vulnerable: Human trafficking prevalent yet elusive in the Big Bend*, Tallahassee Democrat, (June 27, 2018) available at https://www.tallahassee.com/story/news/2019/01/27/preying-vulnerable-human-trafficking-alive-and-well-big-bend/2648630002/ (last visited February 13, 2019).
[19] *Id.*
[20] Daniel Dahm and Brianna Volz, *Orlando-area doctor among 103 arrested in Polk County sex sting, sheriff says*, ClickOrlando.com, (December 3, 2018) available at https://www.clickorlando.com/news/103-arrested-in-polk-county-sex-sting (last visited February 13, 2019).

Tallahassee on prostitution and sex trafficking charges involving a 14-year old girl. At the time of his arrest, the male was already facing charges for sex trafficking a child in 2014.[21]

Human Trafficking in Public Lodging Establishments

The Division of Hotels and Restaurants (Division) is a division within the Department of Business and Professional Regulation (DBPR) that licenses, inspects, and regulates public lodging and food service establishments pursuant to ch. 509, F.S.[22] The term "public lodging establishment" includes both transient[23] and nontransient[24] public lodging establishments. There are currently 44,903 public lodging establishments that are licensed by the Division.[25] The following are classified as public lodging establishments:[26]

- Hotel;
- Motel;
- Vacation rental;
- Nontransient apartment;
- Transient apartment;
- Bed and breakfast inn; and
- Timeshare project.[27]

Public lodging establishments, such as hotels and motels, can be attractive locations for human traffickers, due to the privacy and anonymity afforded.[28] Also, trafficking operations can maintain secrecy in such establishments due to the lack of facility maintenance or upkeep expenses.[29]

Sex trafficking operations are often set up in public lodging establishments via online advertising, without the establishment operator's knowledge.[30] The use of websites to communicate and arrange meeting times and locations enables those involved in the operation to

[21] WTXL, *Human trafficking suspect accused of sex-trafficking child in Tallahassee*, (January 26, 2019) available at http://www.wtxl.com/news/human-trafficking-suspect-accused-of-sex-trafficking-child-in-tallahassee/article_9748879c-21a4-11e9-b768-5bb68f906ecc.html (last visited February 13, 2019).
[22] Sections 509.013 and 509.032, F.S.
[23] "Transient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests. Section 509.013(4)(a)1., F.S.
[24] "Nontransient public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month. Section 509.013(4)(a)2., F.S.
[25] Department of Business and Professional Regulation, *Division of Hotels & Restaurants Annual Report 2017-18*, available at http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2017_18.pdf (last visited February 19, 2019).
[26] Section 509.242(1)(a)-(g), F.S., sets out criteria that must be met in order for an establishment to be classified as a public lodging establishment pursuant to ch. 509, F.S.
[27] Section 509.242(1)(a)-(g), F.S.
[28] Department of Homeland Security, *Human Trafficking and the Hospitality Industry*, (July 2018) pg. 16, available at https://www.dhs.gov/blue-campaign/hospitalityindustry (last visited February 12, 2019).
[29] National Human Trafficking Hotline, *Hotel/Motel-Based*, available at https://humantraffickinghotline.org/sex-trafficking-venuesindustries/hotelmotel-based (last visited February 13, 2019).
[30] Division of Hotels and Restaurants, *Human Trafficking Information Sheet*, (March 22, 2016) available at http://www.myfloridalicense.com/dbpr/hr/forms/documents/5022_104.pdf (last visited February 12, 2019).

remain anonymous.[31] From December 2007 to December 2017, the Hotline recorded 3,596 cases of human trafficking involving a hotel or motel. Additionally, 75 percent of human trafficking survivors reported coming into contact with hotels at some point while being trafficked.[32]

The Division has emphasized the importance in educating staff at public lodging establishments on signs of trafficking activity. The following are ways to identify a victim of human trafficking:

- Signs of physical abuse or malnourishment;
- Person seems coached or controlled;
- Victim rarely left alone;
- Suspicious tattoos or branding on victim;
- Living conditions unsuitable;
- Victim demeaned or treated aggressively;
- Accompanied by older male;
- Avoids interaction with others;
- "Do not Disturb" sign used constantly;
- Receives lots of visitors;
- Pays for room with cash;
- Dresses inappropriately or provocatively;
- Few personal belongings;
- Refuses cleaning services;
- Room smells of bodily fluids and musk;
- Lots of cash in room;
- Alcohol and/or drugs in room; and
- Room monitored outside or in hallway.[33]

In an effort to deter traffickers from utilizing public lodging establishments in their operations, states have begun passing legislation. In 2016, Connecticut passed a law[34] and became the first state to require hospitality workers to be trained to detect and report human trafficking when they suspect such activity is going on at their place of employment. The training teaches workers about sex and labor trafficking, along with how to deter traffickers and help victims connect with services.[35] Additionally, Minnesota passed a law in 2018 that requires sex trafficking prevention training for all hotels and motels in the state.[36] The training requires all owners, managers, and

[31] National Human Trafficking Hotline, *Hotel/Motel-Based*, available at https://humantraffickinghotline.org/sex-trafficking-venuesindustries/hotelmotel-based (last visited February 13, 2019).
[32] Polaris, *On-Ramps, Intersections, and Exit Routes: A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking*, (July 2018) available at https://polarisproject.org/sites/default/files/A%20Roadmap%20for%20Systems%20and%20Industries%20to%20Prevent%20and%20Disrupt%20Human%20Trafficking%20-%20Hotels%20and%20Motels.pdf (last visited February 12, 2019).
[33] Division of Hotels and Restaurants, *Human Trafficking Information Sheet*, (March 22, 2016) available at http://www.myfloridalicense.com/dbpr/hr/forms/documents/5022_104.pdf (last visited February 12, 2019).
[34] Public Act No. 16-71, State of Connecticut (Substitute HB 5621) effective October 1, 2016.
[35] Susan Haigh, *Hotel Employees Get Training to Spot Human Trafficking*, Skift, (June 25, 2017) available at https://skift.com/2017/06/25/hotel-employees-get-training-to-spot-human-trafficking/ (last visited February 12, 2019).
[36] 90th Legislature, State of Minnesota (SF 3367) effective August 1, 2018.

employees who work on site to be trained in identifying sex trafficking in their establishments and knowing how to respond.[37]

Human Trafficking Expunction of Criminal History Record

Florida law makes adult criminal history records accessible to the public unless the record has been sealed or expunged.[38] Sealed records are placed under highly restricted access, while expunged records are removed from record systems and destroyed.[39]

Section 943.0583, F.S., establishes the process available to a victim of human trafficking[40] who is seeking to have his or her criminal history record expunged. A "victim of human trafficking" means a person subjected to coercion[41] for the purpose of being used in human trafficking, a child younger than 18 years of age who is subjected to human trafficking, or an individual subjected to human trafficking as defined by federal law.[42]

A victim of human trafficking is permitted to petition for the expunction of his or her criminal history record resulting from the arrest or filing of charges for an offense committed or reported to have been committed as part of the human trafficking scheme of which he or she was a victim. The expunction process is applicable to violations including, but not limited to, those listed under chs. 796[43] and 847, F.S.,[44] without regard to the disposition of the arrest or of any charges.[45]

However, this expunction process is not allowed if a person has committed one of the following enumerated offenses:

- Arson;
- Sexual battery;
- Robbery;
- Kidnapping;

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[37] Minnesota Department of Health, *Sex Trafficking Prevention and Response Training for the Minnesota Lodging Industry*, available at http://www.health.state.mn.us/hoteltrafficking (last visited February 12, 2019).
[38] Florida Department of Law Enforcement, *Seal and Expunge Process*, available at http://www.fdle.state.fl.us/Seal-and-Expunge-Process/Seal-and-Expunge-Home.aspx (last visited February 13, 2019). *See* s. 943.053, F.S.
[39] "Expunction of a criminal history record" is the court-ordered physical destruction or obliteration of a record or portion of a record by any criminal justice agency having custody thereof, or as prescribed by the court issuing the order, except that criminal history records in the custody of the FDLE must be retained in all cases for purposes of evaluating subsequent requests by the subject of the record for sealing or expunction, or for purposes of recreating the record in the event an order to expunge is vacated by a court of competent jurisdiction. Section 943.045(16), F.S.
[40] Human trafficking has the same meaning as provided in s. 787.06(2)(d), F.S.
[41] "Coercion" means using or threatening to use physical force against any person; restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will; using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; causing or threatening to cause financial harm to any person; enticing or luring any person by fraud or deceit; or providing a controlled substance as outlined in s. 893.03, F.S., to any person for the purpose of exploitation of that person. Section 787.06(2)(a)1.-7., F.S.
[42] Section 943.0583(1)(c), F.S.
[43] Ch. 796, F.S., covers prostitution and other related acts.
[44] Ch. 847, F.S., covers obscenity and other related acts.
[45] Section 943.0583(3), F.S.

- Aggravated child abuse;
- Aggravated abuse of an elderly person or disabled adult;
- Aggravated assault with a deadly weapon;
- Murder;
- Manslaughter;
- Aggravated manslaughter of an elderly person or disabled adult;
- Aggravated manslaughter of a child;
- Unlawful throwing, placing, or discharging of a destructive device or bomb;
- Armed burglary;
- Aggravated battery; or
- Aggravated stalking.[46]

Prostitution and Other Prohibited Acts

Prostitution is prohibited throughout the United States, with the exception of a few counties in Nevada. Broadly defined, it involves the exchange of sexual activity for money. While laws relating to prostitution vary across jurisdictions, many are often closely related to laws concerning human trafficking.[47]

Current law in Florida defines prostitution as the giving or receiving of the body for sexual activity for hire.[48] Prostitution rings are often hidden operations. As a result, police officers go undercover in an effort to conduct prostitution stings. In Cocoa, six suspects were arrested in January 2019 after an undercover police officer who was posing as a prostitute was approached by the individuals who subsequently agreed to pay the officer for the services of a prostitute.[49]

Another tool commonly employed by those engaging in prostitution is the Internet, which is utilized similarly in human trafficking operations. Thus, law enforcement agencies use the Internet to attempt to crack down on prostitution activity. In January 2019, four people were arrested in Tallahassee in conjunction with an undercover prostitution operation that was aimed at reducing street level prostitution in the capital city. After an undercover police officer contacted the suspects through an online advertisement that had indicators of being associated with prostitution activity and met with each suspect individually at an undisclosed hotel, the officer placed each of them under arrest.[50]

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[46] Section 775.084(1)(b)1., F.S.
[47] Justia, *Prostitution*, available at https://www.justia.com/criminal/offenses/sex-crimes/prostitution/ (last visited February 13, 2019).
[48] This definition excludes sexual activity between spouses. Section 796.07(1)(a), F.S.
[49] Caryn Shaffer, *Six arrested in Cocoa police operation targeting prostitution*, Florida Today, (January 28, 2019) available at https://www.floridatoday.com/story/news/crime/2019/01/28/six-arrested-cocoa-after-soliciting-undercover-cop-disguised-prostitute/2706115002/ (last visited February 13, 2019).
[50] WTXL, *Four arrested in undercover prostitution sting in Tallahassee*, (January 14, 2019) available at http://www.wtxl.com/news/four-arrested-in-undercover-prostitution-sting-in-tallahassee/article_47c5602a-182e-11e9-aa98-0bf1f95703cb.html (last visited February 13, 2019).

Section 796.07(2)(f), F.S., prohibits the solicitation, inducement, enticement, or procurement of another to commit prostitution, lewdness, or assignation.[51] Those terms are defined in the following ways:

- "Lewdness" means any indecent or obscene act; and
- "Assignation" means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.[52]

A person who violates s. 796.07(2)(f), F.S., commits:

- A misdemeanor of the first degree[53] for a first violation;
- A felony of the third degree[54] for a second violation; and
- A felony of the second degree[55] for a third or subsequent violation.[56]

Direct-Support Organizations

Citizen support organizations (CSOs) and direct-support organizations (DSOs) are statutorily-created private entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The purpose and functions of a CSO or DSO are prescribed by its enacting statute and, for most, by a written contract with the agency the CSO or DSO was created to support.

Section 20.058, F.S., establishes the rules and procedures that a CSO or DSO must follow to remain in compliance. By August 1 of each year, a CSO or DSO must submit the following information to the agency it was created, approved, or is administered by:

- The name, mailing address, phone number, and website of the organization;
- The statutory authority or executive order pursuant to which the organization was created;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the plans of the organization for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent tax exemption form.[57]

Each agency receiving such information from a CSO or DSO must make it available to the public through the agency's website. By August 15 of each year, each agency must submit a report with the information provided and must include a recommendation to continue, terminate, or modify the agency's association with each CSO or DSO in the report. Furthermore, any contract between an agency and a CSO or DSO must be contingent upon the timely submission and posting of the information listed above. The contract must also provide for the cessation of operations and the reversion of state funds held by the CSO or DSO in the event that the statute

[51] Section 796.07(2)(f), F.S.
[52] Section 796.07(1)(b) and (c), F.S.
[53] A first degree misdemeanor is punishable by a state prison term not exceeding 1 year, a fine not exceeding $1,000, or both. Sections 775.082 and 775.083, F.S.
[54] A third degree felony is punishable by a state prison term not exceeding 5 years, a fine not exceeding $5,000, or both. Sections 775.082 and 775.083, F.S.
[55] A second degree felony is punishable by a state prison term not exceeding 15 years, a fine not exceeding $10,000, or both. Sections 775.082 and 775.083, F.S.
[56] Section 796.07(5)(a)1.-3., F.S.
[57] Section 20.058(1)(a)-(f), F.S.

authorizing the creation of the CSO or DSO is repealed, the contract is terminated, or the organization is dissolved. If an organization fails to submit the required information for two consecutive years, the agency head must terminate any contract between the agency and the CSO or DSO.[58]

Additionally, each CSO or DSO with annual expenditures in excess of $100,000, created or authorized pursuant to law, and created, approved, or administered by a state agency, must provide for an annual financial audit of its accounts and records to be conducted by an independent certified public accountant. The audit must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency responsible for the creation, administration, or approval of the CSO or DSO.[59]

Laws creating or authorizing a CSO or DSO repeal on October 1 of the fifth year after enactment, unless reviewed and saved from repeal by the Legislature.[60]

III. Effect of Proposed Changes:

Human Trafficking Training

Public Lodging Establishments (Section 1, creating s. 509.096, F.S.)

The bill requires a public lodging establishment to create and implement human trafficking awareness training and policies for employees of the establishment who perform housekeeping duties in the rental units or who work at the front desk or reception area where guests ordinarily check-in or check out.

A public lodging establishment must:

- Train certain employees on human trafficking awareness within 6 months after employment, or by January 1, 2021, whichever occurs later. Proof of such employee training must be provided to the Division upon request;
- Implement a procedure for the reporting of suspected human trafficking to the Hotline or to a local law enforcement agency by January 1, 2021; and
- Post a sign with the relevant provisions of the reporting procedure in a conspicuous place in the establishment that is accessible to employees by January 1, 2021.

Such training must include:

- The definition of human trafficking and the differences between sex trafficking and labor trafficking;
- Guidance specific to the public lodging sector on how to identify individuals who may be victims of human trafficking; and
- Guidance on the role of the employees of a public lodging establishment in reporting and responding to suspected human trafficking.

[58] Section 20.058(2)-(4), F.S.
[59] Section 215.981(1), F.S.
[60] Section 20.058(5), F.S.

The training must be submitted to and approved by the Division before being provided to employees. The Division may take disciplinary action[61] against a public lodging establishment that has operated or is operating in violation of the human trafficking training required pursuant to the bill.

The bill does not establish a private cause of action and a public lodging establishment is not liable for any harm resulting from the failure of an employee to prevent, detect, or report suspected human trafficking if the public lodging establishment was in compliance with the training requirements at the time of such harm.

Law Enforcement (Section 6, creating s. 943.17297, F.S.)

Section 943.13, F.S., establishes minimum qualifications that must be met for a person to become a certified law enforcement officer. Identifying and investigating human trafficking has been a part of this basic training since 2007.[62] Additionally, the Criminal Justice Standards and Training Commission[63] (Commission) offers a 40-hour post-basic course on Advanced Investigative Techniques of Human Trafficking Offenses, which provides a framework for initiating and conducting investigations of human trafficking offenses including the nature and scope of human trafficking and rescue and restoration of the victim.[64]

The bill requires certified law enforcement officers to complete 4 hours of training on identifying and investigating human trafficking as part of basic recruit training required under s. 943.13(9), F.S., or continuing education required under s. 943.135(1), F.S., before July 1, 2022. The training must be developed by the Commission in consultation with the Department of Children and Families (DCF) and the Statewide Council on Human Trafficking[65] and must be part of the required basic recruit and continuing education training.

The bill provides that an officer who fails to complete the required training will have an inactive certification until the employing agency notifies the Commission that the officer has completed the training.

Human Trafficking Victim Expunction (Section 5, amending s. 943.0583, F.S.)

Current law provides that a victim of human trafficking may petition for the expunction of a criminal history record resulting from the arrest or filing of charges for an offense committed while the person was a victim of human trafficking. However, a victim of human trafficking is

[61] Section 509.261, F.S., establishes potential consequences that a public lodging establishment may be subjected to if it is in violation of ch. 509, F.S., or the rules of the Division.
[62] Florida Department of Law Enforcement, *2019 Legislative Bill Analysis for SB 540*, (February 4, 2019) (on file with the Senate Criminal Justice Committee).
[63] The Criminal Justice Standards and Training Commission is within the FDLE and was created pursuant to s. 943.11, F.S. The Commission is tasked with establishing uniform minimum training standards for the training of officers in the carious criminal justice disciplines and establishing minimum curricular requirements for criminal justice training schools, among other things. *See generally* s. 943.12, F.S.
[64] *Supra* n. 62.
[65] The Statewide Council on Human Trafficking was created in 2014 pursuant to s. 16.617, F.S. The Council was created to support human trafficking victims by enhancing care options available to them. The Attorney General chairs the Council, which is tasked with working with the DCF to create and maintain an inventory of human trafficking programs and services in Florida, developing overall policy recommendations, among other things. Section 16.617(4), F.S., and *supra*. n. 13.

not eligible to petition for such an expunction if the record at issue involves a violation of an enumerated offense in s. 775.084(1)(b)1., F.S. Kidnapping is among those listed offenses; however, the bill excludes kidnapping from this list and as a result, a victim of human trafficking would be eligible to petition for the expunction of a violation of kidnapping from his or her criminal history record.

Soliciting for Prostitution Registry (Section 3, amending s. 796.07, F.S., and Section 4, creating s. 943.0433, F.S.)

The bill creates the Soliciting for Prostitution Registry (Registry) and requires the FDLE to adopt rules to administer the Registry. The bill requires the clerk of the court to forward the criminal history record of a person who is convicted or pleads to soliciting, inducing, enticing, or procuring another to commit prostitution, lewdness, or assignation, pursuant to s. 796.07(2)(f), F.S., regardless of whether adjudication is withheld, to the FDLE for inclusion in the Registry.

Direct-support organization (Section 2, creating s. 787.08, F.S.)

The bill requires the DCF, in consultation with the FDLE and the Attorney General, to establish a DSO that is:

- A Florida corporation, not for profit, incorporated under ch. 617, F.S., and approved by the Secretary of State;
- Organized and operated exclusively to solicit funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, property and funds; and make expenditures in support of the purpose of focusing on human trafficking issues within the state; and
- Certified by the DCF, after review, to be operating in a manner consistent with the purposes of the DSO and in the best interests of the state.

The DSO must focus on human trafficking issues within the state by forming strategic partnerships to foster the development of community and private partnerships to foster the development of community and private sector resources and serve as a liaison with state agencies, other state governments, and the public and private sectors. Further, the DSO must assist agencies in creating training on human trafficking detection and the best practices of intervention and treatment for human trafficking survivors. The DSO must also provide resources for such training and strategize the funding of inpatient care for victims of human trafficking in treatment centers throughout the state.

The bill requires the DSO to operate under written contract with the DCF, which must provide for:

- Approval of the DSO's articles of incorporation and bylaws by the DCF;
- Submission of an annual budget for approval by the DCF;
- Annual certification by the DCF that the DSO is complying with the contractual terms and operating in a manner consistent with the DSO's purposes and in the best interests of the state;

- Reversion to the Florida Council Against Sexual Violence[66] of moneys and property held in trust by the DSO to provide services for victims of sexual violence if the DSO is no longer approved to operate or ceases to exist;
- Disclosure of the material provisions of the contract and the distinction between the board of directors and the DSO to donors of gifts, contributions, or bequests, which disclosures must be included in all promotional and fundraising publications;
- An annual financial audit in accordance with s. 215.981, F.S.;
- Establishment of the fiscal year of the DSO as beginning on July 1 of each year and ending on June 30 of the following year;
- Appointment of the board of directors, as specified below; and
- Authority of the DSO's board of directors to hire an executive director.

The bill requires the DSO's board of directors to consist of 13 members, each being appointed to a four-year term. However, for the purpose of providing staggered terms, the bill provides that the Speaker of the House of Representatives and the President of the Senate must each initially appoint two members and the executive director of the FDLE and the Attorney General must each initially appoint one member. These six initial appointments are for two-year terms and all subsequent appointments are for four-year terms.

The board of directors is appointed as follows:
- Two members with a law enforcement background who have human trafficking knowledge, appointed by the executive director of the FDLE;
- Three members appointed by the Attorney General;
- Four members appointed by the Speaker of the House of Representatives; and
- Four members appointed by the President of the Senate.

Any vacancy that occurs must be filled in the same manner as the original appointment for the unexpired term of that seat.

The bill provides that the DSO is repealed October 1, 2024, unless reviewed and saved from repeal by the Legislature.

The bill is effective July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[66] The Florida Council Against Sexual Violence (FCASV) is a statewide nonprofit organization committed to victims and survivors of sexual violence and the sexual assault crisis programs that serve them. *See* FCASV, *About FCASV*, available at https://www.fcasv.org/about-fcasv (last visited February 13, 2019).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Both the FDLE and public lodging establishments are expected to incur costs associated with the training required by the bill. The FDLE anticipates such fiscal impact to be approximately $19,910, due to the Commission being able to revise current law enforcement training to comply with the bill.[67]

The fiscal impact for the bill is indeterminate in regards to the administration of the Registry. The FDLE would need further clarifying information relating to the logistics of the Registry in order to assess the fiscal impact required for its maintenance.[68]

VI. Technical Deficiencies:

None.

VII. Related Issues:

The purpose in creating the Soliciting for Prostitution Registry is unclear with its current language. If the purpose of the Registry is to establish a civil regulatory scheme, then the courts will inquire into whether the statute creating the Registry is primarily punitive in nature. If it is determined that the statutory scheme is so punitive either in purpose or effect as to negate the intention to deem it civil, then it will likely be held unconstitutional.[69] Furthermore, if the Registry operates retroactively, the court may find that it is unconstitutional in violation of the *Ex*

[67] *Supra* n. 62.
[68] *Id.*
[69] *Smith v. Doe*, 538 U.S. 84 at 85 (2003).

Post Facto Clause, which prohibits states from enacting laws that change the punishment, and inflict a greater punishment, than the law in place when committed.[70]

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 796.07 and 954.0583.

This bill creates the following sections of the Florida Statutes: 509.096, 787.08, 943.0433, and 943.17297.

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 February 19, 2019:

The Committee Substitute:

- Requires certain employees of a public lodging establishment to complete human trafficking training within 6 months of being hired or by January 1, 2021, whichever occurs later;
- Requires the human trafficking training be submitted to the Division for approval before being given to employees;
- Requires the training to educate employees on what human trafficking is, in addition to how to identify individuals who may be victims;
- Permits the Division to take disciplinary action against a public lodging establishment that doesn't meet the training requirements established;
- Clarifies the purposes for the direct-support organization created; and
- Requires the Commission and others to develop a 4-hour training for law enforcement officers to complete either as part of basic recruit training or continuing education.

B. Amendments:

None.

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

[70] *Calder v. Bull*, 3 U.S. 386, 390 (1798).

494714

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/19/2019	.	
	.	
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The Committee on Criminal Justice (Book) recommended the following:

Senate Amendment (with title amendment)

Delete lines 71 - 109

and insert:

eight hour educational program designed to effectively train them in the identification, prevention, and reporting of suspected human trafficking.

(b) By January 1, 2020, implement an effective employee protocol or employee code of conduct to prevent, detect, and report suspected human trafficking.

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(2) The division shall impose an administrative fine of up to $1,000 per day on a public lodging establishment for the following violations:

(a) The administrative fine must be assessed up to the maximum amount per day for each employee of the public lodging establishment who does not meet the educational program requirements of this section.

(b) The administrative fine must be assessed up to the maximum amount per day for each day the public lodging establishment fails to comply with paragraph (1)(b).

Section 2. Section 787.08, Florida Statutes, is created to read:

787.08 Direct-support organization.—

(1) The Department of Children and Families, in consultation with the Department of Law Enforcement and the Attorney General, shall establish a direct-support organization that is:

(a) A Florida corporation, not for profit, incorporated under chapter 617 and approved by the Secretary of State.

(b) Organized and operated exclusively to solicit funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, property and funds; and make expenditures in support of the purposes specified in this section.

(c) Certified by the department, after review, to be operating in a manner consistent with the purposes of the organization and in the best interests of the state.

(2) The direct-support organization shall focus on human trafficking issues within the state by forming strategic

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partnerships to foster the development of community and private sector resources and serving as a liaison with state agencies, other state governments, and the public and private sectors. Additionally, the direct-support organization shall assist agencies in creating training on the detection of human trafficking and the best practices of intervention and treatment for survivors of human trafficking. The direct-support organization shall also provide resources for such training, and strategize the funding of inpatient care for victims of human trafficking in treatment centers throughout the state.

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

And the title is amended as follows:

Delete lines 5 - 20

and insert:

employees with an eight hour educational program and create certain policies relating to human trafficking by a specified date; requiring the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to impose fines on public lodging establishments for failure to comply with such requirements; creating s. 787.08, F.S.; requiring the Department of Children and Families, in consultation with the Department of Law Enforcement and the Attorney General, to establish a certain direct-support organization; providing requirements for the direct-support organization; requiring the direct-support organization to focus on human trafficking issues by forming strategic partnerships and serving

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as a liaison with specified public and private sector partners; requiring the direct-support organization to assist agencies in creating training on certain topics; requiring the direct-support organization to provide resources for such training and strategize the funding of inpatient care for victims of human trafficking in treatment centers throughout the state; requiring the direct-support organization

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/19/2019	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 302 - 306
and insert:
successfully complete four hours of training on identifying and investigating human trafficking as a part of the basic recruit training of the officer required in s. 943.13(9) or continuing education under s. 943.135(1) before July 1, 2022. The training must be developed by the commission in consultation with the Department of Children and

619312

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/19/2019	.	
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The Committee on Criminal Justice (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete lines 64 - 86
and insert:
for employees of public lodging establishments; enforcement.—
(1) A public lodging establishment shall:
(a) Provide training regarding human trafficking awareness to employees of the establishment who perform housekeeping duties in the rental units or who work at the front desk or reception area where guests ordinarily check-in or check-out.

619312

Such training shall be provided within 6 months after employment in that role, or by January 1, 2021, whichever occurs later. Proof of such employee training shall be provided to the division upon request.

(b) By January 1, 2021, implement a procedure for the reporting of suspected human trafficking to the National Human Trafficking Hotline or to a local law enforcement agency.

(c) By January 1, 2021, post in a conspicuous place in the establishment accessible to employees a sign with the relevant provisions of the reporting procedure provided for in paragraph (b).

(2) The human trafficking awareness training required in paragraph (1)(a) shall be submitted to and approved by the division before the training is provided to employees and shall include the following:

(a) The definition of human trafficking and the difference between the two forms of human trafficking: sex trafficking and labor trafficking.

(b) Guidance specific to the public lodging sector on how to identify individuals who may be victims of human trafficking.

(c) Guidance on the role of the employees of a public lodging establishment in reporting and responding to suspected human trafficking.

(3) Pursuant to s. 509.261, the division may take disciplinary action against a public lodging establishment that has operated or is operating in violation of this section.

(4) This section does not establish a private cause of action. A public lodging establishment shall not be liable for any harm resulting from the failure of an employee to prevent,

619312

detect, or report suspected human trafficking if the public lodging establishment was in compliance with the requirements of this section at the time of such harm.

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

And the title is amended as follows:

Delete lines 3 - 10

and insert:

509.096, F.S.; requiring a public lodging establishment to train certain employees and create certain policies relating to human trafficking by a specified date; providing requirements for such training; permitting the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to take disciplinary action against a public lodging establishment for failure to comply with such requirements; providing that this section does not establish a private cause of action against a public lodging establishment; creating s. 787.08,

891934

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/19/2019	.	
	.	
	.	
	.	

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

Senate Substitute for Amendment (494714) (with title amendment)

Delete lines 64 - 109
and insert:
for employees of public lodging establishments; enforcement.—
(1) A public lodging establishment shall:
(a) Provide training regarding human trafficking awareness to employees of the establishment who perform housekeeping duties in the rental units or who work at the front desk or

reception area where guests ordinarily check-in or check-out. Such training shall be provided within 6 months after employment in that role, or by January 1, 2021, whichever occurs later. Proof of such employee training shall be provided to the division upon request.

(b) By January 1, 2021, implement a procedure for the reporting of suspected human trafficking to the National Human Trafficking Hotline or to a local law enforcement agency.

(c) By January 1, 2021, post in a conspicuous place in the establishment accessible to employees a sign with the relevant provisions of the reporting procedure provided for in paragraph (b).

(2) The human trafficking awareness training required in paragraph (1)(a) shall be submitted to and approved by the division before the training is provided to employees and shall include the following:

(a) The definition of human trafficking and the difference between the two forms of human trafficking: sex trafficking and labor trafficking.

(b) Guidance specific to the public lodging sector on how to identify individuals who may be victims of human trafficking.

(c) Guidance on the role of the employees of a public lodging establishment in reporting and responding to suspected human trafficking.

(3) Pursuant to s. 509.261, the division may take disciplinary action against a public lodging establishment that has operated or is operating in violation of this section.

(4) This section does not establish a private cause of action. A public lodging establishment shall not be liable for

any harm resulting from the failure of an employee to prevent, detect, or report suspected human trafficking if the public lodging establishment was in compliance with the requirements of this section at the time of such harm.

Section 2. Section 787.08, Florida Statutes, is created to read:

787.08 Direct-support organization.—

(1) The Department of Children and Families, in consultation with the Department of Law Enforcement and the Attorney General, shall establish a direct-support organization that is:

(a) A Florida corporation, not for profit, incorporated under chapter 617 and approved by the Secretary of State.

(b) Organized and operated exclusively to solicit funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, property and funds; and make expenditures in support of the purposes specified in this section.

(c) Certified by the department, after review, to be operating in a manner consistent with the purposes of the organization and in the best interests of the state.

(2) The direct-support organization shall focus on human trafficking issues within the state by forming strategic partnerships to foster the development of community and private sector resources and serving as a liaison with state agencies, other state governments, and the public and private sectors. Additionally, the direct-support organization shall assist agencies in creating training on the detection of human trafficking and the best practices of intervention and treatment

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for survivors of human trafficking. The direct-support organization shall also provide resources for such training, and strategize the funding of inpatient care for victims of human trafficking in treatment centers throughout the state.

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

And the title is amended as follows:

Delete lines 3 - 20

and insert:

509.096, F.S.; requiring a public lodging establishment to train certain employees and create certain policies relating to human trafficking by a specified date; providing requirements for such training; permitting the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to take disciplinary action against a public lodging establishment for failure to comply with such requirements; providing that this section does not establish a private cause of action against a public lodging establishment; creating s. 787.08, F.S.; requiring the Department of Children and Families, in consultation with the Department of Law Enforcement and the Attorney General, to establish a certain direct-support organization; providing requirements for the direct-support organization; requiring the direct-support organization to focus on human trafficking issues by forming strategic partnerships and serving as a liaison with specified public and private sector partners; requiring the

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direct-support organization to assist agencies in creating training on certain topics; requiring the direct-support organization to provide resources for such training and strategize the funding of inpatient care for victims of human trafficking in treatment centers throughout the state; requiring the direct-support organization

By Senator Book

32-00086B-19 2019540__

A bill to be entitled

An act relating to human trafficking; creating s. 509.096, F.S.; requiring the owner or operator of a public lodging establishment to train certain employees and create certain policies relating to human trafficking by a specified date; requiring the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to impose fines on public lodging establishments for failure to comply with such requirements; creating s. 787.08, F.S.; requiring the Department of Children and Families, in consultation with the Department of Law Enforcement and the Attorney General, to establish a certain direct-support organization; providing requirements for the direct-support organization; requiring the direct-support organization to form strategic partnerships and to serve as a liaison with public and private sector partners in funding the provision of inpatient care to victims of human trafficking; requiring the direct-support organization to operate under a written contract with the Department of Children and Families; providing contractual requirements; providing for the membership of and the appointment of directors to the board of the direct-support organization; providing for future review and repeal by the Legislature; amending s. 796.07, F.S.; requiring that the criminal history record of a person who is convicted of, or enters a plea of guilty or nolo contendere to, soliciting,

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

32-00086B-19 2019540__

inducing, enticing, or procuring another to commit prostitution, lewdness, or assignation be added to the Soliciting for Prostitution Registry; requiring the clerk of the court to forward the criminal history record of such persons to the Department of Law Enforcement for certain purposes; creating s. 943.0433, F.S.; requiring the Department of Law Enforcement to create and administer the Soliciting for Prostitution Registry; requiring the department to add certain criminal history records to the registry; requiring the department to adopt rules; amending s. 943.0583, F.S.; creating an exception to a prohibition that bars certain victims of human trafficking from petitioning for the expunction of a criminal history record for offenses committed while the person was a victim of human trafficking as part of the human trafficking scheme or at the direction of an operator of the scheme; creating s. 943.17297, F.S.; requiring each certified law enforcement officer to successfully complete training on identifying and investigating human trafficking before a certain date; requiring that the training be developed in consultation with specified entities; specifying that an officer's certification shall be inactive if he or she fails to complete the required training until the employing agency notifies the Criminal Justice Standards and Training Commission that the officer has completed the training; providing an effective date.

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

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

Section 1. Section 509.096, Florida Statutes, is created to read:

509.096 Human trafficking awareness training and policies for employees of public lodging establishment; penalties.—

(1) An owner or operator of a public lodging establishment shall do both of the following:

(a) Within 30 days after such employees are hired, or by January 1, 2020, whichever occurs later, require managing employees and employees of the establishment who are reasonably expected to routinely interact with guests to complete an educational program designed to effectively train them in the identification, prevention, and reporting of suspected human trafficking.

(b) By January 1, 2020, implement an effective employee protocol or employee code of conduct to prevent, detect, and report suspected human trafficking.

(2) The division shall impose an administrative fine of up to $1,000 per day on a public lodging establishment for the following violations:

(a) The administrative fine must be assessed up to the maximum amount per day for each employee of the public lodging establishment who does not meet the educational program requirements of this section.

(b) The administrative fine must be assessed up to the maximum amount per day for each day the public lodging establishment fails to comply with paragraph (1)(b).

Section 2. Section 787.08, Florida Statutes, is created to

read:

787.08 Direct-support organization.—

(1) The Department of Children and Families, in consultation with the Department of Law Enforcement and the Attorney General, shall establish a direct-support organization that is:

(a) A Florida corporation, not for profit, incorporated under chapter 617 and approved by the Secretary of State.

(b) Organized and operated exclusively to solicit funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, property and funds; and make expenditures in support of the purposes specified in this section.

(c) Certified by the department, after review, to be operating in a manner consistent with the purposes of the organization and in the best interests of the state.

(2) The direct-support organization shall form strategic partnerships to foster the development of community and private sector resources and shall serve as a liaison with state agencies, other state governments, and the public and private sectors in funding the provision of inpatient care to victims of human trafficking in treatment centers throughout the state.

(3) The direct-support organization shall operate under written contract with the Department of Children and Families. The contract must provide for:

(a) Approval of the articles of incorporation and bylaws of the direct-support organization by the department.

(b) Submission of an annual budget for approval by the department.

(c) Annual certification by the department that the direct-support organization is complying with the terms of the contract and operating in a manner consistent with the purposes of the organization and in the best interests of the state.

(d) Reversion to the Florida Council Against Sexual Violence of moneys and property held in trust by the direct-support organization to provide services for victims of sexual violence if the direct-support organization is no longer approved to operate or ceases to exist.

(e) Disclosure of the material provisions of the contract and the distinction between the board of directors and the direct-support organization to donors of gifts, contributions, or bequests, which disclosures must be included in all promotional and fundraising publications.

(f) An annual financial audit in accordance with s. 215.981.

(g) Establishment of the fiscal year of the direct-support organization as beginning on July 1 of each year and ending on June 30 of the following year.

(h) Appointment of the board of directors, pursuant to this section.

(i) Authority of the board of directors of the direct-support organization to hire an executive director.

(4) The board of directors of the direct-support organization consists of 13 members. Each member of the board of directors must be appointed to a 4-year term; however, for the purpose of providing staggered terms, the Speaker of the House of Representatives and the President of the Senate shall each initially appoint two members to serve a 2-year term, and the

executive director of the Department of Law Enforcement and the Attorney General shall each initially appoint one member to serve a 2-year term. All subsequent appointments must be for 4-year terms. Any vacancy that occurs must be filled in the same manner as the original appointment for the unexpired term of that seat. The board of directors is appointed as follows:

(a) Two members with a law enforcement background who have knowledge in the area of human trafficking, appointed by the executive director of the Department of Law Enforcement.

(b) Three members appointed by the Attorney General.

(c) Four members appointed by the Speaker of the House of Representatives.

(d) Four members appointed by the President of the Senate.

(5) This section is repealed October 1, 2024, unless reviewed and saved from repeal by the Legislature.

Section 3. Subsection (5) of section 796.07, Florida Statutes, is amended, and subsection (2) of that section is republished, to read:

796.07 Prohibiting prostitution and related acts.—

(2) It is unlawful:

(a) To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignation, or prostitution.

(b) To offer, or to offer or agree to secure, another for the purpose of prostitution or for any other lewd or indecent act.

(c) To receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation, or to permit

any person to remain there for such purpose.

(d) To direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation.

(e) For a person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation.

(f) To solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignation.

(g) To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignation.

(h) To aid, abet, or participate in any of the acts or things enumerated in this subsection.

(i) To purchase the services of any person engaged in prostitution.

(5)(a) A person who violates paragraph (2)(f) commits:

1. A misdemeanor of the first degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.

2. A felony of the third degree for a second violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A felony of the second degree for a third or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) In addition to any other penalty imposed, the court shall order a person convicted of a violation of paragraph

(2)(f) to:

1. Perform 100 hours of community service; and

2. Pay for and attend an educational program about the negative effects of prostitution and human trafficking, such as a sexual violence prevention education program, including such programs offered by faith-based providers, if such programs exist in the judicial circuit in which the offender is sentenced.

(c) In addition to any other penalty imposed, the court shall sentence a person convicted of a second or subsequent violation of paragraph (2)(f) to a minimum mandatory period of incarceration of 10 days.

(d)1. If a person who violates paragraph (2)(f) uses a vehicle in the course of the violation, the judge, upon the person's conviction, may issue an order for the impoundment or immobilization of the vehicle for a period of up to 60 days. The order of impoundment or immobilization must include the names and telephone numbers of all immobilization agencies meeting all of the conditions of s. 316.193(13). Within 7 business days after the date that the court issues the order of impoundment or immobilization, the clerk of the court must send notice by certified mail, return receipt requested, to the registered owner of the vehicle, if the registered owner is a person other than the defendant, and to each person of record claiming a lien against the vehicle.

2. The owner of the vehicle may request the court to dismiss the order. The court must dismiss the order, and the owner of the vehicle will incur no costs, if the owner of the vehicle alleges and the court finds to be true any of the

following:

a. The owner's family has no other private or public means of transportation;

b. The vehicle was stolen at the time of the offense;

c. The owner purchased the vehicle after the offense was committed, and the sale was not made to circumvent the order and allow the defendant continued access to the vehicle; or

d. The vehicle is owned by the defendant but is operated solely by employees of the defendant or employees of a business owned by the defendant.

3. If the court denies the request to dismiss the order, the petitioner may request an evidentiary hearing. If, at the evidentiary hearing, the court finds to be true any of the circumstances described in sub-subparagraphs (d)2.a.-d., the court must dismiss the order and the owner of the vehicle will incur no costs.

(e) The criminal history record of a person who violates paragraph (2)(f) and is found guilty as a result of a trial or enters a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, must be added to the Soliciting for Prostitution Registry. Upon the person's conviction, the clerk of the court shall forward the criminal history record of the convicted person to the Department of Law Enforcement for inclusion in the Soliciting for Prostitution Registry.

Section 4. Section 943.0433, Florida Statutes, is created to read:

943.0433 Soliciting for Prostitution Registry.—

(1) The department shall create and administer the

Soliciting for Prostitution Registry. The clerk of the court shall forward to the department the criminal history record of a person in accordance with s. 796.07(5)(e), and the department must add the criminal history record to the registry.

(2) The department shall adopt rules to administer this section.

Section 5. Subsection (3) of section 943.0583, Florida Statutes, is amended to read:

943.0583 Human trafficking victim expunction.—

(3) A person who is a victim of human trafficking may petition for the expunction of a criminal history record resulting from the arrest or filing of charges for an offense committed or reported to have been committed while the person was a victim of human trafficking, which offense was committed or reported to have been committed as a part of the human trafficking scheme of which the person was a victim or at the direction of an operator of the scheme, including, but not limited to, violations under chapters 796 and 847, without regard to the disposition of the arrest or of any charges. However, this section does not apply to any offense listed in s. 775.084(1)(b)1., except for kidnapping. Determination of the petition under this section should be by a preponderance of the evidence. A conviction expunged under this section is deemed to have been vacated due to a substantive defect in the underlying criminal proceedings. If a person is adjudicated not guilty by reason of insanity or is found to be incompetent to stand trial for any such charge, the expunction of the criminal history record may not prevent the entry of the judgment or finding in state and national databases for use in determining eligibility

to purchase or possess a firearm or to carry a concealed firearm, as authorized in s. 790.065(2)(a)4.c. and 18 U.S.C. s. 922(t), nor shall it prevent any governmental agency that is authorized by state or federal law to determine eligibility to purchase or possess a firearm or to carry a concealed firearm from accessing or using the record of the judgment or finding in the course of such agency's official duties.

Section 6. Section 943.17297, Florida Statutes, is created to read:

943.17297 Training in identifying and investigating human trafficking.—Each certified law enforcement officer must successfully complete training on identifying and investigating human trafficking as a part of the basic recruit training of the officer required in s. 943.13(9) or continuing education under s. 943.135(1) before July 1, 2022. The training must be developed in consultation with the Department of Children and Families and the Statewide Council on Human Trafficking. If an officer fails to complete the required training, his or her certification shall be inactive until the employing agency notifies the commission that the officer has completed the training.

Section 7. This act shall take effect July 1, 2019.

2019 FDLE LEGISLATIVE BILL ANALYSIS

BILL INFORMATION	
BILL NUMBER:	SB0540
BILL TITLE:	**Human Trafficking**
BILL SPONSOR:	Book
EFFECTIVE DATE:	July 1, 2019

COMMITTEES OF REFERENCE
1) Criminal Justice
2) Community Affairs
3) Appropriations
4)
5)

CURRENT COMMITTEE
Criminal Justice

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

IDENTICAL BILLS	
BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	February 4, 2019
LEAD AGENCY ANALYST:	Dean Register, Charlie Schaeffer, Donna Uzzell
ADDITIONAL ANALYST(S):	Dwight Floyd, Tim Giesecke, Gernett Rogers, Jessica Andrews, Becky Bezemek, Seth Montgomery, Mary Coffee
LEGAL ANALYST:	Jason Jones, Chris Bufano
FISCAL ANALYST:	Cynthia Barr, Deshawn Byrd

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Requires the Department of Children and Families (DCF), in consultation with FDLE and the Attorney General, to establish a certain direct-support organization; requires the owner or operator of a public lodging establishment to train certain employees and create certain policies relating to human trafficking by a specified date; requires that the criminal history record of a person who is convicted of, or enters a plea of guilty or nolo contendere to, soliciting, inducing, enticing, or procuring another to commit prostitution, lewdness, or assignation be added to the Soliciting for Prostitution Registry; and requires law enforcement officers to complete specified training for certification or continued employment.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Currently there are no provisions for a Soliciting for Prostitution Registry. In 2014, an overhaul of Florida's Human Trafficking laws significantly changed the laws regarding human trafficking and the solicitation of prostitution of minors:

- Any crimes against minor age victims related to solicitation for prostitution or selling/buying minors for sex were removed from Chapter 796. F.S., and moved into Chapter 787, F.S.
- Section 796.001, F.S., was created that states "it is the intent of the Legislature that adults who involve minors in any behavior prohibited under this chapter be prosecuted under other laws of this state, such as, but not limited to, s. 787.06, chapter 794, chapter 800, s. 810.145, chapter 827 and chapter 847, F.S. The Legislature finds that prosecution of such adults under this chapter is inappropriate since a minor is unable to consent to such behavior."

There is currently a provision under s. 943.0435(1)(h), F.S., to require sexual offender registration for persons convicted of human trafficking under s. 787.06(3)(b), (d), (f), (g), or former (3)(h), F.S., which include coercion for commercial sexual activity of adults or children.

Currently, a court order is required for a record to be expunged if the subject is determined to be a victim of human trafficking. Upon receipt of a court order, the subject's criminal history record is reviewed to ensure the correct arrest event is expunged in accordance with the court order. The Seal and Expunge section within FDLE receives approximately ten court orders for human trafficking each year. There are currently no exemptions for the enumerated offenses listed under s. 775.084(1)(b)1, F.S.. All charges within this section today prohibit the petitioner from applying for an expungement under s. 943.0583, F.S.

In compliance with s. 943.13, F.S., applicants must successfully complete the 770-hour law enforcement basic recruit training program to meet the qualifications for becoming a certified law enforcement officer. Identifying and investigating human trafficking has been a part of basic training since 2007. Since that time approximately 37,099 recruits have completed the law enforcement basic recruit training program and obtained instruction in identifying and investigating human trafficking. Of those recruits, 21,709 are certified law enforcement officers.

In 2007, the Criminal Justice Standards and Training Commission (CJSTC) approved Advanced Investigative Techniques of Human Trafficking Offenses, a 40-hour post-basic course in the Commission's Advanced Training Program. This course provides a framework for initiating and conducting investigations of human trafficking offenses including: the nature and scope of human trafficking, the unique victim-centered approach and multi-jurisdictional nature of a human trafficking investigation, the collaboration with Non-Governmental Organizations required for successful prosecution of the criminal(s) involved, rescue and restoration of the victim, and increase of community awareness. This is an advanced course for investigators who may be assigned to cases with potential victims or where there may not be a suspect. Since its creation, approximately 1,451 officers have completed the training course. Of those, 831 are current certified law enforcement officers.

In 2013, FDLE, in cooperation with the Office of Attorney General, created an online course, Introduction to Human Trafficking. Students completing the course may credit two hours toward their continuing education requirements. It provides comprehensive instruction on identifying and investigating human trafficking. More than 7,000 of the current certified law enforcement officers have completed the online course. As of December 2018, there were 47,382 certified law enforcement officers.

2. EFFECT OF THE BILL:

Requires DCF, in consultation with FDLE and the Attorney General, to establish a direct-support organization that will solicit funds, request and receive grants, gifts, and bequests of money and property to foster the development of community and private sector resources and serve as a liaison between state agencies, other state governments, and the public and private sector in funding the provisions of inpatient care to victims of human trafficking in treatment centers throughout the state. Provides for an annual financial audit, appointment of a board of directors consisting of 13 members appointed by the Speaker of the House, President of the Senate, FDLE and Attorney General, and specifies the criteria of the 13 members. Also provides that an executive director for the direct-support organization be hired by the board of directors.

Requires a person convicted (whether found guilty or adjudication is withheld) of s. 796.07(2)(f), F.S, to be added to the "Soliciting for Prostitution Registry," and the clerk of court shall forward the criminal history record of the person convicted to FDLE for inclusion in the "Soliciting for Prostitution Registry." It requires FDLE to create, administer, and adopt rules for a "Soliciting for Prostitution Registry."

Creates a Soliciting for Prostitution Registry to be created and maintained by FDLE, to identify those who perpetuate human trafficking in the name of prostitution. The bill requires the clerk of the court to forward "criminal history records" to FDLE for those subjects in violation of s. 796.07(2)(f), F.S., and is found guilty as a result of a trial or enters a plea of guilty or nolo contendere, regardless of whether adjudication is withheld for the enumerated offense. Upon receipt of the "criminal history record" FDLE is directed to populate the Registry with said criminal history record.

Also creates an exemption within s. 943.0583, F.S., allowing a subject to petition the court for a human trafficking expunction when convicted of kidnapping (presumably under s. 787.01, F.S.). This is a consideration of the court prior to issuing an order; not a consideration by FDLE and the department would continue to act upon court orders issued by the court.

Requires every officer to complete training in identifying and investigating human trafficking by July 1, 2022 either as part of their basic recruit training or through continuing education. To meet the requirements of this bill, staff will conduct workshops in consultation with DCF and the Statewide Council on Human Trafficking to revise the basic recruit training curriculum and both existing post-basic courses on human trafficking. Staff will also amend the Automated Training Management System (ATMS) and follow up with agencies to document when officers complete this training requirement.

3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES? Y ☒ N ☐

If yes, explain:	FDLE shall create and administer the "Soliciting for Prostitution Registry" and shall adopt rules to administer it. CJSTC will have to amend rule 11B-27.00212, F.A.C., Maintenance of Officer Certification.
What is the expected impact to the agency's core mission?	**Y ☐ N ☒**
Rule(s) impacted (provide references to F.A.C., etc.):	11B-27.00212, F.A.C

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	
Provide a summary of the proponents' and opponents' positions:	

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☐ N ☒

If yes, provide a description:	

Date Due:	
Bill Section Number:	

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y ☐ N ☐

Revenues:	
Expenditures:	This bill does not make any distinction between the "Soliciting for Prostitution Registry" and the information already submitted, collected, and available regarding such convictions in the Florida Computerized Criminal History system. Therefore, fiscal impact to local government regarding this registry is not known. If the intent of the bill is to create a registry that requires individuals listed to register and update their information on a regular basis, the costs to local government would be substantial.
Does the legislation increase local taxes or fees?	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y ☒ N ☐

Revenues:	
Expenditures:	Fiscal is unknown. The department is making an assumption that the intent of the bill is to limit information maintained within the Registry to only those enumerated offenses. We are also assuming that this information will be pushed from FDLE's CCH system to the Registry through an automated process. If so, the vendor supporting FDLE's CCH system will need to estimate the technical effort associated with pushing this information to the registry once the technical requirements for the creation of the registry have been defined.

	This bill does not make any distinction between the "Soliciting for Prostitution Registry" and the information already submitted, collected, and available regarding such convictions in the Florida Computerized Criminal History system. Therefore, fiscal impact to state government regarding this registry is not known. If the intent of the bill is to create a registry that requires individuals listed to register and update their information on a regular basis, the costs to state government would be substantial. Requires CJSTC to revise the current law enforcement basic recruit curriculum and the existing post-basic courses on human trafficking in consultation with DCF and the Statewide Council on Human Trafficking. It is estimated that the review and update of the current curriculum will cost approximately $19,910. This is based on current estimates for curriculum development workshops and the cost of additional (OPS) staffing to update the training (See Additional Comments for further information).
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y ☐ N ☒

Revenues:	
Expenditures:	
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y ☐ N ☒

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE LEGISLATION IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING, SOFTWARE, DATA STORAGE, ETC.)? Y ☒ N ☐

If yes, describe the anticipated impact to the agency including any fiscal impact.	Unknown; additional information is needed in order to provide a cost associated with this bill.

FEDERAL IMPACT

1. DOES THE LEGISLATION HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGECY INVOLVEMENT, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.	

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	The newly created s. 943.0433, F.S., lacks information as to the legislative purpose of the registry. As there is no further written guidance on the legislative purpose or intent of the registry, it would be difficult for FDLE to determine what rules would need to be adopted in order to implement the Legislature's intended purpose. More importantly, should a legislative purpose be included in the statute, based on the plain language of s. 943.0433, F.S., the need to adopt rules to implement s. 943.0433, F.S>, could be eliminated. "Rules are not intended to simply repeat statutory language; they are intended to implement and interpret statutes by 'fleshing out' or filling gaps in the statutory directive and by providing additional detail than [sic] the statutes." RHC and Associates, Inc. v. Hillsborough County, Case No. 02-3138, at 125 (DOAH Oct 11, 2002). See also s. 120.545(1)(c), F.S. Without additional information, it would be extremely difficult to prepare and adopt rules in accordance with s. 120.545(1)(c), F.S. Further, if a legislative purpose is stated and the language in 943.0433(2), F.S., is removed, it could eliminate the lengthy and likely unnecessary rule promulgation process. Based on the plain language of the current bill, the information sought to be included in the registry appears to be information which already is readily accessible by law enforcement, and would be available to the public through a public records request. It is unclear what benefit to law enforcement or the public a separate registry with this one particular offense would serve. Should the legislative purpose of the bill or the information required to be registered be amended, it is important to ensure the purpose and execution of the registry would be able to survive scrutiny under both state and U.S. Constitutional challenges. The bill does not specify whether the records of persons who received a withheld adjudication on a s. 796.07(2)(f), F.S., violation, and who subsequently obtained a court-ordered seal of the record pursuant to s. 943.059, F.S., are to be included in the Soliciting for Prostitution Registry, or if already included, are to be retained.

ADDITIONAL COMMENTS

- The information required to be part of the "Soliciting for Prostitution Registry" under this bill language is available to law enforcement in the Florida CCH system. The public can access this information by conducting a Florida criminal history check through FDLE. If the intent of the Registry is to allow law enforcement to track those listed, law enforcement would not require such a registry to locate individuals they know to have a conviction for s. 796.07(2)(f), F.S. Law enforcement already has access to databases that houses location and other information. For example, the Florida Department of Highway Safety and Motor Vehicles database lists current address information, photos, and vehicle registration information of persons residing in Florida who have a Florida driver license or ID card.

- In order to be judicially sound, registries of those convicted of crimes must:
  - Be implemented as a civil and regulatory process that does not rise to the level of deterrence or punishment, and
  - Serve a significant public interest or public safety concern**.**
    - The bill language does not address a legislative intent for the Registry identifying the benefits or solutions this registry will provide or will assist in providing, or the public safety risk(s) thwarted, prevented, diminished, or avoided by such a registry. The language does not identify the intended use or purpose of the proposed registry established by the bill, and absent a defined statement of legislative intent, a "Soliciting for Prostitution Registry" serves without articulated intent, purpose, or objective in the interest of public good and safety.
    - When discussing whether a sexual offender registry constitutes a punishment, the Alaska Supreme Court noted the following:
      We must "ascertain whether the legislature meant the statute to establish 'civil' proceedings." If the intention of the legislature was to impose punishment, that ends the inquiry. If, however, the intention was to enact a regulatory scheme that is civil and nonpunitive, we must further examine whether the statutory scheme is "'so punitive either in purpose or effect as to negate [the State's] intention' to deem it 'civil.'" Because we "ordinarily defer to the legislature's stated intent," "'only the clearest proof' will suffice to override legislative intent and transform what has been denominated a civil remedy into a criminal penalty." Smith v. Doe, 538 U.S. 84, 103 (2003)
      This emphasizes both the importance that a registry be civil in nature and that the language include a legislative intent that clearly states the purpose of the registry.
    - A person who violates s. 796.07(2)(f) commits a misdemeanor in the first degree for a first violation – it is only a felony upon subsequent violations. It is not clear how a registry of those who have been convicted of a misdemeanor offense serves public interest or safety.

- As written, the bill does not include any descriptive or operational language identifying the format, accessibility, or purpose of the Registry. There is no information indicating what the registry is, who it will be available to, how it will be utilized, how or if it will be updated, or if those listed on the registry have any additional responsibilities, such as registration requirements. There is no language offering a remedy for relief from being on this registry or having registration requirements.

- CCH data from 2016-2018 indicates an average of 154 convictions and withholds of adjudication per year for s. 796.07(2)(f), F.S. While convictions for this offense do occur, the amount of convictions may not be significant enough to warrant the creation of a registry that particularly targets this offense.

  Within the entire CCH system, there are 7,025 people with convictions for s. 796.07(2)(f), F.S., and 8,348 more people with an adjudication withheld for this same statute. It is unclear if the bill is prospective or is it the intent of this bill to include any/all records that qualify for entry into the Registry. The bill does not speak specifically to this issue.

- If public, a "Soliciting for Prostitution Registry" could create an easily accessible list of clientele for those who wish to engage in prostitution.

- While the term "criminal history record" is not clearly defined in this bill, per s. 943.045(6), F.S., FDLE defines the term as a subject's complete criminal history record. This would include criminal history information of the subject not intended for inclusion in the Registry as outlined in the bill. The Clerk's Offices do not currently share complete criminal history information to include, arrest, disposition, sentencing and custody information. The Clerk of the Court is already required by law to share judicial disposition information from the Court with FDLE for maintenance within the State's criminal history repository. FDLE recommends the following language as an alternative to what is being proposed:

Lines 249-257

(e) The clerk of the court shall report the criminal case disposition, in the manner required by s. 943.052(2), of a person who violates paragraph (2)(f) and is found guilty as a result of a trial or enters a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, to the Department of Law Enforcement for inclusion in the Soliciting for Prostitution Registry.

Lines 258-267

Section 4. Section 943.0433, Florida Statutes, is created to read:

943.0433 Soliciting for Prostitution Registry.—

(1) The department shall create and administer the Soliciting for Prostitution Registry. The Registry shall consist of reported criminal case dispositions of persons reported to the department by the clerk of the court in accordance with s. 796.07(5)(e).

(2) The department shall adopt rules to administer this section.

- The bill requires that officers complete training in identifying and investigating human trafficking by July 1, 2022. The training will be developed by the CJSTC in consultation with DCF and the Statewide Council on Human Trafficking. The law enforcement basic recruit training program currently addresses human trafficking and covers the following instructional objectives and required activities:

  Legal CJK_0012
  Unit 3: Substantial Criminal Law
  Lesson 2: Elements of Crimes

  Instructional Objectives
  LE716.35. Explain the elements of human trafficking as provided in the Florida Statutes.

  Criminal Investigations CJK_0077
  Unit 1: Crimes Against Persons
  Lesson 9: Human Trafficking
  Lesson Goal: At the end of this lesson, students will be able to respond to an incident involving human trafficking and determine the appropriate course of action and charges if necessary.

  Instructional Objectives
  LE601.1. Recognize the scope of the human trafficking problem within Florida and the United States.
  LE601.2. Differentiate between human trafficking and smuggling.
  LE601.3. Recognize a victim of domestic minor sex trafficking.
  LE601.4. Describe the types of human trafficking victims to include the industries most trafficked in. LE601.5. Describe the role of the Trafficking Victims Protection Reauthorization Act (TVPRA).
  LE601.6. Determine if the facts and circumstances of the incident meet the statutory elements required for making an arrest for human trafficking.
  LE601.7. Recognize the immigration issues of human trafficking victims.
  LE601.8. Recognize the indicators of domestic servitude, labor trafficking, and sex trafficking.
  LE601.9. Respond to a human trafficking incident using a victim-centered approach.
  LE601.10. Recognize the importance of building relationships within the community to detect human trafficking.

  Required Activities
  Facilitate Communication Exercise: Human Trafficking.
  Discuss s. 787.06, F.S., Human trafficking.
  Show one or all of the following videos:
  The Crime of Human Trafficking: A Law Enforcement Guide to Identification and Investigation Fields of Mudan
  Look Beneath the Surface: Identifying Victims of Human Trafficking in the U.S. ICE Homeland Security Investigations, Tips for Human Trafficking

- The two-hour online course, Introduction to Human Trafficking, was developed using the content found in the basic recruit training curriculum above; therefore, the topics within the two are similar.

- The 40-hour Advanced Training Program course is comprehensive and offers advanced training for investigators. The content includes preparing for the investigation, investigating human trafficking offenses, victim considerations, crime prevention, and stress management.

- It is estimated that the development of the training curricula will cost approximately $19,910. This is based on current estimates for curriculum development workshops and the cost of additional (OPS) staffing to develop the training.

BUDGET: Identifying and Investigating Human Trafficking

Tasks	Hours	Cost*
Analysis		
Identify SMEs	80	$ 1,488
Research existing material	80	$ 1,488
SME Workshop–Instructional Analysis	80	$ 1,488
(SME travel, hotel, and per diem for SMEs)		$ 8,230
Design/Development		
Develop course content	240	$ 4,464
Review/Revisions	80	$ 1,488
Implementation		
Course edit	32	$ 594
Present to the CJSTC for approval	16	$ 298
Upload course for internet access		
Notify agencies of new post-basic course availability	24	$ 74
	16	$ 298
		$19,910

*Includes cost for OPS Research and Training Specialist Salary @ $18.59 per hour.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/19
Meeting Date

SB 540
Bill Number (if applicable)

891934
Amendment Barcode (if applicable)

Topic Human trafficking prevention

Name Andy Palmer

Job Title Government Affairs Consultant

Address 119 S. Monroe St. Suite 200
Street

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City *State* *Zip*

Email andy.palmer@mhdfirm.com

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

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

Representing Asian American Hotel Owners Association (AAHOA)

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-19-19
Meeting Date

540
Bill Number (if applicable)

891934
Amendment Barcode (if applicable)

Topic Human Trafficking

Name Samantha Padgett

Job Title General Counsel

Address 230 S. Adams St.
Street

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City *State* *Zip*

Email spadgett@frla.org

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Restaurant & Lodging Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/14
Meeting Date

SB 540
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Human Trafficking

Name Devon West

Job Title Policy Advisor

Address 115 S. Andrews
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Ft. Lauderdale FL 33301
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Email dewest@broward.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Broward County

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/19
Meeting Date

540
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Human Trafficking

Name Wendy Grey

Job Title

Address 1047 Myers Park Dr.
Street
Tallahassee FL 32301
City *State* *Zip*

Phone 8505660155

Email WSgrey@outlook.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Zonta Club of Tallahassee

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/2019
Meeting Date

Topic _____ Bill Number 540 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street

SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City *State* *Zip*

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/2019
Meeting Date

540
Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Alex Andrews

Job Title Advocate w/ SWOP Behind Bars

Address 3[illegible] S Lemon Ave
Street

Phone 8777762004 Ext

Altamonte Sp FL 32714
City *State* *Zip*

Email alex@swopusa.org

Speaking: ☐ For ☑ Against ☑ Information

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

Representing SWOPUSA, SWOP Behind Bars, Sex Workers

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/19
Meeting Date

SB 540
Bill Number (if applicable)

Topic Victims of human trafficking

Amendment Barcode (if applicable)

Name Christine Hanavan, MSW

Job Title Community Organizer

Address 208 Arrowhead Ct.
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Winter Springs, FL 32708
City *State* *Zip*

Phone 1877 776 2004 ext 106

Email christine@swopbehindbars.org

Speaking: ☐ For ☑ Against ☑ Information

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

Representing SWOP USA, SWOP Behind Bars

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/19
Meeting Date

SB 540
Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Savannah Parvu

Job Title Survivor Leader & Speaker

Address PO Box 1053
Street

Phone 352-702-8496

Umatilla FL 32784
City *State* *Zip*

Email savannah@savannahparvu.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/19
Meeting Date

540
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic B. H. Trafficking

Name Greg Pound

Job Title

Address 9166 Sunrise Dr.
Street

Largo Fla. 33773
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Children

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-19-19
Meeting Date

SB540
Bill Number (if applicable)

Topic HUMAN TRAFFICKING

Amendment Barcode (if applicable)

Name SANDRA BROWNE

Job Title ADVOCATE

Address 345 ELIZABETH AVE
Street
CLW FL 33759
City *State* *Zip*

Phone 727-488-7134

Email STAYLORBROWNE@OUTLOOK.COM

Speaking: ☐ For ☑ Against ☐ Information

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

Representing SWOP USA, SWOP BEHIND BARS, SEX WORKERS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

19 Feb 2019
Meeting Date

SB 540
Bill Number (if applicable)

Topic Human trafficking

Amendment Barcode (if applicable)

Name Jill McCracken, PhD

Job Title Professor - USF

Address 2815 Edwards Ave S.
Street

St. Pete FL 33705
City *State* *Zip*

Phone 512 415 0603

Email mccracken.jill@gmail.com

Speaking: ☒ For ☒ Against ☐ Information

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

Representing SWOP Behind Bars

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/19
Meeting Date

540
Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Chase Daniels

Job Title Assistant Executive Director - Pasco Sheriff

Address 8700 Citizen Dr
Street

Phone 727-232-6226

New Port Richey FL 34654
City *State* *Zip*

Email CDaniels@pascosheriff.org

Speaking: [X] For [ ] Against [ ] Information

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

Representing Pasco Sheriff's Office

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/2019
Meeting Date

540
Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Chief Gary Hester

Job Title Government Affairs

Address 2636 Mitcham Drive
Street

Phone 8502193631

Tallahassee FL 32308
City *State* *Zip*

Email ghester@fpca.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Police Chiefs Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/19 — *Meeting Date*

540 — *Bill Number (if applicable)*

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Cpl. Alan Willett

Job Title Gru Enforcement Corporal

Address 8700 Citizen Dr — *Street*

Phone 727-277-6726

New Port Richey — *City* — FL — *State* — 34654 — *Zip*

Email awillett@pascosheriff.org

Speaking: [X] For [ ] Against [ ] Information

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

Representing Pasco Sheriff's Office

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Children, Families, and Elder Affairs, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health and Human Services
Health Policy
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR LAUREN BOOK
32nd District

February 8, 2018

Chair Keith Perry
Committee on Criminal Justice
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Perry:

I respectfully request that **SB 540—Human Trafficking**, be placed on the agenda for the next Committee on Criminal Justice meeting.

Should you have any questions or concerns, please feel free to contact my office or me. Thank you in advance for your consideration.

Thank you,

Lauren Book

Senator Lauren Book
Senate District 32

Cc: Lauren Jones, Staff Director
Sue Arnold, Administrative Assistant

REPLY TO:
❒ 967 Nob Hill Road, Plantation, Florida 33324 (954) 424-6674
❒ 202 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: *www.flsenate.gov*

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

Submitted by
Wendy Grey 2/19/19
for SB 540

ZONTA CLUB OF TALLAHASSEE, FLORIDA RESOLUTION IN SUPPORT OF LEGISLATION AND POLICY PROPOSALS THAT WILL PROVIDE INCREASED TRAINING AND AWARENESS PROGRAMS FOR WORKPLACES AROUND FLORIDA REGARDING HUMAN TRAFFICKING IN THEIR ESTABLISHMENTS

Whereas, the mission of Zonta International is to be a leading global organization of professionals empowering women worldwide through service and advocacy; and

Whereas, the Zonta International Position Paper on Human Trafficking dated February 2016 states that Zonta calls on all governments to implement adequate and consistently applied criminal justice responses that result in the identification and protection of victims and in the prosecution and conviction of traffickers and smugglers; and

Whereas, human trafficking is the equivalent of modern-day slavery and Florida is third in the nation in terms of number of human trafficking cases according to the National Resource Center on human trafficking; and

Whereas, it is the responsibility of all Floridians to join together to fight this horrific phenomenon; and

Whereas, the Zonta Club of Tallahassee and Zonta International have taken firm positions in favor of helping survivors of human trafficking; and

Whereas, there are over 1.2 million people working in Florida tourism, hospitality and many other workplace sectors of Florida; and

Whereas, women are sex trafficked and labor trafficked throughout our State and the world; and

Whereas, even though there are many laws regarding the crimes of human trafficking and liability of traffickers in the criminal justice system, current laws are inadequate to protect victims of human trafficking in the civil justice system; and

Whereas, it is imperative that those who could come in contact with victims of trafficking receive training so that they can understand how to identify victims and human trafficking situations, what to do if they suspect human trafficking is taking place, and attend to safety issues affecting the workplace; and

Whereas, Florida law needs to be strengthened to promote increased training of those in Florida's workplaces to recognize and respond to human trafficking; and

Now, THEREFORE, be it hereby resolved that:

The Zonta Club of Tallahassee expresses its full support for legislation and policy proposals that will provide increased training and awareness programs for workplaces around Florida and support for victims of human trafficking to be restored, receive support, and to recover from being a victim of human trafficking.

Approved on Nov 20, 2018

Jeanna Olson

Jeanna Olson
President, Zonta Club of Tallahassee

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 554
INTRODUCER:	Senator Pizzo
SUBJECT:	Offenses Against Brokers, Broker Associates, or Sales Associates
DATE:	February 18, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Jones	CJ	**Favorable**
2.			ACJ	
3.			AP	

I. Summary:

SB 554 reclassifies the felony or misdemeanor degree of an assault, aggravated assault, battery, felony battery, aggravated battery, or sexual battery, if the offense is committed against a "broker," "broker associate," or "sales associate" while he or she is engaged in the act of showing real property or holding an open house of real property. These terms are currently defined in ch. 475, F.S., which regulates real estate professionals.

This reclassification increases the maximum penalty for the offense as follows:

- A second degree misdemeanor (maximum penalty of 60 days in jail) is reclassified as a first degree misdemeanor (maximum penalty of one year in jail);
- A first degree misdemeanor is reclassified as a third degree felony (maximum penalty of 5 years in state prison);
- A third degree felony is reclassified as a second degree felony (maximum penalty of 15 years in state prison);
- A second degree felony is reclassified as a first degree felony (generally a maximum penalty of 30 years in state prison); and
- A first degree felony is reclassified as a life felony (maximum penalty of life imprisonment or a term of years not exceeding life imprisonment).

The Legislature's Office of Economic and Demographic Research preliminarily estimates that the bill will have a positive insignificant prison bed impact (an increase of 10 or fewer prison beds). See Section V. Fiscal Impact Statement.

The bill is effective on October 1, 2019.

II. Present Situation:

Real Estate Professionals: Brokers, Broker Associates, and Sales Associates

Chapter 475, F.S., regulates real estate professionals, including brokers, broker associates, and sales associates.

A "broker"[1] is:

- A person who, for another, and for a compensation or valuable consideration directly or indirectly paid or promised, expressly or impliedly, or with an intent to collect or receive a compensation or valuable consideration therefor, appraises,[2] auctions, sells, exchanges, buys, rents, or offers, attempts or agrees to appraise, auction, or negotiate the sale, exchange, purchase, or rental of business enterprises or business opportunities or any real property or any interest in or concerning the same, including mineral rights or leases;
- A person who advertises or holds out to the public by any oral or printed solicitation or representation that she or he is engaged in the business of appraising, auctioning, buying, selling, exchanging, leasing, or renting business enterprises or business opportunities or real property of others or interests therein, including mineral rights;
- A person who takes any part in the procuring of sellers, purchasers, lessors, or lessees of business enterprises or business opportunities or the real property of another, or leases, or interest therein, including mineral rights;
- A person who directs or assists in the procuring of prospects or in the negotiation or closing of any transaction which does, or is calculated to, result in a sale, exchange, or leasing thereof, and who receives, expects, or is promised any compensation or valuable consideration, directly or indirectly therefor;
- All persons who advertise rental property information or lists;
- A general partner, officer, or director of a partnership or corporation which acts as a broker; and
- Any person or entity who undertakes to list or sell one or more timeshare periods per year in one or more timeshare plans on behalf of any number of persons, except as provided in s. 475.011, F.S. (exemptions from part I of ch. 475, F.S.), and s. 721.20, F.S. (licensing requirements and prohibited acts relating to timeshares).[3]

A "broker associate" is a person who is qualified to be issued a license as a broker but who operates as a sales associate in the employ of another.[4]

A "sales associate" is a person who performs any act specified in the definition of "broker," but who performs such act under the direction, control, or management of another person.[5]

---

[1] Section 475.01(1)(a), F.S. A broker renders a professional service and is a professional within the meaning of s. 95.11(4)(a), F.S. *Id*. Section 95.11(4)(a), F.S., addresses the limitations period for an action for professional malpractice.

[2] When the term "appraise" or "appraising" appears in the definition of the term "broker," it specifically excludes those appraisal services which must be performed only by a state-licensed or state-certified appraiser, and those appraisal services which may be performed by a registered trainee appraiser as defined in part II of ch. 475, F.S. Section 475.01(1)(a), F.S.

[3] *Id*.

[4] Section 475.01(1)(b), F.S.

[5] Section 475.01(1)(j), F.S. A sales associate renders a professional service and is a professional within the meaning of s. 95.11(4)(a), F.S. *Id.*

Violent Acts Committed Upon Real Estate Professionals

National workforce statistics provided by the U.S. Department of Labor indicate that in 2017 there were 17 fatal occupational injuries involving "activities relating to real estate" under the "industry" category. Seven of the 17 fatal injuries involved "violence and other injuries by persons or animals."[6]

In a 2018 survey conducted by the National Association of REALTORS® of its members, one percent of the 3,049 members responding to the survey reported being the victim of an assault in 2018. Further, 53 percent of survey respondents reported feeling unsafe (in terms of personal safety) at least once a year, and 28 percent reported feeling unsafe every few months.[7]

Assault and Aggravated Assault

Assault is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent.[8] Assault is generally a second degree misdemeanor.[9] However, if a person commits assault using a deadly weapon without intent to kill or commits assault with the intent to commit a felony, the person commits aggravated assault, a third degree felony.[10]

Battery, Felony Battery, and Aggravated Battery

Battery is actually and intentionally touching or striking another person against the will of that person or intentionally causing bodily harm to another person.[11] Battery is generally a first degree misdemeanor,[12] but is a third degree felony when the perpetrator has one or more prior convictions for battery, aggravated battery, or felony battery, and commits a subsequent battery.[13]

A person commits "felony battery," a third degree felony, if the person actually and intentionally touches or strikes another person against the will of the other and causes great bodily harm, permanent disability, or permanent disfigurement to the victim.[14]

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[6] *Table A-1. Fatal occupational injuries by industry and event or exposure, all United States, 2017*, Bureau of Labor Statistics, U.S. Department of Labor, available at https://www.bls.gov/iif/oshwc/cfoi/cftb0313.htm (last visited on Feb. 11, 2019).
[7] *2018 Member Safety Report*, National Association of REALTORS®, available at https://www.nar.realtor/sites/default/files/documents/2018-member-safety-report-09-12-2018.pdf (last visited on Feb. 11, 2019).
[8] Section 784.011(1), F.S.
[9] Section 784.011(2), F.S.
[10] Section 784.021(1) and (2), F.S.
[11] Section 784.03(1)(a), F.S.
[12] Section 784.03(1)(b), F.S.
[13] Section 784.03(2), F.S.
[14] Section 784.041(1) and (3), F.S.

A person commits aggravated battery, a second degree felony, if the person, in committing battery: intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; uses a deadly weapon; or the person who was the victim of the battery was pregnant at the time of the offense and the offender knew or should have known that the victim was pregnant.[15]

Sexual Battery

Section 794.011, F.S., punishes a variety of offenses relating to sexual battery, which is the oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object, but does not include an act done for a bona fide medical purpose. The act is non-consensual and non-consent is either implied by the age of the of the victim[16] or a specified circumstances (e.g., the victim is physically incapacitated),[17] or is an element of the offense.[18] Depending on various factors, such as whether a deadly weapon is used or the victim is physically incapacitated, sexual battery may be punished as a second degree felony, a first degree felony, or a life felony.

Reclassification of Felonies or Misdemeanors

The typical reclassification statute reclassifies the felony or misdemeanor degree of offenses (or specific offenses) to the next higher degree (e.g., a first degree misdemeanor is reclassified to a third degree felony or a third degree felony is reclassified to a second degree felony). For example, s. 775.085, F.S., Florida's "hate crimes" statute, reclassifies the degree of any felony or misdemeanor in which the commission of the offense evidences prejudice based on the race, color, ancestry, ethnicity, religion, sexual orientation, national origin, homeless status, mental or physical disability, or advanced age of the victim. Another example, is s. 784.07, F.S., which reclassifies the felony or misdemeanor degree of an assault or battery if that offense was committed upon a law enforcement officer (or other specified official or person) engaged in the lawful performance of his or her duties.

Several statutes reclassify the degree of certain felonies and misdemeanors when committed against specified professionals or officials engaged in the performance of their duties.[19] For the most part, the victim is a public servant. However, there is precedent for reclassifying the degree of certain felonies and misdemeanors when committed against specified professionals who are not public servants and who are engaged in the performance of their duties, e.g., licensed security officers[20] or sports officials.[21]

A felony or misdemeanor reclassification increases the maximum penalty for the offense. For example, the maximum penalty for a third degree felony is 5 years in state prison.[22] The

[15] Section 784.045(1) and (2), F.S.
[16] *See e.g.*, s. 794.011(2), F.S. (sexual battery on a person less than 12 years of age).
[17] Section 794.011(2)(e), F.S.
[18] Section 794.011(5), F.S.
[19] *See e.g.*, ss. 784.07, 784.074, 784.081, and 784.083, F.S.
[20] Section 784.07, F.S.
[21] Section 784.081, F.S.
[22] Section 775.082, F.S.

maximum penalty for a second degree felony is 15 years in state prison.[23] If a third degree felony is reclassified to a second degree felony, the maximum penalty increases from 5 years in state prison to 15 years in state prison.

III. Effect of Proposed Changes:

The bill creates s. 775.0863, F.S., which reclassifies the felony or misdemeanor degree of an assault, aggravated assault, battery, felony battery, aggravated battery, or sexual battery, if the offense is committed against a "broker," "broker associate," or "sales associate" while he or she is engaged in the act of showing real property or holding an open house of real property. These terms have the same meaning as provided in s. 475.01, F.S.[24]

The bill provides that the felony or misdemeanor degree of such offenses is reclassified in the following manner:

- A second degree misdemeanor[25] is reclassified as a first degree misdemeanor;[26]
- A first degree misdemeanor is reclassified as a third degree felony;[27]
- A third degree felony is reclassified as a second degree felony;[28]
- A second degree felony is reclassified as a first degree felony; [29] and
- A first degree felony is reclassified as a life felony.[30]

The bill also amends s. 922.022, F.S., which is the offense severity ranking chart of the Criminal Punishment Code (Code). The bill provides that, for purposes of sentencing under ch. 921, F.S., which is where the Code is located, and determining incentive gain-time eligibility under ch. 944, F.S., a reclassified felony offense is ranked one level above the ranking specified under s. 921.0022, F.S., or s. 921.0023, F.S., for the offense. However, a first degree misdemeanor that has been reclassified to a third degree felony is ranked in Level 2 of the offense severity ranking chart. Noncapital felonies are ranked under s. 921.0022, F.S., or s. 921.023, F.S., of the Code. The higher the ranking, the greater the number of sentence points, which are used to calculate the lowest permissible sentence under the Code.

The bill is effective October 1, 2019.

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[23] *Id.*
[24] See "Present Situation" section of this analysis for more details.
[25] A second degree misdemeanor is punishable by up to 60 days in county jail and a fine of up to $500. Sections 775.082 and 775.083, F.S.
[26] A first degree misdemeanor is punishable by up to one year in county jail and a fine of up to $1,000. Sections 775.082 and 775.083, F.S.
[27] A third degree felony is punishable by up to 5 years in state prison and a fine of up to $5,000. Sections 775.082 and 775.083, F.S.
[28] A second degree felony is punishable by up to 15 years in state prison and a fine of up to $10,000. Sections 775.082 and 775.083, F.S.
[29] A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to $10,000. Sections 775.082 and 775.083, F.S.
[30] A life felony is generally punishable by life imprisonment or a term of years not exceeding life imprisonment. Sections 775.082 and 775.083, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official prison bed impact, if any, of legislation has not yet reviewed the bill. The Legislature's Office of Economic and Demographic Research preliminarily estimates this penalty provision will have a "positive insignificant" prison bed impact (an increase of 10 or fewer prison beds).[31]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[31] Estimate from Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).

VIII. Statutes Affected:

This bill substantially amends section 921.0022 of the Florida Statutes.

This bill creates section 775.0864 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

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

By Senator Pizzo

38-01536-19 2019554__

A bill to be entitled

An act relating to offenses against brokers, broker associates, or sales associates; creating s. 775.0864, F.S.; providing definitions; providing applicability; providing for reclassification of specified offenses committed against brokers, broker associates, or sales associates; amending s. 921.0022, F.S.; conforming a provision to changes made by the act; providing an effective date.

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

Section 1. Section 775.0864, Florida Statutes, is created to read:

775.0864 Offenses against brokers, broker associates, or sales associates; reclassification of offenses.—

(1) For purposes of this section, the terms "broker," "broker associate," and "sales associate" have the same meanings as provided in s. 475.01.

(2) The degree of an offense shall be reclassified as provided in subsection (3) if the offense is committed against a broker, broker associate, or sales associate while he or she is engaged in the act of showing real property or holding an open house of real property and the offense is a felony or misdemeanor violation of:

(a) Section 784.011, relating to assault;

(b) Section 784.021, relating to aggravated assault;

(c) Section 784.03, relating to battery and felony battery;

(d) Section 784.041(1), relating to felony battery;

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

38-01536-19 2019554__

(e) Section 784.045, relating to aggravated battery; or

(f) Section 794.011, relating to sexual battery.

(3)(a) A misdemeanor of the second degree shall be reclassified as a misdemeanor of the first degree.

(b) A misdemeanor of the first degree shall be reclassified as a felony of the third degree.

(c) A felony of the third degree shall be reclassified as a felony of the second degree.

(d) A felony of the second degree shall be reclassified as a felony of the first degree.

(e) A felony of the first degree shall be reclassified as a life felony.

(4) For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this section is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 2. Subsection (2) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(2) The offense severity ranking chart has 10 offense levels, ranked from least severe, which are level 1 offenses, to most severe, which are level 10 offenses, and each felony offense is assigned to a level according to the severity of the offense. For purposes of determining which felony offenses are specifically listed in the offense severity ranking chart and which severity level has been assigned to each of these offenses, the numerical statutory references in the left column

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

of the chart and the felony degree designations in the middle column of the chart are controlling; the language in the right column of the chart is provided solely for descriptive purposes. Reclassification of the degree of the felony through the application of s. 775.0845, s. 775.085, s. 775.0861, s. 775.0862, s. 775.0863, s. 775.0864, s. 775.087, s. 775.0875, s. 794.023, or any other law that provides an enhanced penalty for a felony offense, to any offense listed in the offense severity ranking chart in this section shall not cause the offense to become unlisted and is not subject to the provisions of s. 921.0023.

Section 3. This act shall take effect October 1, 2019.

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

HB 187 – Offenses Against Brokers, Broker Associates, or Sales Associates (Identical SB 554)

This bill creates s. 775.0864, F.S., reclassifying the assault, battery, or sexual battery on a broker, broker associate, or sales associate as follows:

2nd degree misdemeanor increased to 1st degree misdemeanor
1st degree misdemeanor increased to 3rd degree felony
3rd degree felony increased to 2nd degree felony
2nd degree felony increased to 1st degree felony
1st degree felony increased to life felony

Furthermore, a felony offense that is reclassified is ranked one level above the ranking under s. 921.0022, F.S. or s. 921.0023, F.S. of the offense committed.

Large numbers come to prison each year with these offenses as primary. In total, 10,497 (adj.) were sentenced in FY 17-18 with 3,720 (adj.) sentenced to prison (adj. incarceration rate: 35.4%).

It is unknown how large the real estate agent victim pool is, but CJIC heard bills with the same provisions in prior years and found them to have an insignificant impact due to low volume.

EDR PROPOSED ESTIMATE: Positive Insignificant

Requested by: House & Senate

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/2019
Meeting Date

Topic _____ Bill Number 554 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *Zip* E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/19
Meeting Date

534
Bill Number (if applicable)

Topic ~~[redacted]~~ Offenses against Realtors

Amendment Barcode (if applicable)

Name Andrew Rutledge

Job Title Government Affairs

Address 200 S. Monroe
Street

Phone 224-1400

Tallahassee FL 32301
City *State* *Zip*

Email Gandrew@floridarealtors.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Realtors

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

Committee Agenda Request

To: Senator Keith Perry, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: February 11, 2019

I respectfully request that **Senate Bill #554**, relating to Offenses Against Brokers, Broker Associates, or Sales Associates, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Jason W.B. Pizzo
Florida Senate, District 38

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SPB 7044
INTRODUCER:	Criminal Justice Committee
SUBJECT:	OGSR/Concealed Carry License/Department of Agriculture and Consumer Services
DATE:	February 19, 2019 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Jones		**CJ Submitted as Comm. Bill/Fav**

I. Summary:

SPB 7044 reenacts s. 790.0601(2), F.S., a public records exemption that is scheduled to be repealed on October 2, 2019, unless it is reviewed and reenacted prior to that date.

The exemption was created in conjunction with s. 790.0625, F.S., which authorizes the Division of Licensing (DOL) of the Department of Agriculture and Consumer Services (DACS) to enter into agreements with local tax collector's offices to accept and submit concealed weapon or firearm license applications or renewal applications to the DOL of the DACS for processing and decisions on whether the license should be issued.

The same information is exempted from the public records law if the applicant provides it directly to the DOL of the DACS at one of the DACS regional offices.

The bill requires a majority vote for passage.

The bill is effective October 1, 2019.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.[1] This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.[2]

[1] FLA. CONST., art. I, s. 24(a).
[2] *Id*.

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.[3] The Public Records Act states that

> [i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.[4]

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.[5] Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.[6] The Florida Supreme Court has interpreted public records as being "any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type."[7]

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person's right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.[8] A violation of the Public Records Act may result in civil or criminal liability.[9]

Only the Legislature may create an exemption to public records requirements.[10] An exemption must be created by general law and must specifically state the public necessity justifying the exemption.[11] Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions[12]

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[3] Public records laws are found throughout the Florida Statutes.
[4] Section 119.01(1), F.S.
[5] *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).
[6] Section 119.011(12), F.S., defines "public record" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" as "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."
[7] *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc*., 379 So. 2d 633, 640 (Fla. 1980).
[8] Section 119.07(1)(a), F.S.
[9] Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.
[10] FLA. CONST., art. I, s. 24(c).
[11] *Id.*
[12] The bill may, however, contain multiple exemptions that relate to one subject.

and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.[13]

When creating or expanding a public records exemption, the Legislature may provide that a record is "confidential and exempt" or "exempt."[14] Records designated as "confidential and exempt" may be released by the records custodian only under the circumstances defined by the Legislature or pursuant to a court order. Records designated as "exempt" may be released at the discretion of the records custodian under certain circumstances.[15]

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions,[16] with specified exceptions.[17] It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.[18] The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.[19]

Public Records Exemption Under Review

A public records exemption for the personal identifying information of persons who apply for a concealed weapon or firearm license, or renew an existing license, through a local tax collector's office was created in 2014.[20] The exemption will be repealed on October 2, 2019, unless it is reviewed and saved from repeal by the Legislature in accordance with s. 119.15, F.S.[21]

The exemption was created in conjunction with a bill authorizing the Division of Licensing (DOL) of the Department of Agriculture and Consumer Services (DACS), which administers the concealed weapon and firearm licensure program, to enter into agreements with local tax collectors to accept applications on behalf of the DOL of the DACS.[22]

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[13] FLA. CONST., art. I, s. 24(c).
[14] If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The Sch. Bd. of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).
[15] *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).
[16] Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).
[17] Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.
[18] Section 119.15(3), F.S.
[19] Section 119.15(6)(b), F.S.
[20] Section 790.0601(2), F.S.
[21] Section 790.0601(4), F.S.
[22] Section 790.0625, F.S., Appointment of tax collectors to accept applications for a concealed weapon or firearm license; fees; penalties; Section 790.06, F.S., License to carry concealed weapon or firearm; [As of June 30, 2018 there were 1,927,724 concealed weapon or firearm licensees in Florida. DACS, DOL, *Number of Valid Florida Concealed Weapon Licenses As Reported at the End of Each Fiscal Year (June 30) Since Program Inception in October 1987*, available at https://www.freshfromflorida.com/content/download/7504/118881/NumberOfValidCWLicenses_FiscalYearEndSince1987-1988.pdf (last visited January 17, 2019)].

The exemption was created as an extension of the public records exemption for the same personal identifying information of an applicant or a person who has received a concealed weapon or firearm license, by applying for the license directly through the DOL of the DACS. The exemption for the information held by the DOL of the DACS was created in s. 790.0601(1), F.S., in 2006 and reenacted in 2011.[23]

On behalf of the DOL of the DACS, tax collectors obtain the following personal identifying information from a person who is applying for a new concealed weapons or firearms license through the tax collector's office, pursuant to s. 790.06, F.S., including, in part:

- The name, address, place of birth, date of birth, and race of the applicant;
- A full set of fingerprints of the applicant; and
- A full frontal view color photograph of the applicant taken within the preceding 30 days, in which the head, including hair, measures 7/8 of an inch wide and 1 1/8 inches high.[24]

The application and accompanying information required by s. 790.06, F.S., is submitted to the DOL of the DACS via the Concealed Weapon Intake System (CWIS) by the tax collector's office.[25] The tax collector only performs the ministerial function of submitting applications and information to the DOL of the DACS for processing, as a convenience for the applicant.

Currently, 55 of Florida's 67 county tax collectors are providing the concealed weapon and firearm license application submission process authorized in s. 790.0625, F.S.[26] Twenty eight of the 35 tax collectors responding to legislative staff's questionnaire reported a total of 194,078 applications for new licenses and renewals have been processed and submitted to the DOL of the DACS from July 2014 to December 2019.[27]

The tax collectors have entered into a memoranda of understanding with the DOL of the DACS, memorializing the duties and responsibilities of the two parties.[28] For instance, the DOL of the DACS provides tax collector employee training, a computer configuration, and network equipment such as CWIS which is necessary for the tax collector's office to submit completed applications to the DOL of the DACS. The tax collectors provide a secure location for the computer configuration and the CWIS, remit application and fingerprint processing fees to the DOL of the DACS, and agree to abide by the confidentiality requirements in s. 790.0601, F.S.[29]

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[23] Chapters 2006-102 and 2011-136, L.O.F.
[24] Sections 790.06(4) and (5), F.S.
[25] The process is explained in the tax collectors' answers to questions sent to them by legislative staff. The completed questionnaires are on file with the Senate Committee on Criminal Justice. An application can be downloaded and additional eligibility requirements and application instructions are available at DACS, *Applying for a Concealed Weapon License*, available at https://www.freshfromflorida.com/Consumer-Resources/Concealed-Weapon-License/Applying-for-a-Concealed-Weapon-License (last visited January 17, 2019).
[26] In addition to the participating local tax collectors, the DACS has nine regional offices throughout the state that perform the same function as the tax collectors. DACS, *Concealed Weapon License Service Locations*, available at https://www.freshfromflorida.com/Consumer-Resources/Concealed-Weapon-License/Concealed-Weapon-License-Service-Locations (last visited January 17, 2019).
[27] The completed questionnaires are on file with the Senate Committee on Criminal Justice. It should be noted that not all 28 of the tax collectors responding to the questionnaire began participation in the program at the same time.
[28] Section 790.0625(3), F.S.
[29] Copies of memoranda of understanding, provided by tax collector's offices pursuant to request by legislative staff, are on file with the Senate Committee on Criminal Justice.

Pursuant to s. 790.0625, F.S., the tax collector may collect and retain a convenience fee of $22 for new license applications and $12 for each license renewal.[30] Tax collectors are authorized in s. 790.0625, F.S, to print and deliver license renewals if the renewal applicant provides a completed application and new color photograph, and pays the appropriate fees, and if the DOL of the DACS approves issuance of the license.[31]

Section 790.0601, F.S., provides that the confidential and exempt personal identifying information held by a tax collector shall be disclosed under the following circumstances:

- With the express written consent of the applicant or licensee or his or her legally authorized representative;
- By court order upon a showing of good cause; or
- Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the DACS.[32]

III. Effect of Proposed Changes:

The bill reenacts the public records exemption in s. 790.0601(2), F.S., for the personal identifying information of applicants for a new or renewal license to carry a concealed weapon or firearm, held by a tax collector for submission to the DOL of the DACS.[33]

Specifically, the bill reenacts the exemption by deleting the provision in s. 790.0601(4), F.S., that would automatically repeal the exemption on October 2, 2019.

The bill requires a majority vote for passage.

The bill is effective October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Article I, s. 24(c) of the Constitution of Florida requires a two-thirds vote of the members present and voting for passage of a newly created or expanded public records exemption. This bill continues a current exemption but does not expand the scope of the existing public records exemption. Therefore, a simple majority vote of the members present and voting in each house of the Legislature is required for passage.

[30] Section 790.0625(5), F.S.
[31] Section 790.0625(8), F.S.
[32] Section 790.0601(3), F.S.
[33] Section 790.0601(2), F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 790.0601 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

FOR CONSIDERATION By the Committee on Criminal Justice

591-02290-19 20197044pb

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 790.0601, F.S., relating to an exemption from public records requirements for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm through a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees; abrogating the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Section 790.0601, Florida Statutes, is amended to read:

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services

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

591-02290-19 20197044pb

to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

~~(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.~~

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

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

BAKER COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Amy Dugger

Name of person completing the questionnaire: Amy Dugger

Title of person completing the questionnaire: Tax Collector

Telephone number of person completing the questionnaire: 904-259-6880

E-mail address of person completing the questionnaire: amy.dugger@bakercountyfl.org

Date that this questionnaire was completed: 12/20/2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. Yes

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? August 2016

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.
   Unavailable at this time
4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office. For an original application: customer fills out application on computer, scans in all supporting documents, we take their picture and if applicable, we also fingerprint them. We then submit their application to the state electronically for them to review.

   For a renewal: They provide a copy of their current concealed permit and we go thru the renewal process of taking their pic and printing them their card. In some instances where changes are being made, they provide documents to be scanned and the Department of Ag sends them their card.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.
   Unavailable at this time
6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014. Unavailable at this time.

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? SS #, Name, address, phone number, DL #, ID #, medical info, emergency contact

   a. How long does your office have possession of the personal identifying information? The applications are available until the Department clears the info on their computers stored in our office. Information is also available on the Live Scan (fingerprint machine) but am unsure of how long it is retained on that system.

b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? The information is entered into the Departments computers that are housed at our office.

c. Does your office destroy the personal identifying information at some point? If "yes," when? No

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. Unknown

3. Are there Attorney General opinions interpreting the exemption? Unknown

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": No

d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

e. Please describe the types of entities requesting such information, if available.

f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. Not to my knowledge

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? Not to my knowledge

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": Yes

a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects. ? Florida Statute 790.0601

b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm. We haven't had any requests

c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain. Unknown

8. Does the public record exemption under review benefit your office? If so, please explain.
In serving our citizens, I believe it gives them the confidentiality that they desire.
   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm? I believe most concealed carry permit holders want their information kept confidential.

   b. How would a release of such information impact your office? I believe customers would be upset it sensitive info was divulged.

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm?
No

10. Has your office received complaints about the public record exemption? If so, please explain.
No
11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
_X____ Reenact the exemption in its current form. Please provide a brief explanation.
_____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
_____ Repeal the exemption. Please provide a brief explanation.
12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

Baker County

Cellon, Connie

From: Cellon, Connie
Sent: Friday, January 4, 2019 10:39 AM
To: 'Amy Dugger'
Cc: Moore, Alexandra
Subject: OGSR Survey/Memorandum of Understanding

Thanks again for completing the survey reviewing the need for continuing the privacy protections for the Concealed Weapon license applicant personal information.
Can you please shoot us a copy of the related Memorandum of Understanding between your office and the Department of Agriculture without too much trouble?
Thank you!
Connie

Connie Cellon
Senate Criminal Justice
850-487-5192

BAY COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Chuck Perdue, Bay County Tax Collector

Name of person completing the questionnaire: Kara Stallings

Title of person completing the questionnaire: Communications Specialist

Telephone number of person completing the questionnaire: 850. 248.8558

E-mail address of person completing the questionnaire: kstallings@baycountytaxcollector.com

Date that this questionnaire was completed: 12/20/2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. **Yes.**

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? **May 2017**

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.

   An individual must make an appointment for the service. Once they arrive for a first time application they are directed to a computer where they complete the application. A team member then collects payment, takes the applicant's photo, fingerprints the individual, scans the individual's fingerprints into the application system, and submits the application electronically to the department for review. All paperwork is provided to the applicant as their receipt and copy.

   For a renewal, once the individual arrives, their license information is pulled up in the application system. All information is reviewed with the individual and any updates are made if necessary. A photo is taken. Payment is collected. Renewal information is submitted in the application system. The updated license is printed on site and provided to the customer.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.

Fiscal Year	New	Renewal
07/01/16 - 06/30/17	167	53
07/01/17 - 06/30/18	2168	922
07/01/18 - 12/19/18	822	356

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of

Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? All personal information included on the application.
   We consider all records created during the CWP application process as confidential under the statute.

   a. How long does your office have possession of the personal identifying information?
   Only the name and first three digits of a customer's phone number stay in our appointment system.

   b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? ***All information is submitted electronically before the customer leaves our office. A copy of the application is provided to the customer. We retain a copy of the customer receipt page to balance the drawer at the end of the day.***

   c. Does your office destroy the personal identifying information at some point? If "yes," when? ***No. All documents created during the application process are given to the customer at the conclusion of the application process. However there would be personal information that should be exempt within our customer queuing/appointment system, and in the documentation of daily transaction reports***

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. **No.**

3. Are there Attorney General opinions interpreting the exemption? ***None that we are aware of.***

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": **No**

   d. What is the number of requests your office has received for such exempt information each year since July 1, 2014? ***We've had no requests.***

   e. Please describe the types of entities requesting such information, if available. **N/A**

   f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)? **N/A**

   g. If the information was released, please identify the entities or individuals to whom the information was released, if known. **N/A**

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. **No**

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? ***Not to our knowledge.***

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": ***None that we are aware of.***

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

   b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm. ***Section 790.0601(2), Florida Statutes***

   c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain. **None that we are aware of.**

8. Does the public record exemption under review benefit your office? If so, please explain. ***Yes, it reduces the requirements for retention of documents, while ensuring the private information of customers is secured.***

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?

   The release of this information could certainly result in identity theft or fraud, or subject the licensed carrier to harassment or possibly threat to do harm.

   b. How would a release of such information impact your office?
   It would create an undue burden to maintain records which are already accessible to those authorized to access the information in accordance with the Statute under the conditions cited.

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm? **No.**

10. Has your office received complaints about the public record exemption? If so, please explain. **No**.

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
    __**X**__ Reenact the exemption in its current form. Please provide a brief explanation.
    _____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.

_____ Repeal the exemption. Please provide a brief explanation.

The exemptions are reasonable and are a necessary protection for the citizens.

12. Please provide any additional comments regarding the public record exemption under review.
We are simply agents of the Florida Department of Agriculture and Consumer Services. Any information collected during the concealed weapon permit or renewal process is property of the Florida Department of Agriculture and Consumer Services. Any public records requests related to the process would be directed to the Department for response.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

FDACS CONTRACT # 024079

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX

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TALLAHASSEE, FLORIDA 32314-5647

4040 ESPLANADE WAY, SUITE 135
TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Bay County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 801 Florida Avenue, Lynn Haven, FL 32444

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a

subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Panama City (City) Florida (State)

this 9th day of January, 20 17.

TAX COLLECTOR

Witness as to Tax Collector

(SEAL)

Signature

Witness as to Tax Collector

Chuck Perdue

Name

Tax Collector

Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

(SEAL)

Signature

Witness as to State

Joey B. Hicks

Name

Director of Admin.

Title

BRADFORD COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes,that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of Tax Collector: Teresa G. Phillips

Name of person completing the questionnaire: Teresa G. Phillips

Title of person completing the questionnaire: Tax Collector

Telephone number of person completing the questionnaire: 904-966-6274

E-mail address of person completing the questionnaire:
Teresa_phillips@bradfordcountyfl.gov

Date that this questionnaire was completed: 12/19/2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. Yes

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? 2016, Started October, 2016

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office. Come into our office no appointment needed and if it is a new one we have them fill out the application on the computer, scan there document, finger print them, take picture and finish it up. Renewals, renewal question, take picture and finalize.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.
   2016-196 , 2017-717, 2018-701
6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.
   2016-90, 2017-351, 2018-269

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? They have to have there drivers license to identify them. Compare name on dl, application and training course.

   a. How long does your office have possession of the personal identifying information? We do not keep any identifying documents in our office.

   b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? Yes, through the application process on the computer system the same day.

c. Does your office destroy the personal identifying information at some point? If "yes," when? No because we do not hold anything in our office. We are a intake office only, we hold nothing.

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. Unknown

3. Are there Attorney General opinions interpreting the exemption? Unknown

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": No

   d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

   e. Please describe the types of entities requesting such information, if available.

   f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

   g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. No

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? No

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": Unknown

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

   b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

   c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain. Unknown, to our office. We have none of these issues, we are a intake office only for the Department and hold none of these records.

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?

   b. How would a release of such information impact your office?

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm? No

10. Has your office received complaints about the public record exemption? If so, please explain. No

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption? Unknown because we do not deal with any of these questions. So therefore we do not know the problem if any.
    _____ Reenact the exemption in its current form. Please provide a brief explanation.
    _____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
    _____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

FDACS CONTRACT #

022123

DIVISION OF LICENSING
(850) 245-5500
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TALLAHASSEE, FLORIDA 32314-5647

4040 ESPLANADE WAY, SUITE 135
TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Bradford County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: Bradford County Courthouse, 945 N. Temple Ave., Suite B,
Starke, FL 32091

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the

equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The

Tax Collector will receive payment by credit of the outstanding amount via a subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Starke (City) Florida (State)

this 6 day of July, 2015.

TAX COLLECTOR

Witness as to Tax Collector

(SEAL)
Signature

Witness as to Tax Collector

Teresa G. Phillips
Name

Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

(SEAL)
Signature

Witness as to State

D. Alan Edwards
Name

Director Administration
Title

CHARLOTTE COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Vickie L Potts, Charlotte County

Name of person completing the questionnaire: Vickie L Potts & Kim Kapela

Title of person completing the questionnaire: Tax Collector & Training Coordinator

Telephone number of person completing the questionnaire: 941-743-1345 & 941-833-5490

E-mail address of person completing the questionnaire: Vickie.Potts@charlottecountyfl.gov
Kim.Kapela@charlottecountyfl.gov

Date that this questionnaire was completed: 12/21/18

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. **Yes**

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? **October 2015**

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services. *

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.
    - They need to make an appointment
    - Upon arrival, show proof of ID and Proof of training
        - If born outside of US, need US Passport, Naturalization Cert, or I-551
    - They sit at a computer and complete the application, then scan their documents to their record.
    - An agent then fingerprints them & takes their picture, transmits the prints, collects money, transmits app

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.
    Starting Oct 2015 – Nov 26, 2018 = 2396 new applications
    - 10/15 – 06/16 = 913
    - 07/16 – 06/17 = 853
    - 07/17 – 06/18 = 485
    - 07/18 – 11/18 = 145

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.
    Starting Oct 2015 – Nov 26, 2018 = 914
    - 10/15 – 06/16 = 85
    - 07/16 – 06/17 = 297
    - 07/17 – 06/18 = 369
    - 07/18 – 11/18 = 163

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of

Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption?
   Every part of the process from the fact they have an appointment, to who is in the room completing an application, their name, address, DOB, fingerprints, the application itself. Clerks are told and are under full understanding that you do not even say who called to inquire about getting a CWP let alone who they issued in the office.

   a. How long does your office have possession of the personal identifying information?
      Only for the length of the application process. All documents are returned and we retain nothing.

   b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when?
      Yes – Each application and finger prints are transmitted after each transaction

   c. Does your office destroy the personal identifying information at some point? If "yes," when? We do not retain anything to destroy.

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. No

3. Are there Attorney General opinions interpreting the exemption? Unknown

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": No

   d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

   e. Please describe the types of entities requesting such information, if available.

   f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)? No

   g. If the information was released, please identify the entities or individuals to whom the information was released, if known. NA

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. No

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? No, not that I am aware of.

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes":
   No - None that we are aware of.

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

   b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

   c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain. No

8. Does the public record exemption under review benefit your office? If so, please explain.

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?
      I would only assume that more people feel uncomfortable getting a CWP knowing they were on a list open to the public therefore choosing to carry illegally or not at all in which infringes on their 2nd amendment right.

   b. How would a release of such information impact your office?
      I feel we would be inundated with public records requests to retrieve this data and worry it would cause tension among customers, those here to be issued and those that strongly oppose the right to carry.

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm?
   No, not that I am aware of.

10. Has your office received complaints about the public record exemption? If so, please explain.
    No, not that I am aware of.

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
    _XX_ Reenact the exemption in its current form. Please provide a brief explanation.
    It is an efficient and necessary piece of legislation. It protects the citizen while still allowing law enforcement access when legally necessary.
    _____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
    _____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.
    Any public record request we would receive would be directed to the Department of Agriculture since they accept the application and create the record of issuance or non-issuance.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

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DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX

FDACS CONTRACT #

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TALLAHASSEE, FLORIDA 32314-5647

2005 ESPLANADE WAY, SUITE 135
TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Charlotte County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 18500 Murdock Circle, Port Charlotte, FL 33948

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

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2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

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2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a

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subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

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ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

COPY

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Port Charlotte (City) FL (State)

this 2nd day of October, 20 15.

Witness as to Tax Collector

Deanna Fitch
Witness as to Tax Collector

TAX COLLECTOR

Vicki Potts (SEAL)
Signature

Vickie Potts
Name

Charlotte County Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

D. (SEAL)
Signature

D. Alan Edwards
Name

Director Administration
Title

CITRUS COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
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Phone: (850) 717-4890

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Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Janice A Warren

Name of person completing the questionnaire: Alicia Downing

Title of person completing the questionnaire: Records Specialist / Assistant Tax Manager

Telephone number of person completing the questionnaire: 352-341-7063

E-mail address of person completing the questionnaire: adowning@citrustc.us

Date that this questionnaire was completed: 12/14/18

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire.

   Yes

2. When was your office appointed to accept applications for concealed weapon or firearm licenses?

   We began processing licenses on 10/13/2015

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

   See attached FDACS Contract #022115

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.

   Application – Customer completes application at applicant station, scan supporting document (ie proof of proficiency with a firearm, name change documentation, passport or naturalization papers, etc) at applicant station, remit payment to Tax Collector staff member, have photo taken by Tax Collector staff member at agent station, have fingerprints scanned by Tax Collector staff member on CrossMatch machine (print and scan into CWIS at agent station), submit to FDACS through CWIS system.

   Renewal – Tax Collector staff member pulls license information in CWIS at agent station, applicant provides any updated information, applicant verifies information on signature pad, if changes – supporting documentation is scanned into CWIS at agent station, photo taken by Tax Collector staff member at agent station, if OOS applicant – new fingerprints are scanned on CrossMatch machine, remit payment to Tax Collector staff member, if NO changes and not OOS applicant – renewal card is printed by TC staff member and given to applicant, if changes and/or OOS applicant – application is submitted to FDACS through CWIS system.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.

   2015 – 505
   2016 – 2621
   2017 – 1618
   2018 – 1542 (through 12/13/18)

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.

   2015 – 113
   2016 – 1103
   2017 – 1061
   2018 – 1010 (through 12/13/18)

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption?

   This statute doesn't clearly list what is considered "personal identifying information" – typically name, address, telephone number, DOB, photographs, SSN, and Driver's license number exempt and/or confidential.

   a. How long does your office have possession of the personal identifying information?

      Until the information is submitted to FDACS through CWIS. All physical documents that a customer brings in are returned to the customer upon completion of transaction.

      ***Applications processed in our office can be retrieved through the CWIS and/or CrossMatch system. It appears that this information dates back to the date we began accepting applications.**

   b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when?

      Yes – at the end of the transaction, prior to the applicant leaving our office

   c. Does your office destroy the personal identifying information at some point? If "yes," when?

      No – electronic version is submitted to FDACS, physical documents are returned to applicant

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations.

   Not within our office. Unknown if this has been the subject of litigation for the FDACS.

3. Are there Attorney General opinions interpreting the exemption?

   Unknown

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes":

   No

   d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

   e. Please describe the types of entities requesting such information, if available.

   f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

   g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances.

   No

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how?

   Unknown

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes":

   Unknown

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

   b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain.

No – any public record's request submitted to our office for CWL information would be directed to the FDACS

a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?

b. How would a release of such information impact your office?

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm?

NA

10. Has your office received complaints about the public record exemption? If so, please explain.

Not to my knowledge

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?

_____ Reenact the exemption in its current form. Please provide a brief explanation.

__x__ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.

Provide what information is considered "personal identifying information", don't leave it up to interpretation

_____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

FDACS CONTRACT #

022115

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX

POST OFFICE BOX 5647
TALLAHASSEE, FLORIDA 32314-5647

4040 ESPLANADE WAY, SUITE 135
TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Citrus County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 210 N. Apopka Ave. Suite 100, Inverness, FL 34450

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a

subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Inverness (City) Florida (State)

this 28th day of May, 2015.

TAX COLLECTOR

Witness as to Tax Collector

Witness as to Tax Collector

(SEAL)
Signature

Janice A. Warren
Name

Citrus County Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

(SEAL)
Signature

D. Alan Edwards
Name

Director Administration
Title

COLLIER COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Larry H Ray

Name of person completing the questionnaire: Robert Stoneburner

Title of person completing the questionnaire: Deputy Tax Collector

Telephone number of person completing the questionnaire: 239-252-8051

E-mail address of person completing the questionnaire: rstoneburner@colliertax.com

Date that this questionnaire was completed: 12/20/2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire.
   Yes

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? Appointed: November 4, 2015. Opening date: January 21, 2016

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.
   Added as an attachment.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.
   The person completes the permit application using Dept. of Agriculture and Consumer services software on their designated computer stations. For new applicants, staff takes photograph and fingerprints of applicant (renewals: no fingerprints). Staff then submits application electronically to FDACS on their computer equipment.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.
   2016: 3242
   2017: 2687
   2018 (thru Nov) :2422

   TOTAL TO DATE: 8351

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.
   2016: 890
   2017: 994
   2018: (thru Nov); 998

   TOTAL TO DATE: 2882

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? Name, address, Social Security # (optional-if given)
   Our requests the applicants government issued identification (Driver license or ID card) at the time of the application to verify the applicant's identity. We do not keep copies

   a. How long does your office have possession of the personal identifying information?
   Our office does not retain the applicant's documents of identification or application. Once the application process is over, the applicant leaves with all their personal information/documentation in hand.

   b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when?
   Yes. The predesigned application software is connected to the department and all information gets transmitted directly to them.

   Does your office destroy the personal identifying information at some point? If "yes," when?
   Our office does not retain the information, the applicant leaves with all their documentation in hand and their application is submitted to the department

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. Unknown

3. Are there Attorney General opinions interpreting the exemption? Unknown

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": No

   c. What is the number of requests your office has received for such exempt information each year since July 1, 2014? N/A

   d. Please describe the types of entities requesting such information, if available. N/A

   e. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)? N/A

   f. If the information was released, please identify the entities or individuals to whom the information was released, if known. N/A

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. None known or encountered

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? No

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": Unknown

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects. N/A

   b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm. N/A

   c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain. N/A

8. Does the public record exemption under review benefit your office? If so, please explain. Unknown

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm? Unknown

   b. How would a release of such information impact your office? Unknown

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm? No

10. Has your office received complaints about the public record exemption? If so, please explain. No

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
    _____ Reenact the exemption in its current form. Please provide a brief explanation.
    __X___ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation. Remove the sunset provision and make the exemption permanent.
    _____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review. None.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

FDACS CONTRACT #

022108

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX

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TALLAHASSEE, FLORIDA 32314-5647

4040 ESPLANADE WAY, SUITE 135
TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Collier County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 3291 Tamiami Trail East, Naples FL 34112

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a

subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at NAPLES (City) FLORIDA (State)

this 4TH day of NOVEMBER, 20 15.

Witness as to Tax Collector

Witness as to Tax Collector

TAX COLLECTOR

Signature (SEAL)

LARRY RAY

Name

TAX Collector

Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

Signature (SEAL)

D. Alan Edwards

Name

Director Administration

Title

DESOTO COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Kathryn J Hill

Name of person completing the questionnaire: Kathryn J Hill

Title of person completing the questionnaire: Tax Collector

Telephone number of person completing the questionnaire: 863-993-4861

E-mail address of person completing the questionnaire: k.hill@co.desoto.fl.us

Date that this questionnaire was completed: December 19, 2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. NO-This office does not receive applications and/or renewals for concealed weapon or firearm licenses.
2. When was your office appointed to accept applications for concealed weapon or firearm licenses?

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption?

    a. How long does your office have possession of the personal identifying information?

    b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when?

    c. Does your office destroy the personal identifying information at some point? If "yes," when?

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations.

3. Are there Attorney General opinions interpreting the exemption?

DIXIE COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
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Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Michelle F. Cannon

Name of person completing the questionnaire: Michelle F. Cannon

Title of person completing the questionnaire: Dixie County Tax Collector

Telephone number of person completing the questionnaire: 352-498-1478 ext 1

E-mail address of person completing the questionnaire: mcannon@dixiecountytax.com

Date that this questionnaire was completed: 12/21/18

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. **Yes**

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? **4/13/16**

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services. **attached**

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office. **New applicant completes application online, staff collects payment, takes picture and process fingers prints. Renewals are completely handled by staff.**

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.
   2016- 148
   2017-324
   2018-452

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.
   2016-60
   2017-150
   2018-113

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption?
   All information obtained during application process of CWP.

   a. How long does your office have possession of the personal identifying information? **We do not have possession of personal identifying information. We can access it through the Department of Agriculture's CWP system.**

b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? **Yes, during application period.**

c. Does your office destroy the personal identifying information at some point? If "yes," when? **No**

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. **I am not aware of any litigation.**

3. Are there Attorney General opinions interpreting the exemption?
I am not aware of any A.G. opinions.

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": **No**

d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

e. Please describe the types of entities requesting such information, if available.

f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. **No**

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? **No**

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": **I am not aware of any other laws.**

a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain. **Yes, it protects our customers' identity and shields the information from public records request.**

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm? **The release of personal identifying information would negatively impact law-abiding gun owners and could possibly make them a target for criminal activity.**

   b. How would a release of such information impact your office? **With gun rights at the forefront of media attention, I believe my office would be bombarded with public records request. As a small office with only 7 employees this would severely impact my office.**

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm? **No**

10. Has your office received complaints about the public record exemption? If so, please explain. **No**

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
    ___**YES**__ Reenact the exemption in its current form. Please provide a brief explanation.
    _____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
    _____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX FDACS CONTRACT # 023150

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TALLAHASSEE, FLORIDA 32314-5647

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TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Dixie County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 214 County Road 351, Cross City, FL 32628

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a

subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Cross City (City) FL (State)

this 13th day of April, 20 16.

TAX COLLECTOR

Witness as to Tax Collector

Witness as to Tax Collector

(SEAL)
Signature

Michelle F. Cannon
Name

Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

(SEAL)
Signature

D. Alan Edwards
Name

Director Administration
Title

DUVAL COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Jim Overton

Name of person completing the questionnaire: Sherry Hall

Title of person completing the questionnaire: Chief Deputy Tax Collector

Telephone number of person completing the questionnaire: 904-630-7581

E-mail address of person completing the questionnaire: sherryh@coj.net

Date that this questionnaire was completed: 12/17/2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. **Yes.**

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? **October 4, 2018 date of MOU, started issuing on Dec. 12, 2018.**

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services. **Attached.**

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office. **Applications are submitted in person in a private Concealed Weapons room utilizing the Department of Agriculture's electronic system. We utilize full-time staff trained by the Department.**

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014. **We began issuance on December 12, 2018 and have issued seven original applications.**

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014. **Since December 12, 2018 we have issued three renewals.**

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? **Customer's name, address, phone number, email address and Social Security number and payment information collected as part of a transaction.**

    a. How long does your office have possession of the personal identifying information? **It remains in the state system and is not printed out or retained by the Tax Collector.**

    b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? **No. The customer enters their application information directly into the Department of Agriculture's computer system and it is transferred automatically. The process does not involve the Tax Collector.**

c. Does your office destroy the personal identifying information at some point? If "yes," when? **No. We do not retain personal identifying information.**

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. **New issuance county. We have received no requests and have not been involved in litigation.**

3. Are there Attorney General opinions interpreting the exemption? **New issuance county. Not involved in litigation or exposed to opinions regarding same.**

3. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": **No.**

   d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

   e. Please describe the types of entities requesting such information, if available.

   f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

   g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

4. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. **New issuance county that has not been asked to release information. We would contact the Department of Agriculture as it serves as custodian of those records.**

4. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? **New issuance county that has not been asked to release information. We would contact the Department of Agriculture as custodian of those records.**

5. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": **New issuance county that has not been asked to release information. We would contact the Department of Agriculture as custodian of those records.**

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

   b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

6. Does the public record exemption under review benefit your office? If so, please explain. **New issuance county that has not been asked to release information.**

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?

   b. How would a release of such information impact your office?

7. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm? **New issuance county that has not been asked to release information. We would contact the Department of Agriculture as custodian of those records.**

8. Has your office received complaints about the public record exemption? If so, please explain. **No.**

9. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption? **As a new issuance county, this office has not received a public records request for related to concealed weapons but would consult with the Department of Agriculture if such a request is received.**
   _____ Reenact the exemption in its current form. Please provide a brief explanation.
   _____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
   _____ Repeal the exemption. Please provide a brief explanation.

10. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX

POST OFFICE BOX 5647
TALLAHASSEE, FLORIDA 32314-5647

4040 ESPLANADE WAY, SUITE 135
TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

COMMISSIONER ADAM H. PUTNAM

September 10, 2018

Ms. Sherry Hall
Chief Deputy Tax Collector
Duval County Tax Collector's Office
231 E. Forsyth Street
Jacksonville, Florida 32202

Dear Ms. Hall:

I am writing to acknowledge receipt of your letter expressing an interest in accepting Florida Concealed Weapon or Firearm License applications on the department's behalf at your Beaches Branch (1505 Atlantic Boulevard, Neptune Beach, Florida 32266) and your Yates Branch (231 East Forsyth Street, Jacksonville, Florida 32202).

More than fifty Florida tax collectors have written to us asking to join with the department in the concealed weapon licensing initiative. Throughout the last four years, our goal in establishing installation priorities has been providing the greatest degree of accessibility to concealed weapon licensing services to those Floridians who wish to avail themselves of such services. This strategic approach has allowed us to enhance the concealed weapon licensing program as a whole.

Although I cannot provide a specific date of installation for your office, I would like to take this opportunity to discuss the steps we will take in deploying the Concealed Weapon Intake System (CWIS) in Duval County. In a separate mailing, we will send you a memorandum of understanding regarding your participation in the partnership. Our team will visit your office to conduct a site survey to assess the space where you plan to place the CWIS equipment. After you make any needed modifications to your space, our team will return for your network installation. Following a successful network installation, we will schedule dates for your training in our Tallahassee office and for your "go-live" events.

My project manager, Whitney Bryan, will contact you to schedule your site visit. Please contact Whitney at 850-245-5663 or by e-mail at Whitney.Bryan@FreshFromFlorida.com if you have any questions or concerns.

Commissioner Putnam and my entire staff in the Division of Licensing believe that this joint initiative between the department and Florida tax collectors is an important initiative that serves the interests of law-abiding Floridians who wish to secure their safety and well-being by obtaining a license that allows them to lawfully carry concealed weapons. We look forward to working with your office in the future in this collaborative venture.

Sincerely,

Grea Bevis
Director of Licensing

FDACS CONTRACT #

025696

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX

POST OFFICE BOX 5647
TALLAHASSEE, FLORIDA 32314-5647

4040 ESPLANADE WAY, SUITE 135
TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Duval County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 231 E. Forsyth Street, Jacksonville, FL 32202

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector may, pursuant to Section 790.0625(5), F.S., collect and retain the enumerated convenience fees for each service provided. These convenience fees are separate and distinct from the statutory fees for concealed weapon or firearm license applications stated in Section 790.06, Florida Statutes.

3.4. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.5. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.6. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must

complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.7. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.8. The Tax Collector may print and deliver a concealed weapon or firearm license to a licensee renewing his or her license pursuant to the requirements of Section 790.0625(8), Florida Statutes.

3.9. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.10. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department with the exception that the Director of Administration or his authorized designee shall be the signatory official for this MOU. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.11. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.12. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0625(6)(a), Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that

are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for personal identifying information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Jacksonville (City) FL (State)

this 4th day of October, 20 18.

TAX COLLECTOR

Debra Doran
Witness as to Tax Collector

Sherry L Hall (SEAL)
Signature

Witness as to Tax Collector

Sherry Hall
Name

Chief Deputy
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

Signature (SEAL)

Name Joey B. Hicks

Title Dir. of Admin.

ESCAMBIA COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Scott Lunsford

Name of person completing the questionnaire: Scott Lunsford

Title of person completing the questionnaire: Tax Collector

Telephone number of person completing the questionnaire: 850-438-6500

E-mail address of person completing the questionnaire: ectc@escambiataxcollector.com

Date that this questionnaire was completed: December 20, 2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. **Yes. Our Molino and Warrington offices.**

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? **Warrington December 15, 2015 ~ Molino December 17, 2017**

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.

Warrington	Molino	Year Total
2016 ~ 973	2016 ~ 0	2016 ~ 973
2017 ~ 3578	2017 ~ 72	2017 ~ 3650
2018 ~ 2558	2018 ~ 474	2018 ~ 3032
		Grand Total ~ 7655

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.

Warrington	Molino	Year Total
2016 ~ 331	2016 ~ 0	2016 ~ 331
2017 ~ 1100	2017 ~ 16	2017 ~ 1116
2018 ~ 809	2018 ~385	2018 ~ 1190
		Grand Total ~ 2641

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? **All DACS information is considered confidential.**

   a. How long does your office have possession of the personal identifying information? **For brief moments as the transaction is processed. All documents and receipts are returned to the customer. We do not maintain any files for DACS customers.**

b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? **All personal identifying information is entered directly into the secure DACS system and transmitted electronically over a secure network before the customers leaves the office.**

c. Does your office destroy the personal identifying information at some point? If "yes," when? **All documents are immediately returned to the customer. We do not keep any personal identifying information.**

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. **We are unaware of any litigation.**

3. Are there Attorney General opinions interpreting the exemption? **Unknown**

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": **Have not received any public records requests for DACS information.**

   d. What is the number of requests your office has received for such exempt information each year since July 1, 2014? **None**

   e. Please describe the types of entities requesting such information, if available. **N/A**

   f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)? **No**

   g. If the information was released, please identify the entities or individuals to whom the information was released, if known. **N/A**

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. **No.**

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? **Unknown**

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": **Unknown**

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects. **N/A**

   b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm. **N/A**

c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain. **Unknown**

8. Does the public record exemption under review benefit your office? If so, please explain.
No. There is no known benefit to our office.

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?
   It could create an address list for criminals to target for gun theft.
   A breach of confidential addresses if family member made application.
   Older lists could be maintained and farmed to target newly exempt records.

   b. How would a release of such information impact your office?
   Possible litigation and or Loss of public trust.
   Angry customer could determine if a collector employee is licensed to carry.

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm?
No.

10. Has your office received complaints about the public record exemption? **No.**

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
Yes. Reenact the exemption in its current form. There have been no complaints because of the exemption. The privacy rights of our constituents are critical to their individual safety. Release of this information serves no public purpose and only serves as a hinderance to exercising second amendment rights.

12. Please provide any additional comments regarding the public record exemption under review.
The decision to carry is very personal and private. I cannot think of any reasonable situation that would require the general public to have access to the CCW database.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

FDACS CONTRACT #

022109

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX

POST OFFICE BOX 5647
TALLAHASSEE, FLORIDA 32314-5647

4040 ESPLANADE WAY, SUITE 135
TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Escambia County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 213 Palafox PL, Pensacola FL 32502

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a

subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Pensacola, (City) Florida (State)

this 24th day of August, 20 15.

TAX COLLECTOR

Catherine M Yates
Witness as to Tax Collector

Pam Allen
Witness as to Tax Collector

Janet Holley (SEAL)
Signature

Janet Holley
Name

Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Carmella Britt
Witness as to State

Julie Jaquez
Witness as to State

(SEAL)
Signature

D. Alan Edwards
Name

Director Administration
Title

GADSDEN COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: W Dale Summerford

Name of person completing the questionnaire: W Dale Summerford

Title of person completing the questionnaire: Tax Collector, Gadsden County

Telephone number of person completing the questionnaire: (850) 627-7255

E-mail address of person completing the questionnaire: dsummerford@tds.net

Date that this questionnaire was completed: 12/13/2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. No. The Gadsden County Tax Collector does not receive applications or renewals for concealed weapons/firearms.

2. When was your office appointed to accept applications for concealed weapon or firearm licenses?

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption?

    a. How long does your office have possession of the personal identifying information?

    b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when?

    c. Does your office destroy the personal identifying information at some point? If "yes," when?

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations.

3. Are there Attorney General opinions interpreting the exemption?

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes":

    d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

    e. Please describe the types of entities requesting such information, if available.

    f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

    g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances.

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how?

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes":

    a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

    b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

    c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain.

    a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?

    b. How would a release of such information impact your office?

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm?

10. Has your office received complaints about the public record exemption? If so, please explain.

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
    _____ Reenact the exemption in its current form. Please provide a brief explanation.
    _____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
    _____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

GILCHRIST COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

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Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector:

Name of person completing the questionnaire: Barbara J. Merritt

Title of person completing the questionnaire: Tax Collector

Telephone number of person completing the questionnaire: 352-463-3178

E-mail address of person completing the questionnaire: bmerritttaxcollector@gilchrist.fl.us

Date that this questionnaire was completed: 12-20-2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. No. This office does not receive applications or renewals for concealed weapon licenses.

2. When was your office appointed to accept applications for concealed weapon or firearm licenses?

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption?

    a. How long does your office have possession of the personal identifying information?

    b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when?

    c. Does your office destroy the personal identifying information at some point? If "yes," when?

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations.

3. Are there Attorney General opinions interpreting the exemption?

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes":

    d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

    e. Please describe the types of entities requesting such information, if available.

    f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

    g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances.

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how?

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes":

    a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

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8. Does the public record exemption under review benefit your office? If so, please explain.

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11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
    _____ Reenact the exemption in its current form. Please provide a brief explanation.
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    _____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

GLADES COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

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Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Glades County Tax Collector, Gail A. Jones

Name of person completing the questionnaire: Gail A. Jones

Title of person completing the questionnaire: Glades County Tax Collector

Telephone number of person completing the questionnaire: 863-946-6035

E-mail address of person completing the questionnaire: gladestax@embarqmail.com

Date that this questionnaire was completed: 12/14/2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. We do not do concealed weapon licenses.

2. When was your office appointed to accept applications for concealed weapon or firearm licenses?

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption?

    a. How long does your office have possession of the personal identifying information?

    b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when?

    c. Does your office destroy the personal identifying information at some point? If "yes," when?

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations.

3. Are there Attorney General opinions interpreting the exemption?

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes":

    d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

    e. Please describe the types of entities requesting such information, if available.

    f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

    g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances.

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how?

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes":

    a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

    b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

    c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain.

    a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?

    b. How would a release of such information impact your office?

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm?

10. Has your office received complaints about the public record exemption? If so, please explain.

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
    _____ Reenact the exemption in its current form. Please provide a brief explanation.
    _____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
    _____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

HAMILTON COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Mary Sue Adams; Hamilton County

Name of person completing the questionnaire: Mary Sue Adams

Title of person completing the questionnaire: Tax Collector

Telephone number of person completing the questionnaire: 386-792-1284

E-mail address of person completing the questionnaire: msadams@hamiltoncountytaxcollector.com

Date that this questionnaire was completed: 12-14-18

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. NO

2. When was your office appointed to accept applications for concealed weapon or firearm licenses?

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption?

    a. How long does your office have possession of the personal identifying information?

    b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when?

    c. Does your office destroy the personal identifying information at some point? If "yes," when?

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations.

3. Are there Attorney General opinions interpreting the exemption?

HENDRY COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: PAT LANGFORD

Name of person completing the questionnaire: ROXZY TOWNSEND

Title of person completing the questionnaire: NO TITLE

Telephone number of person completing the questionnaire: 863-675-5280

E-mail address of person completing the questionnaire: roxzy@hendrytaxcollector.org

Date that this questionnaire was completed: 12/20/2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. YES

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? 11/20/2015

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services. SEE ATTACHED

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office. SEE ATTACHED

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014. SEE ATTACHED

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014. SEE ATTACHED

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? ALL NAMES AND PERSONAL INFORMATION SUCH AS PHYSICAL ADDRESS, DRIVER LICENSE AND SOCIAL SECURITY NUMBERS ATTACHED WITH THAT NAME.

    a. How long does your office have possession of the personal identifying information? FOR AS LONG AS THE CUSTOMER IS BEING PROCESSED.

    b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? YES. ELECTRONICALLY AND UPON COMPLETION OF THE APPLICATION , FINGER PRINTING AND PHOTO PROCESS.

    c. Does your office destroy the personal identifying information at some point? If "yes," when? THIS OFFICE DOES NOT RETAIN ANY DOCUMENTS PERTAINING TO THE CUSTOMER APPLICATION PROCESS. ALL DOCUMENTS ARE SENT HOME WITH THE CUSTOMER.

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. NO

3. Are there Attorney General opinions interpreting the exemption? NOT KNOWN

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": NO

    d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

    e. Please describe the types of entities requesting such information, if available.

    f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

    g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. NO

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? YES TO OBTAIN BY ALTERNATIVE MEANS. WOULD HAVE TO GO THROUGH TALLAHASSEE.

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": UNKNOWN

    a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

    b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

    c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain. YES. EVERY PERSON EXPECTS THEIR PERSONAL INFORMATION TO BE PROTECTED UNLESS THEIR CONSENT IS GIVEN. THAT IS WHY WE CANNOT DISCLOSE WHO CAME IN AND WHAT THEY CAME IN FOR.

a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?

b. How would a release of such information impact your office?

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm?
NO

10. Has your office received complaints about the public record exemption? If so, please explain.
NO

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
__X___ Reenact the exemption in its current form. Please provide a brief explanation. WE FEEL IT IS IN THE BEST INEREST OF THE CUSTOMERS.
_____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
_____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

HENDRY COUNTY TAX COLLECTOR

PO DRAWER 1780
LABELLE, FL 33975
PHONE: 863-675-5280, FAX: 863-675-2366

RE: OPEN GOVERNMENT SUNSET REVIEW QUESTIONAIRE

Page 2-#4
New Applicant:
Person must complete an approved gun safety course and present their certificate of completion, present their DD214 or their Hunter Safety card.

Person must present their Permanent resident card or the Naturalization Certificate/US Passport if they were born outside of the United States of America but are now residing in the US permanently.

All must complete an application on line in our office as well as the photo and fingerprinting process. All documents used, copied or printed is given to the customer to take back with that customer. We keep no documents of that customer on hand.

Renewal Customer:
Person must present their permit for renewal. Address changes are noted during the process and a permit is printed on site if the system allows. All documents are given back to customer.

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July 1, 2014 – Dec. 31, 2014	NONE
Jan. 1, 2015 – Dec. 31, 2015	NONE
Jan. 1, 2016 – Dec. 31, 2016	209
Jan. 1, 2017 – Dec. 31, 2017	575
Jan. 1, 2018 – Dec. 17, 2018	525

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July 1, 2014 – Dec. 31, 2014	NONE
Jan. 1, 2015 – Dec. 31, 2015	NONE
Jan. 1, 2016 – Dec. 31, 2016	94 Renewals
Jan. 1, 2017 – Dec. 31, 2017	206 Renewals
Jan. 1, 2018 – Dec. 17, 2018	202 Renewals

FDACS CONTRACT #

022135

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX

POST OFFICE BOX 5647
TALLAHASSEE, FLORIDA 32314-5647

4040 ESPLANADE WAY, SUITE 135
TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Hendry County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 25 E. Hickpochee Ave., Labelle, FL 33935

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a

subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at LaBelle, Florida
City State

this 06th day of November, 20 15.

Witness as to Tax Collector

Witness as to Tax Collector

TAX COLLECTOR

(SEAL)
Signature

Patrick B. Langford
Name

Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

(SEAL)
Signature

D. Alan Edwards
Name

Director Administration
Title

HERNANDO COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: SALLY DANIEL

Name of person completing the questionnaire: SALLY DANIEL/COURTNEY VOLBERG

Title of person completing the questionnaire: TAX COLLECTOR/MANAGER

Telephone number of person completing the questionnaire: 352-540-6495/352-540-6496

E-mail address of person completing the questionnaire:
SALLYD@HERNANDOCOUNTY.US/CVOLBERG@HERNANDOCOUNTY.US

Date that this questionnaire was completed: 1/2/2019

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. YES

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? FEBRUARY 2016

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.
   SEE ATTACHMENT

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.
   SEE ATTACHMENT

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.
   2016 (MAY – DEC) 1401 2017 = 2040 2018 (JAN – OCT) 1682

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.
   2016 (MAY-DEC) 435 2017 = 732 2018 (JAN –OCT) 669

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? NAME, ADDRESS, DATE OF BIRTH, SOCIAL SECURITY NUMBER, PHONE# AND EMAIL.

   a. How long does your office have possession of the personal identifying information? **DATA DOES STORE IN THE COMUTER SYSTEM FOR LONG PERIODS OF TIME. WE DO NOT KNOW THE PRECISE AMOUNT OF TIME, HOWEVER OUR OFFICE DOES RETAIN DATA IN BOTH FINGER PRINT AND THE APPLICATION SYSTEMS.**

b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when?
YES – VIA THE ONLINE APPLICATION, AUTOMATICALY UPON COMPLETION.

c. Does your office destroy the personal identifying information at some point? If "yes," when?
N/A

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. UNKNOWN

3. Are there Attorney General opinions interpreting the exemption? UNKNOWN

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": NO

   d. What is the number of requests your office has received for such exempt information each year since July 1, 2014? 0

   e. Please describe the types of entities requesting such information, if available. N/A

   f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)? N/A

   g. If the information was released, please identify the entities or individuals to whom the information was released, if known. N/A

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. NO

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? NO

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": UNKNOWN

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

   b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain.
UNKNOWN

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?

   b. How would a release of such information impact your office?

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm?
NO

10. Has your office received complaints about the public record exemption? If so, please explain.
NO

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
XX Reenact the exemption in its current form. Please provide a brief explanation.
_____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
_____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

FDACS CONTRACT #

022118

DIVISION OF LICENSING
(850) 245-5500
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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Hernando County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 20 N. Main Street, Room 112, Brooksville, FL 34601

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a

subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Brooksville (City) Florida (State)

this 15th day of June, 2015.

Witness as to Tax Collector

Witness as to Tax Collector

TAX COLLECTOR

Signature (SEAL)

Sally L. Daniel
Name

Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

Signature (SEAL)

D. Alan Edwards
Name

Director Administration
Title

CONCEALED WEAPONS PROCEDURE

Upon entry to the office the customer is given a number.

The clerk calls the customer in to room by their number and sets them up at the applicant station to complete their application and scan their documents, if they are applying for an original.

Upon completion of their application, the customer moves to the agent desk where their application is printed for them to review. Our clerk collects the fees and takes their picture.

Then the customer is moved over to the fingerprint machine. We print the fingerprint card and have the customer review the information.

The clerk then scans the fingerprints.

All documents are stapled together and given to the customer.

If they are renewing then the clerk takes them directly to the agent station to begin.

We pull up the record, verify the information, have the customer complete their application portion on the keypad, take their picture, collect the money, submit the renewal and print their card. (Non-residents get fingerprinted and their new card mailed from Tallahassee.)

Our office does not retain any paperwork.

Our cashiering system generates a receipt, we retain a copy and the customer receives a copy. The receipt does not contain any personal information, it is identifiable by the T# that is provided on the customers application.

HIGHLANDS COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Eric T Zwayer

Name of person completing the questionnaire: Kim Cloud

Title of person completing the questionnaire: Customer Service Manager

Telephone number of person completing the questionnaire: 863-402-6694

E-mail address of person completing the questionnaire: kcloud@hctaxcollector.com

Date that this questionnaire was completed: December 20, 2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. **YES**

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? **April 2015**

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.

Original	**Renewal**
-Complete application on computer	**- Provide name, date of birth and CWL #**
-Fingerprinted by clerk	**- Picture taken**
- Picture taken	

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.
   Total original and renewal applications processed -
   Feb – Dec 2016: 3213 2017: 2133 2018: 1859

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.
   See Question #5

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption?
   Applications completed by the customer

   a. How long does your office have possession of the personal identifying information?
      Applications are printed and kept until the invoice is received by the state and balanced.

b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when?
All applications are submitted electronically to the state at the time of application.

c. Does your office destroy the personal identifying information at some point? If "yes," when? **Yes, once the invoice from the state is balanced the applications are shred.**

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. **No**

3. Are there Attorney General opinions interpreting the exemption? **No**

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": **No**

d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

e. Please describe the types of entities requesting such information, if available.

f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. **No**

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how?

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes":

a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain.

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?

   b. How would a release of such information impact your office?

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm?

10. Has your office received complaints about the public record exemption? If so, please explain.

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
    _____ Reenact the exemption in its current form. Please provide a brief explanation.
    _____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
    _____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

FDACS CONTRACT #

021875

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX

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4040 ESPLANADE WAY, SUITE 135
TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Highlands County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 540 S. Commerce Avenue, Sebring, FL 33870
(hereinafter known as office)

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Amended and Restated Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the

equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The

Tax Collector will receive payment by credit of the outstanding amount via a subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at _____
City State

this _____ day of _____, 20 _____.

TAX COLLECTOR

_____
Witness as to Tax Collector

_____
Witness as to Tax Collector

_____(SEAL)
Signature

Eric T. Zwayer
Name

Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

_____
Witness as to State

_____
Witness as to State

_____(SEAL)
Signature

D. Alan Edwards
Name

Director Administrator
Title

HILLSBOROUGH COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Doug Belden

Name of person completing the questionnaire: Dale M. Hoffman

Title of person completing the questionnaire: Director of Branch Operations

Telephone number of person completing the questionnaire: 813-612-6730

E-mail address of person completing the questionnaire: hoffman@hillstax.org

Date that this questionnaire was completed: 12/19/18

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. **Yes.**

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? **January 23, 2015**

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office. **We follow the guidelines established by the Department of Agriculture(DOA). Basically, a customer comes into our North Tampa Branch, they complete their application process and fingerprinting, have their photo taken and the entire packet is electronically submitted to the DOA.**

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.

Fiscal Year	New
07/01/14 - 06/30/15	154
07/01/15 - 06/30/16	3603
07/01/16 - 06/30/17	2894
07/01/17 - 06/30/18	2104
07/01/18 - 11/30/18	699

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.

Fiscal Year	Renewal
07/01/14 - 06/30/15	0
07/01/15 - 06/30/16	391
07/01/16 - 06/30/17	719
07/01/17 - 06/30/18	847
07/01/18 - 11/30/18	343

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? **We refer to the Department of Agriculture & Consumer Services.**
   a. How long does your office have possession of the personal identifying information?

   b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when?

   c. Does your office destroy the personal identifying information at some point? If "yes," when?

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. **Unknown.**

3. Are there Attorney General opinions interpreting the exemption? **Unknown.**

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": **No.**

   d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

   e. Please describe the types of entities requesting such information, if available.

   f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

   g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. **Unknown.**

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? **Unknown.**

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": **Unknown.**

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain. **Unknown.**

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?

   b. How would a release of such information impact your office?

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm? **No.**

10. Has your office received complaints about the public record exemption? **No.** If so, please explain.

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption? **No Opinion.**
    _____ Reenact the exemption in its current form. Please provide a brief explanation.
    _____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
    _____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

021843

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX

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TALLAHASSEE, FLORIDA 32314-5647

4040 ESPLANADE WAY, SUITE 135
TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Hillsborough County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 601 E. Kennedy Blvd, 14th Floor, Tampa, FL 33602

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

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2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

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subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

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ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

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A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Tampa (City) Florida (State)

this 23 day of January, 20 15.

TAX COLLECTOR

Witness as to Tax Collector

Witness as to Tax Collector

(SEAL)

Signature

Doug Belden

Name

Tax Collector

Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

(SEAL)

Signature

D. Alan Edwards

Name

Director Administration

Title

JACKSON COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

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To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Mary Carol Murdock

Name of person completing the questionnaire: Mary Carol Murdock

Title of person completing the questionnaire: Tax Collector

Telephone number of person completing the questionnaire: 850-209-1858

E-mail address of person completing the questionnaire: marymurdock@jacksonctc.com

Date that this questionnaire was completed: 12/21/18

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? Yes If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire.

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? June 2016

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services. This document is not available due to our current office (Courthouse)situation due to hurricane Michael

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office. Appointment may be made (not required), customer comes into the office and goes into our CW room away from lobby, accompanied by clerk to complete the process along with Fingerprinting and photograph.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014. We have taken 1002 applications as of this day for the year 2018. Prior years are not available at this time.

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014. We have received 369 renewals thus far for 2018. No records available for prior years.

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? Names, addresses, birth dates, phone numbers, Driver License, ID Cards, social security numbers and all paperwork for CW.

    a. How long does your office have possession of the personal identifying information? We only look at the information and give back to the customer.

    b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? Yes, when we transmit the paperwork and application to them.

c. Does your office destroy the personal identifying information at some point? If "yes," when? We don't keep any identifying information.

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. Unknown

3. Are there Attorney General Opinions interpreting the exemption? Unknown

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": NO

   d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

   e. Please describe the types of entities requesting such information, if available.

   f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

   g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. No

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? Unknown

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": Unknown

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

   b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

   c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain Yes, it allows the CW applicant's records remain confidential.

a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm? They could be subject to harassment.

b. How would a release of such information impact your office? Those whose information was released could possible think that their application through our office was not handled properly.

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm?
NO

10. Has your office received complaints about the public record exemption? If so, please explain.
NO

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
___x__ Reenact the exemption in its current form. Please provide a brief explanation.
_____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
_____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.
This exemption of public records protects law abiding citizens from potential crimes and harassment.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

LAFAYETTE COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Chuck Hewett / Lafayette County

Name of person completing the questionnaire: Chuck Hewett

Title of person completing the questionnaire: Tax Collector

Telephone number of person completing the questionnaire: 386-294-1961

E-mail address of person completing the questionnaire: lafayettetc@gmail.com

Date that this questionnaire was completed: 12/14/2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. YES

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? 10/19/2017

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services. ENCLOSED

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office. ID, CERTIFICATE OF COMPLETION FOR FIREARMS TRAINING, COMPLETE APPLICATION, FINGERPRINTS, PICTURE

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014. 181

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014. 55

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? DL#, SS#, DOB, ADDRESS

    a. How long does your office have possession of the personal identifying information? DURING APPLICATION PROCESS

    b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? YES, ELECTRONICALLY DURING APPLECATION PROCESS.

    c. Does your office destroy the personal identifying information at some point? If "yes," when? NO, WE GIVE ALL DOCUMENTS TO THE CUSTOMER. WE DO NOT KEEP ANY DOCUMENTS.

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. NOT TO MY KNOWLEDGE

3. Are there Attorney General opinions interpreting the exemption? NOT TO MY KNOWLEDGE

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": NOT TO MY KNOWLEDGE

   d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

   e. Please describe the types of entities requesting such information, if available.

   f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

   g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. NO

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? NO, WE KEEP NO RECORDS

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": UNKNOWN

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

   b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

   c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain. UNKNOWN

a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?

b. How would a release of such information impact your office?

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm? NO

10. Has your office received complaints about the public record exemption? If so, please explain. NO

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption? NO RECOMMENDATIONS
_____ Reenact the exemption in its current form. Please provide a brief explanation.
_____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
_____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

DIVISION OF LICENSING
(850) 245-5500
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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Lafayette County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: Lafayette County Courthouse, 120 West Main St, Mayo, FL 32066

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector may, pursuant to Section 790.0625(5), F.S., collect and retain the enumerated convenience fees for each service provided. These convenience fees are separate and distinct from the statutory fees for concealed weapon or firearm license applications stated in Section 790.06, Florida Statutes.

3.4. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.5. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.6. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must

complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.7. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.8. The Tax Collector may print and deliver a concealed weapon or firearm license to a licensee renewing his or her license pursuant to the requirements of Section 790.0625(8), Florida Statutes.

3.9. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.10. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department with the exception that the Director of Administration or his authorized designee shall be the signatory official for this MOU. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.11. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.12. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0625(6)(a), Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that

are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for personal identifying information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes; the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at MAYO (City) FL (State)

this 18th day of September, 20 17.

Taylor Newberry
Witness as to Tax Collector

Shelia B Adams
Witness as to Tax Collector

TAX COLLECTOR

Charles B Hewett (SEAL)
Signature

Charles B. Hewett, Jr.
Name

Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

(SEAL)
Signature

Thomas Pinchar
Name

Assistant Director of Administration
Title

LAKE COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: David Jordan

Name of person completing the questionnaire: Tina Carpenter

Title of person completing the questionnaire: Executive Director of Tax Services

Telephone number of person completing the questionnaire: 352-253-2123

E-mail address of person completing the questionnaire: tina.carpenter@laketax.com

Date that this questionnaire was completed: 12/17/2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire.

   Yes.

2. When was your office appointed to accept applications for concealed weapon or firearm licenses?

   August 2015

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.

   The Department of Agriculture's application is electronic and each segment is completed in person, on computers provided to the Tax Collector's Office by the Division of Licensing. Application is completed, documents are scanned (if applicable), photograph is taken, fingerprinting is conducted (if applicable), and everything is electronically submitted to the Department of Agriculture.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.

   2016: 2,083
   2017: 2,264
   2018: 3,257

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.

   2016: 872
   2017: 1,060
   2018: 1,518

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of

Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? **All, in accordance with Chapters 119 and 790, Florida Statutes.**

    a. How long does your office have possession of the personal identifying information? **All documents are provided to or retained by the customer after submitting to Department of Agriculture.**

    b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? **All information is entered into Department of Agriculture equipment and submitted through their equipment.**

    c. Does your office destroy the personal identifying information at some point? If "yes," when? **None retained. All provided to or retained by customer.**

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. **No, not to the best of our knowledge.**

3. Are there Attorney General opinions interpreting the exemption? **Unknown**

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": **No record of, or knowledge of any requests.**

    d. What is the number of requests your office has received for such exempt information each year since July 1, 2014? **None, to the best of our knowledge.**

    e. Please describe the types of entities requesting such information, if available. **N/A**

    f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)? **To the best of our knowledge, no.**

    g. If the information was released, please identify the entities or individuals to whom the information was released, if known. **N/A**

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. **No**

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? **No, not from our office. We are not aware of any other legal means.**

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": **We are not aware of any such federal law or another Florida law other than Chapters 119 and 790, Florida Statutes.**

    a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects. **N/A**

    b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm. **N/A**

    c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain. **N/A**

8. Does the public record exemption under review benefit your office? If so, please explain. **Unknown**

    a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm? **Unknown**

    b. How would a release of such information impact your office? **Unknown**

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm?

    No, not to our knowledge.

10. Has your office received complaints about the public record exemption? If so, please explain.

    No, not to our knowledge.

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption? **We respect, honor and defer to the Legislature's wisdom, as we are a ministerial, constitutional office. We are not aware of any complaints, concerns or difficulties related to the current law.**
    _____ Reenact the exemption in its current form. Please provide a brief explanation.
    _____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
    _____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review. **N/A**

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

FDACS CONTRACT #

022110

DIVISION OF LICENSING
(850) 245-5500
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4040 ESPLANADE WAY, SUITE 135
TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Lake County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 320 West Main Street, Tavares FL 32778

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a

subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Tavares (City) Florida (State)

this 24th day of August, 20 15.

TAX COLLECTOR

Christina L. Carpenter
Witness as to Tax Collector

Robert K. McKee (SEAL)
Signature

David W. Jordan
Witness as to Tax Collector

ROBERT K. MCKEE
Name

TAX COLLECTOR
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Camille Britt
Witness as to State

D. [illegible] (SEAL)
Signature

Jake Joyner
Witness as to State

D. Allen Edwards
Name

Director Administration
Title

LEE COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Larry D. Hart

Name of person completing the questionnaire: R. Noelle Branning, Esq.

Title of person completing the questionnaire: Chief Deputy Tax Collector

Telephone number of person completing the questionnaire: 239.533.6085

E-mail address of person completing the questionnaire: noelleb@leetc.com

Date that this questionnaire was completed: December 21, 2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. *Yes*

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? *2015*

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services. *Attached*

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office. *A person must complete the electronic application. Then, an LCTC employee will review the application, take the person's photograph, electronically scan fingerprints, process the person's payment, and submit all documents to the Department of Agriculture and Consumer Services.*

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.
   2015 – 3,353
   2016 - 5,936
   2017 – 5,590
   2018 - 5,768

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.
   2015 – 190
   2016 – 1,476
   2017 – 1,960
   2018 – 1,924

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? *Any personal information provided on the official DOACS application.*

a. How long does your office have possession of the personal identifying information? *LCTC does not retain any of this information.*

b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? *Yes, electronically at the time of application and fingerprint completion.*

c. Does your office destroy the personal identifying information at some point? If "yes," when? *Yes, if a customer does not wish to retain their copy of the application, we shred the paperwork immediately.*

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. *No*

3. Are there Attorney General opinions interpreting the exemption? *Without sufficient knowledge; we have never had to research this issue for our office.*

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": *No*

d. What is the number of requests your office has received for such exempt information each year since July 1, 2014? *n/a*

e. Please describe the types of entities requesting such information, if available. *n/a*

f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)? *n/a*

g. If the information was released, please identify the entities or individuals to whom the information was released, if known. *n/a*

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. *No*

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? *Yes. Through a cashier detail report, LCTC has a reference number that can be used to locate the application submitted to the DOACS system, if still accessible.*

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": *Unknown*

a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain. *We act as a processing office. This exemption neither provides a benefit nor detriment to our office.*

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm? *Unknown, without sufficient data to support a position.*

   b. How would a release of such information impact your office? *Unknown, without sufficient data to support a position.*

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm? *No*

10. Has your office received complaints about the public record exemption? If so, please explain. *No*

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
    ___X__ Reenact the exemption in its current form. Please provide a brief explanation.
    _____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
    _____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review. *None*

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

DIVISION OF LICENSING
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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

Mr. Larry D. Hart
Tax Collector, Lee County
2480 Thompson Street
Fort Myers, FL 33901

January 9, 2015

Dear Mr. Hart:

Commissioner Putnam and I are very excited to welcome you to the newly created Concealed Weapon Intake System (CWIS) here at the Division of Licensing, within the Department of Agriculture and Consumer Services. As you know, the concealed weapon program has been very popular for our law abiding citizens and your participation in the CWIS program further facilitates this program.

Please find enclosed the Memorandum of Understanding (MOU) which provides the basic operating guidelines for our partnership as developed in conjunction with our five existing partner tax collectors. Please review, sign and return to: Stefannie Carter, Division of Licensing, Department of Agriculture and Consumer Services, 4040 Esplanade Way, Tallahassee, FL 32399-7016. If you have any questions, please contact Leonard Wood at (850) 245-5352, who will assist you or coordinate with appropriate staff accordingly.

Sincerely,

Grea Bevis
Director, Division of Licensing

FDACS CONTRACT #
021846

DIVISION OF LICENSING
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TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Lee County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 2480 Thompson Street, Fort Myers, FL 33901

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a

subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Fort Myers, Florida
City State

this 16th day of January, 20 15.

TAX COLLECTOR

Witness as to Tax Collector

Witness as to Tax Collector

(SEAL)
Signature

Larry D. Hart
Name

Lee County Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

(SEAL)
Signature

D. Alan Edwards
Name

Director Administration
Title

Leon County

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector:
Doris Maloy
Name of person completing the questionnaire:
Jason Seber
Title of person completing the questionnaire:
Director of Operations
Telephone number of person completing the questionnaire:
(850)606-4713
E-mail address of person completing the questionnaire:
seberj@leoncountyfl.gov
Date that this questionnaire was completed:
12/17/2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire.
   Yes, the Leon County Tax Collector's Office receives applications and/or renewals for concealed weapon or firearm licenses.

2. When was your office appointed to accept applications for concealed weapon or firearm licenses?
   Our Office was appointed as a result of an MOU dated June 26, 2015.

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.
   Please see the attached MOU.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.
   Our process to submit an application and/or renewal includes:
   1. ***Customer schedules an appointment through our website or walks into our service center.***
   2. ***When the customer comes into our office and we verify the required documents and explain the fees.***
   3. ***The customer completes the web application at the applicant station.***
   4. ***We log into the agent station through the Department of Agriculture's equipment and portal and pullup the customer's application by name.***
   5. ***We process the Customer's payment.***
   6. ***We input the Transaction number from the concealed weapons application into the Accounting system ID; and for a new application, scan the supporting documents.***
   7. ***We take photo of the applicant.***
   8. ***For a new applicant, the applicant is fingerprinted and the fingerprints are scanned in the Customer's application at the agent station.***
   9. ***Once the application is reviewed for accuracy, we click the final review so the application will be transmitted to the Department.***
   10. ***We return all documents to the customer. For a new applicant, we explain the 90 day processing period on a new application and where they can check their application status. For a renewal, we print out the license and provide it to the customer.***

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.
   The Leon County Tax Collector's Office processed the following applications for new licenses:

July 2015 – June 2016	*421*
July 2016 – June 2017	*629*
July 2017 – June 2018	*511*

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.
   The Leon County Tax Collector's Office processed the following renewals:
   July 2015 – June 2016 0
   July 2016 – June 2017 404
   July 2017 – June 2018 376

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption?
   Personal identifying information would include name and address.

   a. How long does your office have possession of the personal identifying information?
      This information resides in our electronic cashiering system and is maintained for the period of time required by the Records Retention schedules.

   b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when?
      We directly access the Department of Agriculture's databases to process these customers; therefore, there is no need to transmit this personal information to the Department.

   c. Does your office destroy the personal identifying information at some point? If "yes," when?
      This information is destroyed in accordance with the required Records Retention schedules.

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations.
   The public record exemption under review has not been the subject of litigation for our office.

3. Are there Attorney General opinions interpreting the exemption?
   We are not aware of any Attorney General opinions interpreting the exemption.

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes":
   The Leon County Tax Collector's Office has not received any such public records requests.

   c. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

d. Please describe the types of entities requesting such information, if available.

e. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

f. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances.
There have not been any such circumstances in our Office.

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how?
No, the exempt information contained in the records cannot be readily obtained by alternative means.

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes":
Our Office is not aware of any other federal or other Florida law that protects the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

   b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

   c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain.
At this point, the public record exemption under review has not had any impact on our Office as we have not received any public record requests dealing with concealed weapons.

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?

   b. How would a release of such information impact your office?

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm?

No, our Office has not had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm.

10. Has your office received complaints about the public record exemption? If so, please explain.
No, our Office has not received any complaints about the public record exemption.

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
_____ Reenact the exemption in its current form. Please provide a brief explanation.
_____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
_____ Repeal the exemption. Please provide a brief explanation.
Our Office has no recommendation on this topic.

12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

FDACS CONTRACT #

022126

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX

POST OFFICE BOX 5647
TALLAHASSEE, FLORIDA 32314-5647

4040 ESPLANADE WAY, SUITE 135
TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Leon County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 1276 Metropolitan Blvd., Suite 401A Tallahassee, FL 32312

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a

subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Tallahassee (City) Florida (State)

this 26 day of June, 20 15.

TAX COLLECTOR

Witness as to Tax Collector

Witness as to Tax Collector

Doris Maloy (SEAL)
Signature

Doris Maloy
Name

Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

(SEAL)
Signature

D. Alan Edwards
Name

Director Administration
Title

LIBERTY COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Marie Goodman

Name of person completing the questionnaire: Marie Goodman

Title of person completing the questionnaire: Tax Collector

Telephone number of person completing the questionnaire: 850 643 2442

E-mail address of person completing the questionnaire: marie.goodman@lctaxcollector.org

Date that this questionnaire was completed: December 20, 2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire.
   Yes

2. When was your office appointed to accept applications for concealed weapon or firearm licenses?
   July 2016

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.
   Attaching

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.
   Complete Application, scan required documents, photo, fingerprints, submit

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.
   736

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.
   Unknown

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption?
   Unknown

   a. How long does your office have possession of the personal identifying information?

   b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when?

   c. Does your office destroy the personal identifying information at some point? If "yes," when?

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations.

Unknown

3. Are there Attorney General opinions interpreting the exemption?

Unknown

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes":

NO

   d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

   e. Please describe the types of entities requesting such information, if available.

   f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

   g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances.

Unknown

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how?

Unknown

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes":

Unknown

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain.
Unknown

a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?

b. How would a release of such information impact your office?

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm?
NO

10. Has your office received complaints about the public record exemption? If so, please explain.
NO

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
_____ Reenact the exemption in its current form. Please provide a brief explanation.
_____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
_____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.
None

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

FDACS CONTRACT #

022128

mailed 9/9/15

DIVISION OF LICENSING
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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Liberty County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 10818 FL-20, Bristol, FL 32321

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a

subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Bristol (City) FC (State)

this 3rd day of September, 20 15.

Witness as to Tax Collector

Witness as to Tax Collector

TAX COLLECTOR

Marie Goodman (SEAL)
Signature

Marie Goodman
Name

Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

D. (SEAL)
Signature

D. Alan Edwards
Name

Director Administration
Title

MANATEE COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Ken Burton, Jr.

Name of person completing the questionnaire: Michele Schulz

Title of person completing the questionnaire: Director, Field Services & Collections Dept.

Telephone number of person completing the questionnaire: 941-741-4830

E-mail address of person completing the questionnaire: MicheleS@taxcollector.com

Date that this questionnaire was completed: 12/20/18

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire.

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? **6/26/2017**

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.

    a. **Customers are required to schedule an appointment at our Driver License office as we only process at one location on Tuesdays/Wednesdays/Thursdays.**
    b. **Once they arrive all originals and renewals are processed back in the CWL area.**

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.

    a. **2016-2017 – 348**
    b. **2017-2018 (to date) -1656**

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.

    a. **2016-2017 – 212**
    b. **2017-2018 (to date) - 1071**

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? **Any information relating to the transactions we process for CWL is considered exempt.**

    a. How long does your office have possession of the personal identifying information? **As we are utilizing the Dept. of Agricultures' equipment all information processed during**

transactions is on their equipment and transmitted to the Department directly. Any documentation provided by the customer during the transactions is returned to the customer after scanned and transaction is completed.

b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? **Yes, as stated above we utilize their equipment so as we process transactions information is being communicated directly with the Department. This is done on Tuesday, Wednesdays and Thursdays.**

c. Does your office destroy the personal identifying information at some point? If "yes," when? **N/A**

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. **None that I am aware of.**

3. Are there Attorney General opinions interpreting the exemption? **Unknown**

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": **No**

   d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

   e. Please describe the types of entities requesting such information, if available.

   f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

   g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. **Not that I am aware of.**

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? **Not that I am aware of.**

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": **Unknown**

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain.
Unknown

a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?

b. How would a release of such information impact your office?

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm?
No

10. Has your office received complaints about the public record exemption? If so, please explain.
No.

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption? **Our office does not take a position, we process transactions as directed by the Department of Agriculture.**
_____ Reenact the exemption in its current form. Please provide a brief explanation.
_____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
_____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

FDACS CONTRACT #

023307

DIVISION OF LICENSING
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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Manatee County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 819 301 Boulevard West Bradenton, FL 34205

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a

subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Bradenton (City) Florida (State)

this 18th day of July, 2016.

TAX COLLECTOR

Witness as to Tax Collector

Witness as to Tax Collector

Signature (SEAL)

Ken Burton Jr.
Name

Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

Signature (SEAL)

D. Alan Edwards
Name

Director Administration
Title

MARTIN COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Ruth Pietruszewski

Name of person completing the questionnaire: Monica Velie

Title of person completing the questionnaire: Chief of Motor Services

Telephone number of person completing the questionnaire: 772-288-5969

E-mail address of person completing the questionnaire: 3485 SE Willoughby Blvd Stuart FL 34994

Date that this questionnaire was completed: 12/18/18

CWP New & Renewal Procedures

New Application Procedures

The applicant needs to show the Agent documentation of competence with a firearm, DD214 Honorable Discharged, an expired (more than 180 days) concealed weapons permit, an out of State concealed weapons permit, a hunter education or safety course, a class for security guards, investigators, or special deputies ($119.00 includes MCTC fee). For active Florida Law Enforcement Officer the applicant needs a department letter stating that they are an active Law Enforcement Officer ($77.00 includes MCTC fee). Retired Florida Law Enforcement Officer 0-1 year ($22.00 includes MCTC fee). Retired Florida Law Enforcement Officer 1+ year(s) ($94.00 includes MCTC fee). Retired Law Enforcement Officer needs to show their retired identification card.

1. The applicant must show one of the above listed documents and their driver license to the Agent. The applicant sits at one of the two computer stations, and completes the application/questionnaire. The applicant follows the 11 steps that are outlined next to them. The steps explains the proper way to *validate the application, click to affirm, print/view, complete application, next, scan documents, save this scan, scanning complete, and print your receipt.* Please see attached steps. Note: While the applicant is working on the application/questionnaire, the Agent completes the necessary field requirements on CrossMatch and MCTC "Mikes".
2. The Agent directs the applicant to the Agent's station. The Agent takes the applicant's payment and process the payment.
3. The Agent takes the applicant's picture.
4. The Agent directs the applicant to the CrossMatch. The Agent takes the applicant's fingerprints and transmits the fingerprints. The Agent prints out the fingerprints.
5. The Agent returns to the Agent's station and scans the fingerprints. The Agent reviews all the documents and finalized the process. The Agent provides the applicant with the application, receipt, all documents, and the fingerprints. The Agents then tells the applicant *"thank you for your business"*.

Renewal Procedures

The renewal must show their driver license and concealed weapons permit. The Agent checks the concealed weapons permit expiration date. If the renewal is not in possession of their concealed weapons permit the renewal need to produce the renewal paperwork, and confirm it is the same person in front of the Agent.

1. The Agent completes the necessary fields on the Agent's computer.
2. The renewal answers four questions on the screen in front of them.
3. The Agent takes the renewal's pictures and prints out the receipt.
4. The Agent takes the renewal's payment and process the payment. The Agent prints out the concealed weapons permit/card and finalized the transaction. The Agent examines the concealed weapons permit/card for any defects. The Agent provides the renewal with the receipt, driver license, and the new concealed weapons permit/card. The Agent then tells the renewal *"thank you for your business"*

Form 2A

DIRECTIONS FOR CONCEALED WEAPON LICENSE APPLICATIONS

1. FILL OUT THE APPLICATION AND ANSWER THE QUESTIONS ON THE SCREEN.

2. CLICK ON THE GREEN "**VALIDATE APPLICATION**" BUTTON.
   a. IF YOU HAVE ERRORS – FIX ERRORS AND CLICK "**VALIDATE APPLICATIONS**" AGAIN.
   b. IF NO ERRORS – SCROLL DOWN AND GO TO STEP 3.

3. CLICK ON THE GREEN "**CLICK TO AFFIRM**" BUTTON. THIS WILL SIGN AND DATE YOUR APPLICATION.

4. CLICK ON "**PRINT/VIEW**", THEN CLICK ON THE PRINTER ICON ON THE BOTTOM OF THE PAGE OR RIGHT CLICK MOUSE AND SELECT PRINT.

5. CLICK ON THE GREEN "**COMPLETE APPLICATION**" BUTTON.

6. CLICK "NEXT" ON THE NEXT SCREEN

7. CLICK THE BLUE "**SCAN DOCUMENTS**" BUTTON IN THE TOP RIGHT HAND CORNER. ALL DOCUMENTS NEEDED SHOULD HAVE BEEN PLACE IN THE TRAY BY THE AGENT.

8. AFTER ALL DOCUMENTS HAVE BEEN SCANNED CLICK ON "**SAVE THIS SCAN**" THEN CLICK "OKAY".

9. CLICK ON THE GREEN "**SCANNING COMPLETE**" BUTTON. IF YOUR NOT TAKEN TO THE NEXT SCREEN REPEAT STEP 8.

10. CLICK ON "**PRINT YOUR RECEIPT**" THEN CLICK ON THE PRINTER ICON AT THE BOTTOM OF THE SCREEN.
    a. IF YOU DON'T SEE THE PRINTER ICON JUST MOVE YOUR MOUSE POINTER TOWARDS THE BOTTOM OF THE SCREEN.
    b. CLOSE WINDOW BY CLICKING THE RED X IN THE TOP RIGHT HAND CORNER.

11. CLICK ON GREEN "**FINISH AND PROCEED TO AGENT STATION**" AND THEN CLICK "EXIT".

AGENT WILL BE WITH YOU AS SOON AS POSSIBLE

YEARLY STATS FORM 3

Year	Amount of renewals	Amount of Originals
1/1/18-12/18/18	1369	2950
1/1/17-12/31/17	1281	3390
1/1/16-12/31/16	1211	4725
1/1/15-12/31/15	150	1219
1/1/14-12/31/14	0	0

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. Yes

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? April 2015

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services. See attached form 1

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office. See attached

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014. See attached form 3

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? Social Security, Drivers license

   a. How long does your office have possession of the personal identifying information? We scan & shred as Dept of Agriculture & Consumer Servs

   b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? Yes scanned daily during process

   c. Does your office destroy the personal identifying information at some point? If "yes," when? Never destroyed

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. Unknown

3. Are there Attorney General opinions interpreting the exemption?

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": NO

   d. What is the number of requests your office has received for such exempt information each year since July 1, 2014? 0

   e. Please describe the types of entities requesting such information, if available.

   f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)? No

   g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. NO

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how?

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": yes

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.
   119.07 ( ) Florida Statute and Artical 1 Sec 24(a) Florida Constitution

   b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm. 790.0601

   c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain.
   it allows for pr ion.

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm? it would put Customers at risk

   b. How would a release of such information impact your office?

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm?
   No

10. Has your office received complaints about the public record exemption? If so, please explain.

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?

_X_ Reenact the exemption in its current form. Please provide a brief explanation.

_____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.

_____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.

Cellon, Connie

From: Monica Velie <mvelie@mctc.martin.fl.us>
Sent: Thursday, December 27, 2018 8:09 AM
To: Cellon, Connie
Subject: RE:

Hello Connie,
I received the email you sent yesterday.
The answer to #6 was By the Department of Agriculture and Consumer Services. We do not keep any of the files. And #8 b. We follow the Sunshine laws it goes against the sunshine laws. I hope this helps.

Monica Velie
Chief of Motorist Services, Support,
And Customer Service
3485 SE Willoughby Blvd
Stuart FL 34994
772-288-5969

From: Cellon, Connie [mailto:CELLON.CONNIE@flsenate.gov]
Sent: Wednesday, December 26, 2018 2:59 PM
To: Monica Velie
Cc: Moore, Alexandra
Subject: RE:

We appreciate you taking the time to respond to our survey in such a thorough way, especially during this busy time of the year!
I wonder if you would mind going to your original document and typing your answers back to me on the following questions: #6 and #8 b. ? I can read everything else but those are too light for my old eyes!
Thank you so much. -Connie

From: Monica Velie <mvelie@mctc.martin.fl.us>
Sent: Wednesday, December 26, 2018 7:43 AM
To: Cellon, Connie <CELLON.CONNIE@flsenate.gov>
Subject:

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX

POST OFFICE BOX 3927
TALLAHASSEE, FLORIDA 32315-3927

2520 NORTH MONROE STREET
TALLAHASSEE, FLORIDA 32303-4052

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

COMMISSIONER ADAM H. PUTNAM

Ms . Ruth Pietruszewski
Tax Collector, Martin County
3485 S.E. Willoughby Blvd.
Stuart, FL 34994

January 9, 2015

Dear Ms. Pietruszewski

Commissioner Putnam and I are very excited to welcome you to the newly created Concealed Weapon Intake System (CWIS) here at the Division of Licensing, within the Department of Agriculture and Consumer Services. As you know, the concealed weapon program has been very popular for our law abiding citizens and your participation in the CWIS program further facilitates this program.

Please find enclosed the Memorandum of Understanding (MOU) which provides the basic operating guidelines for our partnership as developed in conjunction with our five existing partner tax collectors. Please review, sign and return to: Stefannie Carter, Division of Licensing, Department of Agriculture and Consumer Services, 4040 Esplanade Way, Tallahassee, FL 32399-7016. If you have any questions, please contact Leonard Wood at (850) 245-5352, who will assist you or coordinate with appropriate staff accordingly.

Sincerely,

Grea Bevis
Director, Division of Licensing

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX

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TALLAHASSEE, FLORIDA 32315-3927

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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

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Sincerely,

Grea Bevis
Director, Division of Licensing

021845

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX

POST OFFICE BOX 5647
TALLAHASSEE, FLORIDA 32314-5647

4040 ESPLANADE WAY, SUITE 135
TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Martin County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 3485 SE Willoughby Blvd, Stuart, FL 34994

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a

subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at _____
City State

this _____ day of _____, 20 _____.

TAX COLLECTOR

Edward M WALKER, JR
Witness as to Tax Collector

Donna Henderson
Witness as to Tax Collector

Ruth Pietruszewski (SEAL)
Signature

Ruth Pietruszewski
Name

Martin County Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Candice Brown
Witness as to State

Ina Lacon
Witness as to State

D. Allen Edwards (SEAL)
Signature

D. Allen Edwards
Name

Director, Administration
Title

NASSAU COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: John M. Drew

Name of person completing the questionnaire: Erica Dupree and John M. Drew

Title of person completing the questionnaire: Motor Services Director and Tax Collector

Telephone number of person completing the questionnaire: 904 491 7419

E-mail address of person completing the questionnaire: edupree@nassautaxes.com

Date that this questionnaire was completed: 12/21/18

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. YES

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? October 6, 2014

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office. Come to the office. Provide a copy of their training document. Complete the application. Get finger printed (if its an original or out of state). Get photographed. Pay.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.

   2014/813, 2015/1724, 2016/1206, 2017/1050, 2018/557

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014. 2014/0, 2015/297, 2016/556, 2017/540, 2018/214 (FYI Fiscal year July-June)

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? Any information that could lead another person to discover the identity of the applicant.

   a. How long does your office have possession of the personal identifying information? 2 years. Only keep the last name that was used to reserve the appointment. Not necessarily the actual name of the applicant. (all kept confidential)

   b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? Yes, Simultaneously transmitted electronically with the transaction.

8. Does the public record exemption under review benefit your office? If so, please explain. YES, It reduces the amount of documents that would be maintained and distributed.

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm? It could cause people who are seeking to defend themselves to be placed in a compromised position from a potential aggressor. They could be targeted by fanatic organizations who oppose the right of our citizens to keep and bear arms.

   b. How would a release of such information impact your office? It could add additional public records requests.

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm? NO

10. Has your office received complaints about the public record exemption? If so, please explain. NO

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
    __X___ Reenact the exemption in its current form. Please provide a brief explanation.
    _____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
    _____ Repeal the exemption. Please provide a brief explanation.

    Our office completely supports this exemption.

12. Please provide any additional comments regarding the public record exemption under review.

PLEASE RETAIN THIS EXEMPTION FOR THE PROTECTION OF OUR CITIZENS!

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

Cellon, Connie

From: John Drew <jdrew@nassautaxes.com>
Sent: Friday, December 21, 2018 2:39 PM
To: Moore, Alexandra; Cellon, Connie
Cc: Erica DuPree
Subject: Nassau - Concealed Weapon
Attachments: Nassau County Tax Collector 9-9-14.pdf; Nassau County Tax Collector 1-30-15.pdf; Nassau Concealed Weapon Permit Personal Information Questionnaire .docx

Please find attached Nassau County's answers to the Concealed Weapon License Sunset Review Questionnaire.

We believe that this exemption SHOULD BE RETAINED AND NOT ALLOWED TO "SUNSET".

John M. Drew
Tax Collector, Nassau County

021358

DIVISION OF LICENSING
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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Nassau County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 86130 License Road
Fernandina Beach, Florida
(hereinafter known as office)

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network switches and network service for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of each unit of network equipment and any and all replacements, substitutions, and repairs thereto constituting the network switches and service shall be retained by the Department. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for CWIS equipment.

2.3. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.4. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.5. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.6. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form, if required. The Tax Collector will receive payment by credit of the outstanding amount via a subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Orlando, Florida
City State

this 9 day of September, 20 14.

Witness as to Tax Collector

Witness as to Tax Collector

TAX COLLECTOR

(SEAL)
Signature

John M. DREW
Name

TAX COLLECTOR, NASSAU
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

(SEAL)
Signature

D. Alan Edwards
Name

Director Administrator
Title

FDACS CONTRACT # 021872

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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Nassau County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 86130 License Road, Fernandina Beach, FL 32034
(hereinafter known as office)

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Amended and Restated Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

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2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

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equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

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Tax Collector will receive payment by credit of the outstanding amount via a subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

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3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

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3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

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B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at YULEE (City) FL (State)

this 30th day of JANUARY, 20 15.

TAX COLLECTOR

Witness as to Tax Collector

Witness as to Tax Collector

(SEAL)
Signature

John M. DREW
Name

TAX COLLECTOR, NASSAU
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

(SEAL)
Signature

D. Alan Edwards
Name

Director Administration
Title

Okeechobee County

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

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Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Celeste Watford, Okeechobee County Tax Collector

Name of person completing the questionnaire: Celeste Watford

Title of person completing the questionnaire: Tax Collector

Telephone number of person completing the questionnaire: 863-763-3421

E-mail address of person completing the questionnaire: Celestewatford@okeechobeecoutytaxcollector.com

Date that this questionnaire was completed: 12/21/2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. **Yes.**

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? **May 2015**
3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.

   When applicants come to our office to complete an application we take them to a private room where the DACS computer is located. We collect payment, take the applicant's photo, fingerprints the individual, scans the fingerprints into the application system, and submits the application electronically to the department for review. All paperwork is provided to the applicant as their receipt and copy.

   For a renewal, once the individual arrives, their license information is pulled up in the application system. All information is reviewed with the individual and any updates are made if necessary. A photo is taken. Payment is collected. Renewal information is submitted in the application system. The updated license is printed.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? **7/1/16-6/30/17 NEW 375 Renewals 154**
   7/1/17-6/30/15 NEW 651 Renewals 246
   7/1/18-12/19/18 NEW 264 Renewals 97

   Please indicate the number of applications for each year beginning with July 1, 2014.

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.
   SEE ABOVE # 5

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? All personal information included on the application. **All records created during the CWP application process as confidential under the statute. Name, DOB, SSN, etc. etc.**

    a. How long does your office have possession of the personal identifying information? **Depends. For information in the state computer could be 24 hours or more. For information in the fingerprint system, could be much longer. If someone made a public record request at the end of each day, there would be exempt information available at our offices.**

    b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? **All information is submitted electronically before the customer leaves our office. A copy of the application is provided to the customer. We only print our report at the end of the day.**

    c. Does your office destroy the personal identifying information at some point? If "yes," when? **No. All documents created during the application process are given to the customer at the conclusion of the application process. However there would be personal information in the state computer and in the fingerprint machine. We only keep our appointment sheet until the last customer is processed for that day .**

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. **Unknown**

3. Are there Attorney General opinions interpreting the exemption? **None that we are aware of.**

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": **No**

    d. What is the number of requests your office has received for such exempt information each year since July 1, 2014? **We've had no requests.**

    e. Please describe the types of entities requesting such information, if available. **N/A**

    f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)? **N/A**

    g. If the information was released, please identify the entities or individuals to whom the information was released, if known. **N/A**

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. **No**

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? **Not to our knowledge.**

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": **None that we are aware of.**

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

   b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm. **Section 790.0601(2), Florida Statutes**

   c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain. **None that we are aware of.**

8. Does the public record exemption under review benefit your office? If so, please explain. **Yes, it reduces the requirements for retention of documents, while ensuring the private information of customers is secured.**

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?

   The release of this information could result in identity theft or fraud, or subject the licensed carrier to harassment or possibly threat to do harm.

   b. How would a release of such information impact your office?
   It would create an undue burden to maintain records which are already accessible to those authorized to access the information in accordance with the Statute under the conditions cited.

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm? **No.**

10. Has your office received complaints about the public record exemption? If so, please explain. **No.**

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
    __**X**__ Reenact the exemption in its current form. Please provide a brief explanation.
    _____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
    _____ Repeal the exemption. Please provide a brief explanation.

The exemptions are important for the protection for the citizens.

12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

FDACS CONTRACT #

022129

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX

POST OFFICE BOX 5647
TALLAHASSEE, FLORIDA 32314-5647

4040 ESPLANADE WAY, SUITE 135
TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Okeechobee County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 307 NW 5th Ave, Okeechobee, FL 34972

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a

subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Okeechobee (City) Florida (State)

this 21 day of May, 20 15.

TAX COLLECTOR

Yvonne Graves
Witness as to Tax Collector

Paula Byars
Witness as to Tax Collector

Celeste Watford (SEAL)
Signature

Celeste Watford
Name

Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

(SEAL)
Signature

D. Alan Edwards
Name

Director Administration
Title

PALM BEACH COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: ANNE M GANNON agannon

Name of person completing the questionnaire: SAME

Title of person completing the questionnaire: TAX COLLECTOR

Telephone number of person completing the questionnaire: 850-355-2809

E-mail address of person completing the questionnaire: AGANNON@PBCTAX.COM

Date that this questionnaire was completed: 12-3-2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. NO

2. When was your office appointed to accept applications for concealed weapon or firearm licenses?

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption?

   a. How long does your office have possession of the personal identifying information?

   b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when?

   c. Does your office destroy the personal identifying information at some point? If "yes," when?

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations.

3. Are there Attorney General opinions interpreting the exemption?

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?

_____ Reenact the exemption in its current form. Please provide a brief explanation.

__X__ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.

_____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.

It is somewhat disingenuous to exempt this information while a person can open carry a firearm allowing anyone in a community to identify the person. Just doesn't make much sense.

PASCO COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Mike Fasano

Name of person completing the questionnaire: Abby Noyes and Michelle Vancuren

Title of person completing the questionnaire: Director of Finance and Director of Branch Services

Telephone number of person completing the questionnaire: 352-521-4360 x 4880

E-mail address of person completing the questionnaire: anoyes@pascotaxes.com and mvancuren@pascotaxes.com

Date that this questionnaire was completed: December 20, 2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. Yes

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? June 3, 2015

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.
   See Attached

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office. Customer sits at Dept of Ag computer, enters in their own personal information, scans their own personal documents. Our customer service representative takes the individuals picture, fingerprints and cashes them out from our cashiering software.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.
   2014 – 0
   2015 – 1666
   2016 – 7130
   2017 – 5434
   2018 - 4944

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.
   2014 – 0
   2015 – 266
   2016 – 2045
   2017 – 2244
   2018 - 2152

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? Name, Address, Birth date, social security number, drivers license number, etc.

    a. How long does your office have possession of the personal identifying information? We never take possession

    b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? Yes upon completion of transaction at every transaction.

    c. Does your office destroy the personal identifying information at some point? If "yes," when? We never take possession.

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. No

3. Are there Attorney General opinions interpreting the exemption? Unknown

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": No

    d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

    e. Please describe the types of entities requesting such information, if available.

    f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

    g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. No

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? No

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": Unknown

    a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain. Yes, we don't get any public record requests.

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm? Unknown

   b. How would a release of such information impact your office? Unknown

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm? No

10. Has your office received complaints about the public record exemption? If so, please explain. No

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
    ____X_ Reenact the exemption in its current form. Please provide a brief explanation.
    _____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
    _____ Repeal the exemption. Please provide a brief explanation.

    Can't provide information that we don't capture.

12. Please provide any additional comments regarding the public record exemption under review.

2018 FLORIDA STATUTES

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

FDACS CONTRACT #

022204

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX

POST OFFICE BOX 5647
TALLAHASSEE, FLORIDA 32314-5647

4040 ESPLANADE WAY, SUITE 135
TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Pasco County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 8731 Citizens Drive, Room 120. New Port Richey, FL 34654

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a

subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at New Port Richey (City) Fl. (State)

this 3rd day of June, 20 15.

TAX COLLECTOR

K. Parker
Witness as to Tax Collector

Juliet Olson
Witness as to Tax Collector

(SEAL)
Signature

Mike Fasano
Name

Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Carlton Bruett
Witness as to State

Elizabeth Bennett
Witness as to State

(SEAL)
Signature

D. Alan Edwards
Name

Director Administration
Title

FDACS CONTRACT #

022204

DIVISION OF LICENSING
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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

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3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a

subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at New Port Richey (City) Fl. (State)

this 3rd day of June, 20 15.

TAX COLLECTOR

Witness as to Tax Collector

Witness as to Tax Collector

(SEAL)
Signature

Mike Fasano
Name

Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

(SEAL)
Signature

D. Alan Edwards
Name

Director Administration
Title

Pinellas County

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Charles Thomas

Name of person completing the questionnaire: Sherrie Tackett

Title of person completing the questionnaire: Deputy Tax Collector Branch Operations

Telephone number of person completing the questionnaire: (727) 464-3242

E-mail address of person completing the questionnaire: stackett@taxcollect.com

Date that this questionnaire was completed: 12/21/18

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. Yes

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? September 2014

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services. See attachments with email

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office. Following the Department of Agriculture's instructions and guidelines from their training department.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.

   Originals

July 1, 2014 thru June 30, 2015	Unknown
July 1, 2015 thru Sept 30, 2015	Unknown
Oct 1, 2015 thru June 30, 2016	5509
July 16, 2016 thru June 30, 2017	6322
July 1, 2017 thru June 30, 2018	5515
July 1, 2018 thru Nov 30, 2018	1965

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.

   Renewals

July 1, 2014 thru June 30, 2015	Unknown
July 1, 2015 thru Sept 30, 2015	Unknown
Oct 1, 2015 thru June 30, 2016	867
July 16, 2016 thru June 30, 2017	1920
July 1, 2017 thru June 30, 2018	1939
July 1, 2018 thru Nov 30, 2018	899

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of

Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? Pass Port, Cert. of Naturalization, Birth Cert., Document changing name, and State DL or ID, application and finger prints.

    a. How long does your office have possession of the personal identifying information? Only during time of application.

    b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? Yes, during the time of application through the CWIS system.

    c. Does your office destroy the personal identifying information at some point? If "yes," when? Yes, after necessary use of document is complete. (immediately)

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. Unknown

3. Are there Attorney General opinions interpreting the exemption? Unknown

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": Unknown

    d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

    e. Please describe the types of entities requesting such information, if available.

    f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

    g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. Unknown

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? Unknown

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": Unknown

a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain. Unknown

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?

   b. How would a release of such information impact your office?

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm? Unknown

10. Has your office received complaints about the public record exemption? If so, please explain. Unknown

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption? Unknown
    _____ Reenact the exemption in its current form. Please provide a brief explanation.
    _____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
    _____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX

BACS CONTRACT #
021359

POST OFFICE BOX 5647
TALLAHASSEE, FLORIDA 32314-5647

4040 ESPLANADE WAY, SUITE 135
TALLAHASSEE, FLORIDA 32399

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Pinellas County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 315 Court Street
3rd Floor
Clearwater, Florida
(hereinafter known as office)

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network switches and network service for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of each unit of network equipment and any and all replacements, substitutions, and repairs thereto constituting the network switches and service shall be retained by the Department. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for CWIS equipment.

2.3. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.4. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.5. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.6. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form, if required. The Tax Collector will receive payment by credit of the outstanding amount via a subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Orlando, Florida
City State

this 9 day of September, 20 14.

Witness as to Tax Collector

Witness as to Tax Collector

TAX COLLECTOR

Diane Nelson (SEAL)
Signature

DIANE NELSON
Name

Pinellas County Tax Coll.
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

(SEAL)
Signature

D. Alan Edwards
Name

Director Administrator
Title

FDACS CONTRACT #

021874

DIVISION OF LICENSING
(850) 245-5500
(850) 245-5505 FAX

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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES and a FLORIDA TAX COLLECTOR

THIS AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING (hereinafter the Department)

AND Pinellas County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 315 Court Street, 3rd Floor, Clearwater, FL 33756
(hereinafter known as office)

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Amended and Restated Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the

equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The

Tax Collector will receive payment by credit of the outstanding amount via a subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Clearwater (City) FL (State)

this 30th day of January, 20 15.

Witness as to Tax Collector

Witness as to Tax Collector

TAX COLLECTOR

Diane Nelson (SEAL)
Signature

Diane Nelson
Name

Pinellas County Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

(SEAL)
Signature

P. Alan Edwards
Name

Director Administration
Title

SARASOTA COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Barbara Ford-Coates

Name of person completing the questionnaire: Sherri Smith

Title of person completing the questionnaire: Chief Deputy Tax Collector

Telephone number of person completing the questionnaire: 941.861.8380

E-mail address of person completing the questionnaire: SSmith@SarasotaTaxCollector.com

Date that this questionnaire was completed: 12.14.18

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. **The Sarasota County Tax Collector's office does not currently receive applications and/or renewals for concealed weapon or firearm licenses.**

2. When was your office appointed to accept applications for concealed weapon or firearm licenses?

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption?

    a. How long does your office have possession of the personal identifying information?

    b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when?

    c. Does your office destroy the personal identifying information at some point? If "yes," when?

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations.

3. Are there Attorney General opinions interpreting the exemption?

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes":

   d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

   e. Please describe the types of entities requesting such information, if available.

   f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

   g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances.

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how?

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes":

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

   b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

   c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain.

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?

   b. How would a release of such information impact your office?

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm?

10. Has your office received complaints about the public record exemption? If so, please explain.

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
    _____ Reenact the exemption in its current form. Please provide a brief explanation.
    _____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
    _____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

St. Johns County

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Dennis W. Hollingsworth

Name of person completing the questionnaire: Jennifer Ravan

Title of person completing the questionnaire: Assistant Tax Collector

Telephone number of person completing the questionnaire: 904.209.2250

E-mail address of person completing the questionnaire: jravan@sjctax.us

Date that this questionnaire was completed: December 18, 2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire.

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? January 2015

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.

   For an original application, an applicant must present a valid driver license and proof of competency with a firearm. They must fill out an online application, and scan their proof of competency. They are fingerprinted and pertinent information is input into the machine provided to us by FDACS. A picture is taken, money is received, and the application is electronically submitted to FDACS.
   For a renewal, an applicant must present the letter they received or their concealed weapons permit. A picture is taken, money is received, the application is electronically submitted to FDACS, and we print the license.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.

   January 1 – December 31, 2015; 764
   January 1 – December 31, 2016; 525
   January 1 – December 31, 2017; 487
   January 1 – December 21, 2018; 405

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.

   January 1 – December 31, 2015; 3
   January 1 – December 31, 2016; 177
   January 1 – December 31, 2017; 167
   January 1 – December 21, 2018; 142

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? Name, address, telephone number, social security number, driver license number, medical or disability information, email address, examination questions and answer sheets of examinations administered for the purpose of licensure.

    a. How long does your office have possession of the personal identifying information? N/A

    b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? Yes, electronically

    c. Does your office destroy the personal identifying information at some point? If "yes," when? N/A

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. N/A

3. Are there Attorney General opinions interpreting the exemption? N/A

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": N/A

    d. What is the number of requests your office has received for such exempt information each year since July 1, 2014? N/A

    e. Please describe the types of entities requesting such information, if available. N/A

    f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)? N/A

    g. If the information was released, please identify the entities or individuals to whom the information was released, if known. N/A

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. N/A

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? N/A

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes":

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects. Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt form s. 119.07(1) and s. 24(a), Art. I of the State Constitution

   b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm. N/A Request would be referred to Florida Department of Agriculture and Consumer Services.

   c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain. No.

8. Does the public record exemption under review benefit your office? If so, please explain.

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm? N/A

   b. How would a release of such information impact your office? N/A

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm? N/A

10. Has your office received complaints about the public record exemption? If so, please explain. N/A

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
    ___XX__ Reenact the exemption in its current form. Please provide a brief explanation.
    _____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
    _____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.

021841

DIVISION OF LICENSING
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(850) 245-5505 FAX

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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND St. Johns County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 4030 Lewis Speedway, St. Augustine, FL 32084

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at St. Augustine (City) Florida (State)

this 26th day of January, 20 15.

TAX COLLECTOR

Witness as to Tax Collector

Witness as to Tax Collector

Dennis W. Hollingsworth (SEAL)
Signature

Dennis W. Hollingsworth
Name

St. Johns County Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

(SEAL)
Signature

D. Alan Edwards
Name

Director Administration
Title

UNION COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
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Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector: Lisa B. Johnson

Name of person completing the questionnaire: Lisa B. Johnson

Title of person completing the questionnaire: Tax Collector

Telephone number of person completing the questionnaire: 386-496-4255

E-mail address of person completing the questionnaire: lisabj65@unioncountytc.com

Date that this questionnaire was completed: 12/21/18

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. Yes

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? May 2015

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office. Come in and fill out app, have proof of firearms course, pic taken, fingerprinted, pay fee and leave with all documents that are printed or utilized for app.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.
   7-1-16/6-30-17 161
   7-1-17/6-30-18 255
   7-1-18/12-19-18 84
6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.
   7-1-16/6-30-17 91
   7-1-17/6-30-18 87
   7-1-18/12-19-18 37

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption? Driver license, application & training course

   a. How long does your office have possession of the personal identifying information? We do keep any of these documents in our office, customer leaves with all of it.

   b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? Yes, at time of application and before customer leaves office.

c. Does your office destroy the personal identifying information at some point? If "yes," when? We do not keep any of their information, customer is given all forms.

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations.
   Don't know
3. Are there Attorney General opinions interpreting the exemption? unknown
   Don't know
4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes":
   No

   d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

   e. Please describe the types of entities requesting such information, if available.

   f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

   g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances.
   No
6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? Unknown

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": Unknown

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

   b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

   c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain.
   Don't know, we do not keep any of these records in our office

a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm?

b. How would a release of such information impact your office?

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm?
No

10. Has your office received complaints about the public record exemption? If so, please explain.
No

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
_____ Reenact the exemption in its current form. Please provide a brief explanation.
_____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
_____ Repeal the exemption. Please provide a brief explanation.
Unknown, we do not know if there are issues with this exemption

12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

UNION

FDACS CONTRACT #

022131

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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Union County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 55 W Main St., Suite 108, Lake Butler, FL 32054

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

2.3. The Tax Collector will be responsible for quality, support, capacity, and cost of the Internet connection used for the CWIS. The Tax Collector will be responsible for all costs related to the installation and repair of network drops and electrical outlets used for the CWIS equipment.

2.4. The Department, at its own expense, will supply computer programming software to operate in conjunction with the computer equipment in a configuration for use by the Tax Collector in performing the application collection duties for the Department referred to as the CWIS. The Department will be responsible for all costs of maintenance and upgrades to the software provided to the Tax Collector under the terms of this MOU. Title and ownership of the computer programming software shall be retained by the Department.

2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

2.6. The Department will be responsible during the term of this MOU for payment for all costs of maintenance and for costs of software required for computer configuration. However, the Tax Collector shall bear the costs of repair arising from any misuse, abuse, or extraordinary wear and tear on the computer configuration. Access to the equipment for purpose of repair or maintenance shall be provided by the Tax Collector for authorized repair personnel at any reasonable time.

2.7. The Department will conduct an inventory review of the computer configuration at least annually. The Tax Collector shall complete all property record documents received from the Department pertaining to the equipment provided in accordance with the provisions of this MOU.

3. ADMINISTRATIVE OPERATIONS AND BUSINESS PRACTICES

3.1. The Department will provide training for staff designated by the Tax Collector. Such training will include detailed instruction concerning the use of the hardware and software that are part of the CWIS as well as administrative and legal instruction concerning the minimum eligibility and application requirements for the concealed weapon or firearm license. This training will be provided by the Department at no cost to the Tax Collector. However, the Tax Collector may incur expenses in connection with employee travel for training purposes.

3.2. The Tax Collector will adhere to the Department's policies, procedures, and operating instructions regarding concealed weapon or firearm license application processing and data input to the CWIS.

3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

3.4. When the Tax Collector receives notification that an applicant has remitted payment by check or credit/debit card or other payment instrument that is uncollectible, the Tax Collector shall provide written notification to the Director of the Department's Division of Licensing or his/her designee within five (5) working days of receipt of such notification. The Department will then deny the application or suspend the license if the license has already been issued. The Tax Collector is responsible for the collection of any fees and penalties associated with payments by check, credit card, or other payment instruments that are determined to be uncollectible.

3.5. No less than thirty (30) days must have elapsed since the date the Tax Collector received notification of payment rejection from the financial institution before the Tax Collector may apply for reimbursement of the payment amount previously paid to the Department on behalf of the license applicant. The Tax Collector must complete and e-mail the Department's reimbursement form evidencing documentation of due diligence to collect the outstanding amount of the payment instrument, along with the Department of Financial Services (DFS) refund form. The Tax Collector will receive payment by credit of the outstanding amount via a

subsequent billing transmittal or, if the DFS refund form is required, via transfer of the outstanding payment amount by ACH.

3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

3.7. The Tax Collector shall notify the Director of the Department's Division of Licensing within five (5) working days in the event that an act of fraud is perpetrated upon the license application processing system or within twenty-four (24) hours if there is a security breach that threatens the dissemination of information that is confidential or exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution.

3.8. Only those communications that are in writing and signed by the Director or the Assistant Director of the Department's Division of Licensing shall be considered a duly authorized expression on behalf of the Department. Only those communications that are in writing and signed by the constitutionally elected Tax Collector or the Tax Collector's designee will be recognized by the Department as duly authorized expressions on behalf of the Tax Collector.

3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

3.10. The Department will exercise reasonable diligence to provide the services to the Tax Collector as provided in the provisions of this MOU. However, the Department will not be liable for any interruption or insufficiency of service.

4. CONFIDENTIALITY OF CONCEALED WEAPON LICENSING RECORDS

4.1. In accordance with section 790.0601, Florida Statutes, the Tax Collector is specifically prohibited from maintaining a list or record of persons who apply for or are granted a new or renewal license to carry a concealed weapon or firearm. The Tax Collector will create and maintain only those books, records, and documents that are required in accordance with generally accepted accounting procedures and practices consistently applied to sufficiently and properly reflect all revenues generated under this MOU.

4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

5.2. The Department shall notify the Tax Collector of its intent to terminate this MOU in writing ten (10) business days prior to the actual date of termination. Upon receipt of this written notification, the Tax Collector shall immediately suspend the processing of concealed weapon or firearm license applications.

5.3. The Tax Collector may at his or her discretion request that the Department rescind this MOU. The Tax Collector must provide written request to rescind the MOU to the Director of the Department's Division of Licensing and must discontinue accepting concealed weapon license applications as of the date of that written request.

5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at Lake Butler, Florida
City State

this 14 day of May, 20 15.

TAX COLLECTOR

Kristen Poppell
Witness as to Tax Collector

Witness as to Tax Collector

Lisa B. Johnson (SEAL)
Signature

LISA B. Johnson
Name

Tax Collector
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

D. Alan Edwards (SEAL)
Signature

D. Alan Edwards
Name

Director Administration
Title

WALTON COUNTY

The House Oversight, Transparency, & Public Management Subcommittee
The Senate Criminal Justice Committee
November 2018

Open Government Sunset Review Questionnaire
(Concealed weapon license personal identifying information)

PLEASE RETURN THIS QUESTIONNAIRE BY DECEMBER 21, 2018, TO BOTH:

Alex Moore
Attorney
House Oversight, Transparency, & Public Management Subcommittee
Alexandra.Moore@myfloridahouse.gov
Phone: (850) 717-4890

Connie Cellon
Attorney
Senate Criminal Justice Committee
Cellon.Connie@flsenate.gov
Phone: (850) 487-5192

Section 790.0601(2), Florida Statutes, provides a public record exemption for personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees.

This public record exemption stands repealed on October 2, 2019, unless reviewed and reenacted by the Legislature under the Open Government Sunset Review Act (section 119.15, Florida Statutes).

To assist professional committee staff as part of their review of this public record exemption, please respond to the questions below. A copy of section 790.0601, Florida Statutes, is attached for your convenience.

Name of tax collector:
Rhonda Skipper

Name of person completing the questionnaire:
Artie Rodriguez

Title of person completing the questionnaire:
Director of Administration

Telephone number of person completing the questionnaire:
850-892-8121

E-mail address of person completing the questionnaire:
Artie@waltontaxcollector.com

Date that this questionnaire was completed:
12/14/2018

I. Applications for Concealed Weapon or Firearm Licenses

1. Does your tax collector's office receive applications and/or renewals for concealed weapon or firearm licenses? If yes, please complete the rest of this questionnaire. If no, please indicate that your office does not receive applications and/or renewals for concealed weapon or firearm licenses and return this questionnaire. **Yes**

2. When was your office appointed to accept applications for concealed weapon or firearm licenses? **March 4, 2015**

3. Please attach the memorandum of understanding or other documentation establishing the agreement between your office and the Department of Agriculture and Consumer Services.
   MOU Attached as requested.

4. Please describe the process a person must utilize to submit an application and/or a renewal for a concealed weapon or firearm license to your office.
   Customer is requested to make an appointment either via telephone or online scheduling. Upon arrival to our office, customer is escorted to our CWIS area to apply or renew their license. If a new applicant, customer completes the online application, photo is taken, application and supporting documentation is scanned, payment is received, fingerprints are taken and submitted and transaction is complete. If a renewal, customer is verified using photo ID, customer makes any changes if applicable, verifies information using the pin pad, photo is taken, funds collected, and license is printed to complete the transaction.

5. How many applications has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of applications for each year beginning with July 1, 2014.
   Year beginning July 1, 2014 – 16
   Year beginning July 1, 2015 – 3,352
   Year beginning July 1, 2016 – 600
   Year beginning July 1, 2017 – 655
   YTD beginning July 1, 2018- 262

6. How many renewals has your office received for a license to carry a concealed weapon or firearm? Please indicate the number of renewals for each year beginning with July 1, 2014.
   Year beginning July 1, 2014 – No renewals processed in our office
   Year beginning July 1, 2015 – No renewals processed in our office
   Year beginning July 1, 2016 – 142
   Year beginning July 1, 2017 – 195
   YTD beginning July 1, 2018- 109

II. Public Record Exemption under Review

Section 790.0601(2), Florida Statutes, provides that personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625, Florida Statutes, that is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from public record requirements.

1. What types of information does your office consider to be "personal identifying information" for purposes of this exemption?
   State issued drivers license or identification card, Passport, Military ID

   a. How long does your office have possession of the personal identifying information?
      Long enough to process the individual's transaction

   b. Does your office transmit the personal identifying information to the Department of Agriculture and Consumer Services? If "yes," how and when? **No, except in the case of a member of military in which case it is scanned and transmitted to expedite the process.**

   c. Does your office destroy the personal identifying information at some point? If "yes," when? **No, it is returned to the customer.**

2. Has the public record exemption under review been the subject of litigation? If "yes," please explain and provide the appropriate case citations. **Unknown**

3. Are there Attorney General opinions interpreting the exemption? **Unknown**

4. Beginning July 1, 2014, has your office received a public records request for the exempt personal identifying information? If "yes": **No**

   d. What is the number of requests your office has received for such exempt information each year since July 1, 2014?

   e. Please describe the types of entities requesting such information, if available.

   f. Has your office released the exempt information? If so, under what circumstances did your office release the exempt information (e.g., pursuant to a public records request)?

   g. If the information was released, please identify the entities or individuals to whom the information was released, if known.

5. Are there any circumstances under which your office needs to release the confidential and exempt information, but such release is not currently authorized by law? If "yes," please specify those circumstances. **No**

6. Can the exempt information contained in the records be readily obtained by alternative means? If "yes," how? **No**

7. Does any federal law or another Florida law protect the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm? If "yes": **Unknown**

   a. Please provide the specific cite for federal law or another Florida law for each exemption and specify the types of information each state or federal law protects.

   b. Please explain which exemption your office relies upon when responding to a public record request that would include personal identifying information of a person who applies for a license to carry a concealed weapon or firearm.

   c. Can the public record exemption for the personal identifying information of a person who applies for a license to carry a concealed weapon or firearm be repealed or merged with the other exemption(s)? Please explain.

8. Does the public record exemption under review benefit your office? If so, please explain. **Yes, it protects the privacy of our customers and citizens.**

   a. How would a release of the types of information covered by the exemption impact a person who applies for a license to carry a concealed weapon or firearm? **There is the possibility of a person deciding to not apply for the license due to their information potentially being released in a public records request.**

   b. How would a release of such information impact your office? **Possible revenue reduction.**

9. Has your office had any difficulties interpreting or applying the exemption for the personal identifying information of a person who applies for a license for a concealed weapon or firearm? **No**

10. Has your office received complaints about the public record exemption? If so, please explain. **No**

11. Does your office recommend that the Legislature reenact the public record exemption under review or repeal such exemption?
    __**X**__ Reenact the exemption in its current form. Please provide a brief explanation. **The exemption is in place to protect the identity of the customer/licensee.**
    _____ Reenact the exemption with changes (e.g., exempt more, less, or different records from public record requirements). Please describe the changes and provide a brief explanation.
    _____ Repeal the exemption. Please provide a brief explanation.

12. Please provide any additional comments regarding the public record exemption under review.

Public Record Exemption under Review

790.0601 Public records exemption for concealed weapons.—

(1) Personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06 held by the Division of Licensing of the Department of Agriculture and Consumer Services is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the division before, on, or after the effective date of this section.

(2) Personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm pursuant to s. 790.0625 which is held by a tax collector appointed by the Department of Agriculture and Consumer Services to receive applications and fees is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the tax collector before, on, or after the effective date of this subsection.

(3) Information made confidential and exempt by this section shall be disclosed:

(a) With the express written consent of the applicant or licensee or his or her legally authorized representative.

(b) By court order upon a showing of good cause.

(c) Upon request by a law enforcement agency in connection with the performance of lawful duties, which shall include access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.

(4) Subsection (2) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 1, ch. 2006-102; s. 1, ch. 2011-136; s. 1, ch. 2014-206.

FDACS CONTRACT #

021906

DIVISION OF LICENSING
(850) 245-5500
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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

MEMORANDUM OF UNDERSTANDING
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
and a
FLORIDA TAX COLLECTOR

COPY

THIS MEMORANDUM OF UNDERSTANDING IS MADE EFFECTIVE
BY AND BETWEEN
THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
DIVISION OF LICENSING (hereinafter the Department)

AND Walton County Tax Collector
(hereinafter the Tax Collector)

LOCATED AT: 571 E. Nelson Ave., DeFuniak Springs, FL 32433

1. STATEMENT OF INTENT; VALID TERM OF THE MEMORANDUM OF UNDERSTANDING

1.1. Section 790.0625, Florida Statutes, authorizes the Department of Agriculture and Consumer Services to appoint constitutionally elected Florida Tax Collectors to accept applications for Florida Concealed Weapon or Firearm Licenses on behalf of the Department. This Memorandum of Understanding (MOU) between the Department and the Tax Collector named above grants specific authority to that Tax Collector to act in accordance with the stated provision of this section of law. The specific duties and responsibilities to be carried out by each party to this MOU will be enumerated herein.

1.2. The Department retains sole responsibility for administering the provisions of section 790.06, Florida Statutes, in issuing concealed weapon or firearm licenses to qualified applicants.

1.3. This MOU shall remain valid and in full effect until such time as it is either revised by mutual agreement of the parties or rescinded by the Department.

2. EQUIPMENT, SOFTWARE, AND NETWORK INFRASTRUCTURE

2.1. The Department, at its own expense, will provide the Tax Collector with computer workstations, printers, electronic fingerprint scanning devices, and miscellaneous additional equipment (collectively, the computer configuration) necessary for completing the application collection process. Title, ownership, and administrative control of each unit of equipment and any and all replacements, substitutions, and repairs thereto constituting the computer configuration shall be retained by the Department.

2.2. The Department, at its own expense, will provide the Tax Collector with network equipment (switches/firewall) needed for submitting concealed weapon or firearm license applications via the Concealed Weapon Intake System, hereinafter referred to as the CWIS. Title, ownership, and administrative control of the network equipment and any and all replacements, substitutions, and repairs thereto shall be retained by the Department.

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2.5. Each piece of equipment constituting the computer configuration and the CWIS shall be kept at secure locations designated by the Tax Collector and shall not be removed without the Tax Collector providing two (2) weeks' prior written notice to the Director of the Department's Division of Licensing. The equipment and software provided by the Department shall be used by the Tax Collector solely for the purposes allowed under this MOU, and the Tax Collector shall not use, adapt, or otherwise modify the computer configuration, or any part thereof, or the CWIS in a manner inconsistent with the terms of this MOU or any applicable laws, codes, ordinances, and regulations.

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3.3. The Tax Collector shall each week remit via the Automated Clearing House (ACH) the application fee and the fingerprint processing fee for each new or renewal concealed weapon or firearm license application received during the previous business week. Tax Collectors whose offices do not have ACH access can remit payment weekly to the Department by check made payable to the Department of Agriculture and Consumer Services. Payment is to be received within five (5) business days of the billing date.

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3.6. The Tax Collector shall bear all costs associated with accepting applications on behalf of the Department for concealed weapon or firearm licenses as specified in section 790.0625, Florida Statutes, except those costs associated with hardware and software purchase, installation, maintenance, and replacement as established in this MOU.

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3.9. The parties to this MOU acknowledge that the Department's ability to provide the services authorized herein to the Tax Collector is contingent on sufficient funds being appropriated for such purpose by the Florida Legislature.

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4.2. Insofar as the personal identifying information of any individual who has applied for a license to carry a concealed weapon or firearm at the Tax Collector's office is confidential and exempt from the public records disclosure provisions established in section 119.07(1), Florida Statutes, and in Article I, section 24(a) of the Florida Constitution, the Tax Collector shall exercise due diligence and reasonable care to

ensure that such personal identifying information remains confidential and is not disseminated to the public.

4.3. The Tax Collector shall inform anyone making a public records request for information about concealed weapon or firearm license applicants or licensees that pursuant to section 790.0601, Florida Statutes, such information is confidential and exempt from public records disclosure and that the Tax Collector and the Department can neither confirm nor deny whether any individual currently holds a concealed weapon or firearm license or has ever applied for, previously held, or been denied such a license.

4.4. Any breach of these guidelines pertaining to the personal identifying information of concealed weapon or firearm license applicants and licensees shall constitute sufficient cause for immediate termination of the MOU between the Department and the Tax Collector. Moreover, such a breach will subject the Tax Collector to the penalties set forth in section 119.10, Florida Statutes.

4.5. During normal operating hours the Department may inspect and audit Tax Collector records and recordkeeping practices required by this MOU.

5. TERMINATION OF MOU

5.1. As provided for in section 790.0625(3)(b), Florida Statutes, the Department may rescind this MOU with the Tax Collector for any reason at any time. The decision to rescind this MOU could result from such causes as: failure to adhere to the provisions of this memorandum with respect to the care, control, and custody of the equipment provided by the Department to the Tax Collector; failure to adhere to the administrative operations and business practices specified by the Department for the processing and acceptance of concealed weapon license applications; breach of the confidentiality requirement specified in the law resulting in the dissemination of personal identifying information about concealed weapon applicants or licensees; or, failure to properly remit payment to the Department. The Department may exercise its option to rescind this MOU at its discretion for reasons unspecified here. The Department's decision to rescind this MOU shall not be subject to appeal by the Tax Collector under the provisions of Chapter 120, Florida Statutes.

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5.4. In the event of termination of this MOU, the Tax Collector shall be bound by the following requirements and conditions:

A. Surrender the computer configuration and all other equipment in good condition, ordinary wear and tear excepted.
B. Protect and safeguard the equipment until it is removed from the premises in which it is installed.
C. Provide reasonable access to the equipment herein referred to and otherwise facilitate its removal. Equipment removal shall be completed within ten (10) business days after the actual date of termination.

IN WITNESS WHEREOF, the Department and the Tax Collector have caused this MOU to be executed in duplicate by their respective officials duly authorized to do so.

Dated at DeFuniak Springs (City) Florida (State)

this 4th day of March, 20 15.

TAX COLLECTOR

Witness as to Tax Collector

Witness as to Tax Collector

(SEAL)
Signature

Rhonda Skipper
Name

Tax Collector, Walton County
Title

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, DIVISION OF LICENSING

Witness as to State

Witness as to State

(SEAL)
Signature

D. Alan Edwards
Name

Director Administration
Title

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19
Meeting Date

7044
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 7044

Name CARLOS NATHAN

Job Title DEP LEGIS AFFAIRS DIR

Address _____ Phone (850) 617-7700
Street

_____ Email _____
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL DEPT OF AG & CONSUMER SRVS

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/2018
Meeting Date

7044
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City *State* *Zip*

Email justice2jesus@yahoo.com

Speaking: ☐ For ☐ Against ☑ Information

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

Representing Justice-2-Jesus

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SPB 7046
INTRODUCER:	Criminal Justice Committee
SUBJECT:	Critical Infrastructure Facilities and Staff
DATE:	February 20, 2019 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones		**CJ Submitted as Comm. Bill/Fav**

I. Summary:

SPB 7046 amends various statutes to address security and staffing concerns found within critical infrastructure facilities. The bill prohibits the use of drones in close proximity to a:

- State correctional institution or a private correctional facility; and
- Secure juvenile detention center or facility, a nonsecure residential facility, a high-risk residential facility, or a maximum-risk residential facility.

The bill also lowers the minimum age for employment as a correctional officer from 19 years of age to 18 years of age.

The bill also reenacts a number of sections relating to employment qualifications for certain officers to incorporate the changes made by the act to s. 943.13, F.S.

The bill does not appear to affect state revenues or expenditures.

The bill is effective July 1, 2019.

II. Present Situation:

Drone Regulatory Structure – General

A drone, also called Unmanned Aerial Vehicle (UAV) and Unmanned Aerial System (UAS), is defined in s. 934.50, F.S., as a powered, aerial vehicle that:

- Does not carry a human operator;
- Uses aerodynamic forces to provide vehicle lift;
- Can fly autonomously or be piloted remotely;
- Can be expendable or recoverable; and
- Can carry a lethal or nonlethal payload.[1]

[1] Section 934.50(2), F.S.

Drones range in size from wingspans of 6 inches to 246 feet and can weigh from approximately 4 ounces to over 25,600 pounds.[2] They may be controlled manually or through an autopilot that uses a data link to connect the drone's pilot to the drone.[3] Drones can be equipped with various items, such as infrared cameras[4] and "LADAR" (laser radar).[5]

Drones are considered to be aircraft subject to the regulation by the Federal Aviation Administration (FAA).[6] In February 2012, Congress passed the FAA Modernization and Reform Act of 2012 (Act), which required the FAA to safely open the nation's airspace to drones by September 2015.[7] This Act vested authority to regulate the use of drones to the FAA, as it does all aircraft in the national airspace, with an emphasis on safety, efficiency, and national security.[8] The FAA has stated that state and local restrictions affecting drone operation should be consistent with federal statutory and regulatory framework pertaining to specified aspects of the airspace.[9]

Under the authority granted in the 2012 Act, the FAA issued its regulations on the operation and certification of small (less than 55 pounds at take-off) unmanned aircraft systems in June 2016.[10] The 2016 small drone regulations are still in effect and include airspace restrictions and a waiver mechanism allowing for deviations from drone operational restrictions upon application and authorization by the FAA.[11] The FAA issued regulations for commercial drones, but hobbyist drones continue to fall under the model airplane safety guidelines, including flying at or below 400 feet and keeping the drone within sight.[12] Subsequent to the 2016 FAA regulations,

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[2] Department of Transportation, Federal Aviation Administration, *Unmanned Aircraft Operations in the National Airspace System*, 14 CFR Part 91, Docket No. FAA-2006-25714, February 6, 2007.
[3] *Id*.
[4] Infrared cameras can see objects through walls based on the relative levels of heat produced by the objects. Congressional Research Service, *Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Congressional Response*, April 3, 2013, available at www.fas.org/sgp/crs/natsec/R42701.pdf (last visited February 13, 2019); Search and rescue drones equipped with thermal imaging help first responders identify the location of people lost in chaotic scenes, and police departments have started using drones with thermal capabilities to identify the location of suspects while keeping an infrared eye on their officers. Spire Drones, *Best Infrared Drones (Buying Guide)*, available at https://buythebestdrone.com/best-infrared-drones/ (last visited February 13, 2019).
[5] The research and development laboratory at the Massachusetts Institute of Technology has developed airborne ladar systems that generate detailed 3D imagery of terrain and structures, including those beneath dense foliage. The lab reports that the micro-ladar could be used under both clear and heavy foliage conditions for surveillance and reconnaissance missions as well as for humanitarian assistance and disaster relief operations. Lincoln Laboratory, Massachusetts Institute of Technology, R & D Projects, *Micro-ladar*, available at https://www.ll.mit.edu/r-d/projects/micro-ladar (last visited February 13, 2019).
[6] FAA, Office of the Chief Counsel, *State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet*, p. 1 (on file with the Senate Committee on Criminal Justice)(hereinafter cited as "FAA Fact Sheet").
[7] Pub. L. No. 112-95, (2012), The FAA Modernization and Reform Act of 2012; Congressional Research Service, *Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Congressional Response*, April 3, 2013, available at www.fas.org/sgp/crs/natsec/R42701.pdf (last visited February 13, 2019).
[8] However, considerations such as privacy are beyond the scope of FAA authority. 14 CFR Parts 21, 43, 61, 91, 101, 107, 119, 133, and 183, *Operation and Certification of Small Unmanned Aircraft Systems*, 81 FR 42064-01, June 28, 2016; *See also* FAA Fact Sheet, p. 1.
[9] FAA Fact Sheet, p. 1.
[10] *Supra*, n. 8.
[11] *Id*.
[12] NCSL, *Regulating Drones: Who and How?*, available at http://www.ncsl.org/blog/2017/08/08/regulating-drones-who-and-how.aspx (last visited February 20, 2019).

Congress approved a 17-month extension of the authority of the FAA, known as the "Extension, Safety, and Security Act of 2016 (Extension Act of 2016)."[13] In addition to providing the FAA continued authority and funding to operate, the Extension Act of 2016 required the FAA, by the end of 2016, to establish a process for operators or proprietors of fixed-site facilities to petition the FAA to prohibit or restrict the operation of an unmanned aircraft in close proximity to a fixed-site facility. The section provides that a "fixed-site facility" means critical infrastructure, oil refineries and chemical facilities, amusement parks, and other locations that warrant such restrictions.[14] As of February 2019, the FAA has not established such an application process for state or local fixed site facility entities to apply for such restrictions.

The FAA Chief Counsel stated in 2016 that the longstanding doctrine is that when the federal government does act, state and local governments cannot enact even complementary rules; however, he believes there needs to be a conversation over where state and local governments can put restrictions on low-altitude drone use "so we can get past the issue of what's state and what's federal."[15]

A number of states have enacted a wide range of laws that regulate, and even restrict, the operation of drones. Ten states, including Arizona, Louisiana, Nevada, New Jersey, North Carolina, Oregon, South Dakota, Tennessee, Texas and Wisconsin, prohibit drone operation near or over prisons.[16] Additionally, the FAA recently, at the request of its federal security partners, prohibited the operation of drones over a number of federal correctional facilities. There are only a few exceptions that permit drone flights within these restrictions, and they must be coordinated with the individual facility and/or the FAA. Operators who violate the flight restrictions may be subject to enforcement action, including potential civil penalties and criminal charges.[17] Therefore, it appears that such regulations related to the operation of drones near or over correctional facilities is consistent with the federal statutory and regulatory framework for the operation of drones.

Protection of Critical Infrastructure Facilities in Florida from Drone Traffic

Florida has enacted laws to ensure safety of specified locations within the state. Section 330.41, F.S., protects critical infrastructure facilities by prohibiting any person from knowingly or willfully:

- Operating a drone over a critical infrastructure facility, unless the drone is in transit for commercial purposes and is in compliance with Federal Aviation Administration (FAA) regulations;

[13] Pub. L. No. 114-190 (2016).
[14] Pub. L. No. 114-190, s. 2209 (2016).
[15] National Conference of State Legislators (NCSL), *Who Should Regulate Drones?*, available at http://www.ncsl.org/blog/2016/12/09/who-should-regulate-drones.aspx (last visited February 20, 2019).
[16] NCSL, *2017 Unmanned Aircraft Systems (UAS) State Legislation Update*, January 17, 2018, available at http://www.ncsl.org/research/transportation/2017-unmanned-aircraft-systems-uas-state-legislation-update.aspx (last visited February 20, 2019).
[17] FAA, News and Updates, *FAA Establishes Restrictions on Drone Operations over DOJ and DOD Facilities*, February 14, 2019, available at https://www.faa.gov/news/updates/?newsId=93048 (last visited February 20, 2019). The FAA used its existing authority under Title 14 of the Code of Federal Regulations to address concerns about drone operations over national security sensitive facilities by establishing temporary unmanned aircraft system (UAS) specific flight restrictions. 14 C.F.R. s. 99.7 (2016).

- Allowing a drone to make contact with a critical infrastructure facility, including any person or object on the premises of or within the facility; or
- Allowing a drone to come within a distance of a critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility.

"Critical infrastructure facility" means any of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs which indicate that entry is forbidden and which are posted on the property in a manner reasonably likely to come to the attention of intruders:

- An electrical power generation or transmission facility, substation, switching station, or electrical control center.
- A chemical or rubber manufacturing or storage facility.
- A mining facility.
- A natural gas or compressed gas compressor station, storage facility, or natural gas or compressed gas pipeline.
- A liquid natural gas or propane gas terminal or storage facility with a capacity of 4,000 gallons or more. Any portion of an aboveground oil or gas pipeline.
- A wireless communications facility, including tower, antennae, support structures, and all associated ground-based equipment.[18]

A first violation of this prohibition is a second degree misdemeanor[19] and a second or subsequent violation is a first degree misdemeanor.[20]

The prohibition does not apply to prohibited actions which are committed by:

- A federal, state, or other governmental entity, or a person under contract or otherwise acting under the direction of a federal, state, or other governmental entity;
- A law enforcement agency that is in compliance with s. 934.50, F.S., or a person under contract with or otherwise acting under the direction of such law enforcement agency; or
- An owner, operator, or occupant of the critical infrastructure facility, or a person who has prior written consent of such owner, operator, or occupant.[21]

Section 330.41(3)(a), F.S., preempts regulation of the operation of drones to the state except as provided in federal regulations, authorizations, or exemptions.[22] However, the statute does not limit the authority of a local government to enact or enforce local ordinances relating to nuisances, voyeurism, harassment, reckless endangerment, property damage, or other illegal acts arising from the use of drones if such laws or ordinances are not specifically related to the use of a drone for those illegal acts.[23]

[18] Section 33.41(2)(a), F.S.
[19] A second degree misdemeanor is punishable by up to 60 days in jail and up to a $500 fine. Sections 775.082 and 775.083, F.S.
[20] Section 330.41, F.S. A first degree misdemeanor is punishable by up to one year in jail and a fine of up to $1,000.
[21] Section 330.41(4)(c), F.S.
[22] "Except as otherwise expressly provided, a political subdivision may not enact or enforce an ordinance or resolution relating to the design, manufacture, testing, maintenance, licensing, registration, certification, or operation of an unmanned aircraft system, including airspace, altitude, flight paths, equipment or technology requirements; the purpose of operations; and pilot, operator, or observer qualifications, training, and certification." Section 330.41(3)(b), F.S.
[23] Section 330.41(3)(c), F.S.

Additionally, the prohibition against operating a drone over a critical infrastructure facility does not apply to a drone operating in transit for commercial purposes in compliance with FAA regulations, authorizations, or exemptions.[24]

To ensure that Florida is compliant with Federal laws discussed above related to the regulation of drones, s. 330.41(4), F.S., requires that the provisions limiting the operation of drones near critical infrastructure facilities sunsets 60 days after the FAA adopts rules to designate critical infrastructure facilities and provides a process for specified entities to apply for exemptions and protection from drone use.[25] Section 330.41, F.S., must be construed in accordance with standards imposed by federal statutes, regulations, and FAA guidance on UAS.[26]

Introduction of Contraband into State Facilities

As mentioned above, at least ten states have passed laws limiting drone operation near prisons.[27] The legislation is likely a response to incidents that have been reported across the country of drones being used to drop contraband into prison yards.[28] The DOC asserts that the threat of the use of drones to introduce contraband into prison facilities is a major concern. The DOC also reports that smaller items such as cell phones, illegal drugs, and tobacco can be easily carried by the inexpensive smaller drones sold at many retail stores and large items, such as guns, ammunition, and other weapons, are increasingly more likely to be introduced to a facility with drones becoming more and more capable, affordable, and available. The DOC began tracking drone sightings over the DOC facilities in late 2016 with the first reported sighting on December 26, 2016. Since the initiation of tracking, the DOC reports that there have been 38 total reported incidents of drone sightings, some of which contain multiple drones sighted.[29]

It is a felony offense in Florida to introduce contraband into or upon the grounds of a state correctional institution, a juvenile detention facility or commitment program, or a county detention facility.[30]

Florida Statutes define the following state facilities:

- *State correctional institution* means any prison, road camp, prison industry, prison forestry camp, or any prison camp or prison farm or other correctional facility, temporary or

[24] Section 330.41(4)(d), F.S.
[25] Section 330.41(4)(e), F.S. As mentioned above, it does not appear that the FAA has adopted a process for designating critical infrastructure facilities at this time.
[26] Section 330.41(5), F.S.
[27] National Conference of State Legislatures, *2017 Unmanned Aircraft Systems (UAS) State Legislation Update*, available at http://www.ncsl.org/research/transportation/2017-unmanned-aircraft-systems-uas-state-legislation-update.aspx (last visited February 13, 2019).
[28] *Drones pose security threat at the nation's prisons and what Pa. officials want to do about it*, PennLive, July 26, 2017, available at http://www.pennlive.com/politics/index.ssf/2017/07/drones_pose_security_threat_at.html (last visited February 13, 2019).
[29] The DOC, *SPB 7046 Agency Analysis*, February 15, 2019, p. 2 (hereinafter cited as "The DOC SPB 7046 Analysis")(on file with the Criminal Justice Committee). *See also* The DOC, Office of Institutions, Bureau of Security, *Drone Threat to FDC Facilities Background Information*, p. 1-5 (on file with the Criminal Justice Committee). The DOC provided statistics for various contraband recovered in the last Fiscal Year, including 9,009 cell phones, 11,910 weapons, approximately 51,000 grams of various drugs, and 809,198 grams of tobacco were recovered in facilities during Fiscal Year 2017-18.
[30] Sections 944.47, 985.711, and 951.22, F.S.

permanent, in which prisoners are housed, worked, or maintained, under the custody and jurisdiction of the Department of Corrections.[31]

- *Privatized prisons* are authorized by ch. 957, F.S. The Department of Management Services contracts with private businesses who will establish cost-effective, privately operated correctional facilities in the State of Florida.[32]
- *Detention center or facility* means a facility used pending court adjudication or disposition or execution of court order for the temporary care of a child alleged or found to have committed a violation of law. A detention center or facility may provide secure custody. A facility used for the commitment of adjudicated delinquents shall not be considered a detention center or facility.[33]
- *Nonsecure residential facilities* are either environmentally secure, staff secure, or are hardware-secure with walls, fencing, or locking doors. Youth assessed and classified for placement in programs at this commitment level represent a low or moderate risk to public safety and require close supervision.[34]
- *High-risk residential facilities* are hardware-secure with perimeter fencing and locking doors. Youth assessed and classified for this level of placement require close supervision in a structured residential setting. Placement in programs at this level is prompted by a concern for public safety that outweighs placement in programs at lower commitment levels.[35]
- *Maximum-risk residential facilities* are maximum-custody, hardware-secure with perimeter security fencing and locking doors. Youth assessed and classified for this level of placement require close supervision in a maximum security residential setting. Placement in a program at this level is prompted by a demonstrated need to protect the public.[36]
- *County detention facility* means a county jail, a county stockade, a county work camp, a county residential probation center, and any other place except a municipal detention facility used by a county or county officer for the detention of persons charged with or convicted of either felony or misdemeanor.[37]

Employment Qualifications for Certain Officers in Specified Facilities

The Criminal Justice Standards and Training Commission (Commission), which is housed within the Florida Department of Law Enforcement (FDLE) is, in part, responsible for implementing

[31] Section 944.02(8), F.S.
[32] Section 957.04(1)(e), F.S. Currently there are seven private prison facilities housing approximately 10,000 inmates in operation in Florida. The Department of Corrections, *2017-18 Annual Report*, p. 3 and 7, available at http://www.dc.state.fl.us/pub/annual/1718/FDC_AR2017-18.pdf (last visited February 14, 2019).
[33] Section 985.03(19), F.S.
[34] Section 985.03(44)(b), F.S.
[35] Section 985.03(44)(c), F.S.
[36] Section 985.03(44)(d), F.S.
[37] Section 951.23(1)(a), F.S.

requirements related to the training, certification, and discipline of full-time, part-time,[38] and auxiliary[39] correctional officers.[40]

Section 943.10(2), F.S., defines "correctional officer" to mean any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term "correctional officer" does not include any secretarial, clerical, or professionally trained personnel.[41]

Section 943.13, F.S., provides that, to be eligible to be employed as a correctional officer, the person must:

- Be at least 19 years of age;
- Be a citizen of the United States, notwithstanding any law of the state to the contrary;
- Be a high school graduate or its equivalent;[42]
- Not have been convicted of any felony or of a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States;[43]
- Have documentation of his or her processed fingerprints on file with the employing agency or, if a private correctional officer, have documentation of his or her processed fingerprints on file with the Department of Corrections (DOC) or the Commission;[44]

[38] Section 943.10(7), F.S., defines "part-time correctional officer" to mean any person who is employed or appointed less than full time, as defined by the employing or appointing agency, with or without compensation, whose responsibilities include the supervision, protection, care, custody, and control of inmates within a correctional institution.

[39] Section 943.10(9), F.S., defines "auxiliary correctional officer" to mean any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time correctional officer and who, while under the supervision of a full-time or part-time correctional officer, has the same authority as a full-time or part-time correctional officer for the purpose of providing supervision, protection, care, custody, and control of inmates within a correctional institution or a county or municipal detention facility.

[40] Correctional officers are eligible for special risk class benefits in accordance with s. 121.0515, F.S. Special risk class membership awards more retirement credit per year of service than is awarded to other employees due to the increased risk that such employees undertake as a part of their duties. Membership of correctional officers in the special risk class is determined by whether the officer's primary duties and responsibilities involve the custody of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail outside the facility, or while being transported; or whether the officer is the supervisor or command officer of a member or members who have such responsibilities. Section 121.0515(1) and (3)(c), F.S.

[41] Section 943.10(2), F.S.

[42] Section 943.13(3), F.S., provides that the Commission must define the term high school equivalency in rule.

[43] Section 943.13(4), F.S., further specifies that: a. Any person who, after July 1, 1981, pleads guilty or nolo contendere to or is found guilty of any felony or of a misdemeanor involving perjury or a false statement is not eligible for employment or appointment as an officer, notwithstanding suspension of sentence or withholding of adjudication; and b. Any person who has pled nolo contendere to a misdemeanor involving a false statement, prior to December 1, 1985, and has had such record sealed or expunged shall not be deemed ineligible for employment or appointment as an officer.

[44] Section 943.13(5), F.S., provides that the FDLE must retain and enter into the statewide automated biometric identification system all fingerprints submitted. Thereafter, the fingerprints must be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. 943.051, F.S. The FDLE is also required to search all arrest fingerprints received pursuant to s. 943.051, F.S., against the fingerprints retained in the statewide automated biometric identification system in accordance with s. 943.13, F.S., and report to the employing agency any arrest records that are identified with the retained employee's fingerprints. These fingerprints must be forwarded to the FDLE for processing and retention.

- Have passed a physical examination by a licensed physician, physician assistant, or certified advanced registered nurse practitioner, based on specifications established by the Commission;
- Have a good moral character as determined by a background investigation by the Commission;
- Execute and submit a sworn affidavit-of-applicant form attesting to his or her compliance with the above-listed requirements to the employing agency or, if a private correctional officer, submit to the appropriate governmental entity;
- Complete a Commission approved basic recruit training program for the applicable criminal justice discipline, unless exempt under law;[45] and
- Achieve an acceptable score on the officer certification examination for the applicable criminal justice discipline.

If a critical need for officers exists, the employing agency may temporarily employ a person as a correctional officer, if he or she has met all the requirements listed above, even if he or she has not completed basic recruit school or received an acceptable score on the certification examination.[46] Any person employed as a temporary correctional officer must be supervised by another correctional officer anytime he or she is performing any duties of a correctional officer and must attend the first basic recruit training program offered in the geographic area within 180 consecutive days of employment.[47] A person temporarily employed as a correctional officer is prohibited from being employed in the position for more than 30 months. However, a person that is attending the first available basic recruit training program offered in his or her geographic area may continue to be employed as a temporary correctional officer until he or she:

- Fails or withdraws from the basic recruit training program; or
- Is separated from employment or appointment by the employing agency.[48]

Any person employed as a correctional officer, regardless of age, must comply with all the above-described eligibility criteria and any other requirements imposed by the Commission, including such requirements as continuing education requirements proscribed in s. 943.135, F.S.

The DOC reports that 23 states permit 18 year olds to be employed as correctional officers.[49]

[45] Section 943.13(9), F.S., provides an exemption for an applicant to be required to take the basic recruit training program, including that if the applicant has completed a comparable basic recruit training program for the applicable criminal justice discipline in another state or for the Federal Government and served as a full-time sworn officer in another state or for the Federal Government for at least 1 year. For the exemption to be available, the applicant cannot have more than an 8-year break in employment, as measured from the separation date of the most recent qualifying employment to the time a complete application is submitted for the exemption.
[46] Section 943.131(1)(a), F.S.
[47] Section 943.131(1)(a) and (c), F.S.
[48] Section 943.131(1)(b), F.S.
[49] The DOC SPB 7046 Analysis, p. 2. The DOC reported in its agency analysis for SB 854 (2017), which included this identical provision, that these states include Arkansas, Georgia, Illinois, Indiana, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Jersey, New Mexico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. The DOC, *Senate Bill 854 (2017) Analysis*, at p. 2, (September 19, 2017) (on file with the Senate Committee on Criminal Justice).

III. Effect of Proposed Changes:

Drones and Critical Infrastructure Facilities

The bill amends s. 330.41(2)(a), F.S., to include the following structures within the definition of the term "critical infrastructure facility":

- A state correctional institution as defined in s. 944.02, F.S., and a private prison as authorized in ch. 957, F.S.
- A secure juvenile detention center as defined in s. 985.03(45), F.S., or facility, nonsecure residential facility, high-risk residential facility, and maximum-risk residential facility as defined in s. 985.03(44), F.S.

This change will serve as another tool to combat the introduction of contraband into facilities through the use of drones.

Minimum Age Requirement for Correctional Officers in Critical Infrastructure Facilities

The bill amends s. 943.13, F.S., to reduce the minimum age requirement for correctional officers in state correctional facilities, which are considered critical infrastructure facilities, from 19 years of age to 18 years of age. The bill does not place any limitations on the duties that may be performed by a correctional officer who is younger than 19 years of age.

The bill is effective July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The regulation of the national airspace and the aircraft that occupy it is a federal matter.[50] The FAA Chief Counsel issued a document in 2015 about state and local regulation of

[50]Congress has vested the FAA with authority to regulate the areas of airspace use, management and efficiency, air traffic control, safety, navigational facilities, and aircraft noise at its source. 49 U.S.C. ss. 40103, 44502, and 44701-44735.

drones in which he said that state and local restrictions affecting UAS operations should be consistent with the extensive federal statutory and regulatory framework in order to "ensure the maintenance of a safe and sound air transportation system and of navigable airspace free from inconsistent restrictions."[51] However, given the Chief Counsel's acknowledgement that "laws traditionally related to state and local police power – including land use, zoning, privacy, trespass, and law enforcement operations – generally are not subject to federal regulation"[52] it appears that the bill would not be an encroachment into an area exclusively regulated by the federal government.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill permits the DOC to hire persons who are at least 18 years of age to perform correctional officer functions. To the extent that this bill increases the number of persons the DOC is able to hire, the bill could potentially reduce the current vacancy rate within correctional facilities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 930.41 and 943.13.

This bill reenacts the following sections of the Florida Statutes: 943.131, 943.133, 943.137, 943.139, 943.1395, 943.14, 943.17, 943.253, 944.105, 944.714, 945.035, 948.01, 951.063, and 985.644, F.S.

[51] FAA, Office of the Chief Counsel, *State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet*, December 17, 2015, available at https://www.faa.gov/uas/resources/policy_library/media/UAS_Fact_Sheet_Final.pdf (last viewed February 4, 2019).

[52] *Id*., citing *Skysign International, Inc. v. City and County of Honolulu*, 276 F.3d 1109, 1115 (9th Cir. 2002).

IX. Additional Information:

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

None.

B. Amendments:

None.

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

FOR CONSIDERATION By the Committee on Criminal Justice

591-02294-19 20197046pb

A bill to be entitled

An act relating to critical infrastructure facilities and staff; amending s. 330.41, F.S.; redefining the term "critical infrastructure facility"; reenacting and amending s. 943.13, F.S.; requiring any person employed as a full-time, a part-time, or an auxiliary correctional officer be at least 18 years of age; reenacting ss. 943.131(1)(a) and (c) and (4), 943.133(1) and (6), 943.137(1), 943.139(2), 943.1395(1), (2), and (3), 943.14(7), 943.17(4), 943.253, 944.105(7), 944.714(2), 945.035(3), 948.01(1)(a), 951.063, and 985.644(3)(b), F.S., all relating to employment qualifications or requirements for certain officers, to incorporate the amendment made to s. 943.13, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) of section 330.41, Florida Statutes, is amended, and subsection (4) of that section is republished, to read:

330.41 Unmanned Aircraft Systems Act.—

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

(a) "Critical infrastructure facility" means any of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs which indicate that entry is forbidden and which are posted on the property in a manner

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reasonably likely to come to the attention of intruders:

1. An electrical power generation or transmission facility, substation, switching station, or electrical control center.

2. A chemical or rubber manufacturing or storage facility.

3. A mining facility.

4. A natural gas or compressed gas compressor station, storage facility, or natural gas or compressed gas pipeline.

5. A liquid natural gas or propane gas terminal or storage facility with a capacity of 4,000 gallons or more.

6. Any portion of an aboveground oil or gas pipeline.

7. A wireless communications facility, including the tower, antennae, support structures, and all associated ground-based equipment.

8. A state correctional institution as defined in s. 944.02 or a private correctional facility authorized under chapter 957.

9. A secure detention center or facility as defined in s. 985.03(45) or a nonsecure residential facility, a high-risk residential facility, or a maximum-risk residential facility, as those terms are described in s. 985.03(44).

(4) PROTECTION OF CRITICAL INFRASTRUCTURE FACILITIES.—

(a) A person may not knowingly or willfully:

1. Operate a drone over a critical infrastructure facility;

2. Allow a drone to make contact with a critical infrastructure facility, including any person or object on the premises of or within the facility; or

3. Allow a drone to come within a distance of a critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility.

(b) A person who violates paragraph (a) commits a

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misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A person who commits a second or subsequent violation commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) This subsection does not apply to actions identified in paragraph (a) which are committed by:

1. A federal, state, or other governmental entity, or a person under contract or otherwise acting under the direction of a federal, state, or other governmental entity.

2. A law enforcement agency that is in compliance with s. 934.50, or a person under contract with or otherwise acting under the direction of such law enforcement agency.

3. An owner, operator, or occupant of the critical infrastructure facility, or a person who has prior written consent of such owner, operator, or occupant.

(d) Subparagraph (a)1. does not apply to a drone operating in transit for commercial purposes in compliance with Federal Aviation Administration regulations, authorizations, or exemptions.

(e) This subsection shall sunset 60 days after the date that a process pursuant to s. 2209 of the FAA Extension, Safety and Security Act of 2016 becomes effective.

Section 2. Subsection (1) of section 943.13, Florida Statutes, is amended, and subsection (8) is reenacted, to read:

943.13 Officers' minimum qualifications for employment or appointment.—On or after October 1, 1984, any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer or correctional officer; on or after October 1, 1986, any person employed as a full-time, part-time, or

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auxiliary correctional probation officer; and on or after October 1, 1986, any person employed as a full-time, part-time, or auxiliary correctional officer by a private entity under contract to the Department of Corrections, to a county commission, or to the Department of Management Services shall:

(1) Be at least 19 years of age, except that any person employed as a full-time, a part-time, or an auxiliary correctional officer must be at least 18 years of age.

(8) Execute and submit to the employing agency or, if a private correctional officer, submit to the appropriate governmental entity an affidavit-of-applicant form, adopted by the commission, attesting to his or her compliance with subsections (1)-(7). The affidavit shall be executed under oath and constitutes an official statement within the purview of s. 837.06. The affidavit shall include conspicuous language that the intentional false execution of the affidavit constitutes a misdemeanor of the second degree. The affidavit shall be retained by the employing agency.

Section 3. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in references thereto, paragraphs (a) and (c) of subsection (1) and subsection (4) of section 943.131, Florida Statutes, are reenacted to read:

943.131 Temporary employment or appointment; minimum basic recruit training exemptions.—

(1)(a) An employing agency may temporarily employ or appoint a person who complies with the qualifications for employment in s. 943.13(1)-(8), but has not fulfilled the requirements of s. 943.13(9) and (10), if a critical need exists

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to employ or appoint the person and such person is or will be enrolled in the next approved basic recruit training program available in the geographic area or that no assigned state training program for state officers is available within a reasonable time. The employing agency must maintain documentation which demonstrates that a critical need exists to employ a person pursuant to this section. Prior to the employment or appointment of any person other than a correctional probation officer under this subsection, the person shall comply with the firearms provisions established pursuant to s. 943.17(1)(a). Any person temporarily employed or appointed as an officer under this subsection must attend the first training program offered in the geographic area, or the first assigned state training program for a state officer, subsequent to his or her employment or appointment. A person temporarily employed or appointed as an officer under this subsection must begin basic recruit training within 180 consecutive days after employment. Such person must fulfill the requirements of s. 943.13(9) within 18 months after beginning basic recruit training and must fulfill the certification examination requirements of s. 943.13(10) within 180 consecutive days after completing basic recruit training. A person hired after he or she has commenced basic recruit training or after completion of basic recruit training must fulfill the certification examination requirements of s. 943.13(10) within 180 consecutive days after completion of basic recruit training or the commencement of employment, whichever occurs later.

(c) No person temporarily employed or appointed under the provisions of this subsection may perform the duties of an

officer unless he or she is adequately supervised by another officer of the same discipline. The supervising officer must be in full compliance with the provisions of s. 943.13 and must be employed or appointed by the employing agency.

(4) Within 1 year after receiving an exemption, an applicant who is exempt from completing the commission-approved basic recruit training program must:

(a) Complete all additional required training as required by the commission.

(b) Demonstrate proficiency in the high-liability areas as defined by commission rule.

(c) Complete the requirements of s. 943.13(10).

If the proficiencies and requirements of s. 943.13(10) are not met within the 1-year period, the applicant must seek an additional exemption as provided in this subsection. Except as provided in subsection (1), before the employing agency may employ or appoint the applicant as an officer, the applicant must meet the minimum qualifications described in s. 943.13(1)-(8) and must fulfill the requirements of s. 943.13(10).

Section 4. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in references thereto, subsections (1) and (6) of section 943.133, Florida Statutes, are reenacted to read:

943.133 Responsibilities of employing agency, commission, and program with respect to compliance with employment qualifications and the conduct of background investigations; injunctive relief.—

(1) The employing agency is fully responsible for the

collection, verification, and maintenance of documentation establishing that an applicant complies with the requirements of ss. 943.13 and 943.131, and any rules adopted pursuant to ss. 943.13 and 943.131.

(6) If an employing agency employs or appoints an officer in violation of this section or of s. 943.13, s. 943.131, or s. 943.135, or any rules adopted pursuant thereto, the Department of Legal Affairs, at the request of the chair of the commission, shall apply to the circuit court in the county of the employing agency for injunctive relief prohibiting the employment or appointment of the person contrary to this section.

Section 5. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (1) of section 943.137, Florida Statutes, is reenacted to read:

943.137 Establishment of qualifications and standards above the minimum.—

(1) Nothing herein may be construed to preclude an employing agency from establishing qualifications and standards for employment, appointment, training, or promotion of officers that exceed the minimum requirements set by ss. 943.13 and 943.17, including establishing tobacco-use standards.

Section 6. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (2) of section 943.139, Florida Statutes, is reenacted to read:

943.139 Notice of employment, appointment, or separation; response by the officer; duty of commission.—

(2) In a case of separation from employment or appointment,

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the employing agency shall execute and maintain an affidavit-of-separation form adopted by the commission, setting forth in detail the facts and reasons for such separation. The information contained in the affidavit-of-separation form must be submitted, or electronically transmitted, to the commission. If the officer is separated for his or her failure to comply with s. 943.13, the notice must so specify. The affidavit must be executed under oath and constitutes an official statement within the purview of s. 837.06. The affidavit must include conspicuous language that intentional false execution of the affidavit constitutes a misdemeanor of the second degree. Any officer who has separated from employment or appointment must be permitted to respond to the separation, in writing, to the commission, setting forth the facts and reasons for the separation as he or she understands them.

Section 7. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in references thereto, subsections (1), (2), and (3) of section 943.1395, Florida Statutes, are reenacted to read:

943.1395 Certification for employment or appointment; concurrent certification; reemployment or reappointment; inactive status; revocation; suspension; investigation.—

(1) The commission shall certify, under procedures established by rule, any person for employment or appointment as an officer if:

(a) The person complies with s. 943.13(1)-(10); and

(b) The employing agency complies with s. 943.133(2) and (3).

(2) An officer who is certified in one discipline and who

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complies with s. 943.13 in another discipline shall hold concurrent certification and may be assigned in either discipline within his or her employing agency.

(3) Any certified officer who has separated from employment or appointment and who is not reemployed or reappointed by an employing agency within 4 years after the date of separation must meet the minimum qualifications described in s. 943.13, except for the requirement found in s. 943.13(9). Further, such officer must complete any training required by the commission by rule in compliance with s. 943.131(2). Any such officer who fails to comply with the requirements provided in s. 943.131(2) must meet the minimum qualifications described in s. 943.13, to include the requirement of s. 943.13(9).

Section 8. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (7) of section 943.14, Florida Statutes, is reenacted to read:

943.14 Commission-certified criminal justice training schools; certificates and diplomas; exemptions; injunctive relief; fines.—

(7) Each criminal justice training school that offers law enforcement, correctional, or correctional probation officer basic recruit training, or selection center that provides applicant screening for criminal justice training schools, shall conduct a criminal history background check of an applicant prior to entrance into the basic recruit class. A complete set of fingerprints must be taken by an authorized criminal justice agency or by an employee of the criminal justice training school or selection center who is trained to take fingerprints. If the

employing agency has previously taken a set of fingerprints from the applicant and has obtained a criminal history check of the applicant using the fingerprints, the requirements of this subsection shall be met when the employing agency submits to the criminal justice training school or selection center a letter stating the date on which the agency took the fingerprints of the applicant, a summary of the criminal history check based on the fingerprints, and a certification that the applicant is qualified to enroll in the basic recruit training program pursuant to s. 943.13. If the criminal justice training school or selection center takes the fingerprints, it shall submit the fingerprints to the Florida Department of Law Enforcement for a statewide criminal history check, and forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check. Applicants found through fingerprint processing to have pled guilty to or been convicted of a crime which would render the applicant unable to meet the minimum qualifications for employment as an officer as specified in s. 943.13(4) shall be removed from the pool of qualified candidates by the criminal justice training school or selection center.

Section 9. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (4) of section 943.17, Florida Statutes, is reenacted to read:

943.17 Basic recruit, advanced, and career development training programs; participation; cost; evaluation.—The commission shall, by rule, design, implement, maintain, evaluate, and revise entry requirements and job-related curricula and performance standards for basic recruit, advanced,

and career development training programs and courses. The rules shall include, but are not limited to, a methodology to assess relevance of the subject matter to the job, student performance, and instructor competency.

(4) The commission may, by rule, establish a sponsorship program for prospective officers. The rule shall specify the provisions of s. 943.13 that must be satisfied prior to the prospective officer's enrollment in a basic recruit training course. However, the rule shall not conflict with any laws or rules of the State Board of Education relating to student enrollment.

Section 10. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, section 943.253, Florida Statutes, is reenacted to read:

943.253 Exemption; elected officers.—Elected officers are exempt from the requirements of ss. 943.085-943.25. However, an elected officer may participate in the programs and benefits under ss. 943.085-943.25 if he or she complies with s. 943.13(1)-(7).

Section 11. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (7) of section 944.105, Florida Statutes, is reenacted to read:

944.105 Contractual arrangements with private entities for operation and maintenance of correctional facilities and supervision of inmates.—

(7) The department shall require the certification of private correctional officers at the private vendor's expense

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under s. 943.1395, and all such officers must meet the minimum qualifications established in s. 943.13. All other employees of the private vendor that perform their duties at the private correctional facility shall receive, at a minimum, the same quality and quantity of training as that required by the state for employees of state-operated correctional facilities. All training expenses shall be the responsibility of the private vendor. The department shall be the contributor and recipient of all criminal background information necessary for certification by the Criminal Justice Standards and Training Commission.

Section 12. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (2) of section 944.714, Florida Statutes, is reenacted to read:

944.714 Quality assurance and standards of operation.—

(2) All private correctional officers employed by a private vendor must be certified, at the private vendor's expense, as having met the minimum qualifications established for correctional officers under s. 943.13.

Section 13. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (3) of section 945.035, Florida Statutes, is reenacted to read:

945.035 Notice of employment, appointment, or separation; response by the correctional officer; duty of department.—

(3) In a case of separation from employment or appointment, the department shall execute and maintain an affidavit-of-separation form adopted by the commission, setting forth in detail the facts and reasons for such separation. A copy of the

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affidavit-of-separation form must be submitted, or electronically transmitted, to the commission. If the correctional officer is separated for failure to comply with s. 943.13, the notice must so specify. The affidavit must be executed under oath and constitutes an official statement within the purview of s. 837.06. The affidavit must include conspicuous language that intentional false execution of the affidavit constitutes a misdemeanor of the second degree. Any correctional officer who has separated from employment or appointment must be permitted to respond to the separation, in writing, to the commission, setting forth the facts and reasons for the separation as the officer understands them.

Section 14. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 948.01, Florida Statutes, is reenacted to read:

948.01 When court may place defendant on probation or into community control.—

(1) Any state court having original jurisdiction of criminal actions may at a time to be determined by the court, with or without an adjudication of the guilt of the defendant, hear and determine the question of the probation of a defendant in a criminal case, except for an offense punishable by death, who has been found guilty by the verdict of a jury, has entered a plea of guilty or a plea of nolo contendere, or has been found guilty by the court trying the case without a jury.

(a) If the court places the defendant on probation or into community control for a felony, the department shall provide immediate supervision by an officer employed in compliance with

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the minimum qualifications for officers as provided in s. 943.13. A private entity may not provide probationary or supervision services to felony or misdemeanor offenders sentenced or placed on probation or other supervision by the circuit court.

Section 15. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, section 951.063, Florida Statutes, is reenacted to read:

951.063 Privately operated county correctional facilities.—Each private correctional officer employed by a private entity under contract to a county commission must be certified as a correctional officer under s. 943.1395 and must meet the minimum qualifications established in s. 943.13. The county shall provide to the Criminal Justice Standards and Training Commission all necessary fingerprints for Florida Department of Law Enforcement and Federal Bureau of Investigation background checks. The Criminal Justice Standards and Training Commission shall advise the county as to those employees whose certification has been denied or revoked. Neither the county nor the private entity shall be the direct recipient of criminal records.

Section 16. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, paragraph (b) of subsection (3) of section 985.644, Florida Statutes, is reenacted to read:

985.644 Departmental contracting powers; personnel standards and investigation.—

(3)

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(b) Law enforcement, correctional, and correctional probation officers, certified pursuant to s. 943.13, are not required to submit to level 2 screenings as long as they are currently employed by a law enforcement agency or correctional facility. The department shall electronically submit to the Department of Law Enforcement:

1. Fingerprint information obtained during the employment screening required by subparagraph (a)1.

2. Fingerprint information for all persons employed by the department, or by a provider under contract with the department, in delinquency facilities, services, or programs if such fingerprint information has not previously been submitted pursuant to this section.

Section 17. This act shall take effect July 1, 2019.

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State and Local Regulation of Unmanned Aircraft Systems (UAS)
Fact Sheet

Federal Aviation Administration
Office of the Chief Counsel

December 17, 2015

BACKGROUND

Unmanned aircraft systems (UAS) are aircraft subject to regulation by the FAA to ensure safety of flight, and safety of people and property on the ground. States and local jurisdictions are increasingly exploring regulation of UAS or proceeding to enact legislation relating to UAS operations. In 2015, approximately 45 states have considered restrictions on UAS. In addition, public comments on the Federal Aviation Administration's (FAA) proposed rule, "Operation and Certification of Small Unmanned Aircraft Systems" (Docket No. FAA-2015-0150), expressed concern about the possible impact of state and local laws on UAS operations.

Incidents involving unauthorized and unsafe use of small, remote-controlled aircraft have risen dramatically. Pilot reports of interactions with suspected unmanned aircraft have increased from 238 sightings in all of 2014 to 780 through August of this year. During this past summer, the presence of multiple UAS in the vicinity of wild fires in the western U.S. prompted firefighters to ground their aircraft on several occasions.

This fact sheet is intended to provide basic information about the federal regulatory framework for use by states and localities when considering laws affecting UAS. State and local restrictions affecting UAS operations should be consistent with the extensive federal statutory and regulatory framework pertaining to control of the airspace, flight management and efficiency, air traffic control, aviation safety, navigational facilities, and the regulation of aircraft noise at its source.

Presented below are general principles of federal law as they relate to aviation safety, and examples of state and local laws that should be carefully considered prior to any legislative action to ensure that they are consistent with applicable federal safety regulations. The FAA's Office of the Chief Counsel is available for consultation on specific questions.

WHY THE FEDERAL FRAMEWORK

Congress has vested the FAA with authority to regulate the areas of airspace use, management and efficiency, air traffic control, safety, navigational facilities, and aircraft noise at its source. 49 U.S.C. §§ 40103, 44502, and 44701-44735. Congress has directed the FAA to "develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace." 49 U.S.C. § 40103(b)(1). Congress has further directed the FAA to "prescribe air traffic regulations on the flight of aircraft (including regulations on safe altitudes)" for navigating, protecting, and identifying aircraft; protecting individuals and property on the ground; using the navigable

airspace efficiently; and preventing collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects. 49 U.S.C. § 40103(b)(2).

A consistent regulatory system for aircraft and use of airspace has the broader effect of ensuring the highest level of safety for all aviation operations. To ensure the maintenance of a safe and sound air transportation system and of navigable airspace free from inconsistent restrictions, FAA has regulatory authority over matters pertaining to aviation safety.

REGULATING UAS OPERATIONS

In § 333 of the FAA Modernization and Reform Act of 2012 (Public Law No. 112-95), Congress directed the Secretary to determine whether UAS operations posing the least amount of public risk and no threat to national security could safely be operated in the national airspace system (NAS) and if so, to establish requirements for the safe operation of these systems in the NAS.

On February 15, 2015, the FAA proposed a framework of regulations that would allow routine commercial use of certain small UAS in today's aviation system, while maintaining flexibility to accommodate future technological innovations. The FAA's Notice of Proposed Rulemaking offered safety rules for small UAS (under 55 pounds) conducting non-recreational or non-hobby operations. The proposed rule defines permissible hours of flight, line-of-sight observation, altitude, operator certification, optional use of visual observers, aircraft registration and marking, and operational limits.

Consistent with its statutory authority, the FAA is requiring Federal registration of UAS in order to operate a UAS. Registering UAS will help protect public safety in the air and on the ground, aid the FAA in the enforcement of safety-related requirements for the operation of UAS, and build a culture of accountability and responsibility among users operating in U.S. airspace. No state or local UAS registration law may relieve a UAS owner or operator from complying with the Federal UAS registration requirements. Because Federal registration is the exclusive means for registering UAS for purposes of operating an aircraft in navigable airspace, no state or local government may impose an additional registration requirement on the operation of UAS in navigable airspace without first obtaining FAA approval.

Substantial air safety issues are raised when state or local governments attempt to regulate the operation or flight of aircraft. If one or two municipalities enacted ordinances regulating UAS in the navigable airspace and a significant number of municipalities followed suit, fractionalized control of the navigable airspace could result. In turn, this 'patchwork quilt' of differing restrictions could severely limit the flexibility of FAA in controlling the airspace and flight patterns, and ensuring safety and an efficient air traffic flow. A navigable airspace free from inconsistent state and local restrictions is essential to the maintenance of a safe and sound air transportation system. *See Montalvo v. Spirit Airlines*, 508 F.3d 464 (9th Cir. 2007), and *French v. Pan Am Express, Inc.*, 869 F.2d 1 (1st Cir. 1989); *see also Arizona v. U.S.*, 567 U.S. ___, 132 S.Ct. 2492, 2502 (2012) ("Where Congress occupies an entire field . . . even complimentary state regulation is impermissible. Field preemption reflects a congressional decision to foreclose any

state regulation in the area, even if it is parallel to federal standards."), and *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 386-87 (1992).

EXAMPLES OF STATE AND LOCAL LAWS FOR WHICH CONSULTATION WITH THE FAA IS RECOMMENDED

- Operational UAS restrictions on flight altitude, flight paths; operational bans; any regulation of the navigable airspace. For example – a city ordinance banning anyone from operating UAS within the city limits, within the airspace of the city, or within certain distances of landmarks. Federal courts strictly scrutinize state and local regulation of overflight. *City of Burbank v. Lockheed Air Terminal*, 411 U.S. 624 (1973); *Skysign International, Inc. v. City and County of Honolulu*, 276 F.3d 1109, 1117 (9th Cir. 2002); *American Airlines v. Town of Hempstead*, 398 F.2d 369 (2d Cir. 1968); *American Airlines v. City of Audubon Park*, 407 F.2d 1306 (6th Cir. 1969).
- Mandating equipment or training for UAS related to aviation safety such as geo-fencing would likely be preempted. Courts have found that state regulation pertaining to mandatory training and equipment requirements related to aviation safety is not consistent with the federal regulatory framework. *Med-Trans Corp. v. Benton*, 581 F. Supp. 2d 721, 740 (E.D.N.C. 2008); *Air Evac EMS, Inc. v. Robinson*, 486 F. Supp. 2d 713, 722 (M.D. Tenn. 2007).

EXAMPLES OF STATE AND LOCAL LAWS WITHIN STATE AND LOCAL GOVERNMENT POLICE POWER

Laws traditionally related to state and local police power – including land use, zoning, privacy, trespass, and law enforcement operations – generally are not subject to federal regulation. *Skysign International, Inc. v. City and County of Honolulu*, 276 F.3d 1109, 1115 (9th Cir. 2002). Examples include:

- Requirement for police to obtain a warrant prior to using a UAS for surveillance.
- Specifying that UAS may not be used for voyeurism.
- Prohibitions on using UAS for hunting or fishing, or to interfere with or harass an individual who is hunting or fishing.
- Prohibitions on attaching firearms or similar weapons to UAS.

CONTACT INFORMATION FOR QUESTIONS

The FAA's Office of the Chief Counsel is available to answer questions about the principles set forth in this fact sheet and to consult with you about the intersection of federal, state, and local regulation of aviation, generally, and UAS operations, specifically. You may contact the Office of Chief Counsel in Washington, D.C. or any of the following Regional Counsels:

FAA Office of the Chief Counsel
Regulations Division (AGC-200)
800 Independence Ave. SW
Washington, DC 20591
(202) 267-3073

Alaskan Region
Office of the Regional Counsel
222 West 7th Ave.
Anchorage, AK 99513
(909) 271-5269
(AK)

Central Region
Office of the Regional Counsel
901 Locust St., Room 506
Kansas City, MO 61406-2641
(816) 329-3760
(IA, KS, MO, NE)

Eastern Region
Office of the Regional Counsel
1 Aviation Plaza, Room 561
Jamaica, NY 11434-4848
(718) 553-3285
(DC, DE, MD, NJ, NY, PA, VA, WV)

Great Lakes Region
Office of the Regional Counsel
O'Hare Lake Office Center
2300 East Devon Ave.
Des Plaines, IL 60018
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New England Region
Office of the Regional Counsel
12 New England Executive Park
Burlington, MA 01803
(781) 238-7040
(CT, ME, MA, NH, RI, VT)

Northwest Mountain Region
Office of the Regional Counsel
1601 Lind Ave. SW
Renton, WA 98055-4056
(425) 227-2007
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Southern Region
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1701 Columbia Ave., Suite 530
College Park, GA 30337
(404) 305-5200
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Southwest Region
Office of the Regional Counsel, 6N-300
10101 Hillwood Parkway Dr.
Fort Worth, TX 76177
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(AR, LA, NM, OK, TX)

Western-Pacific Region
Office of the Regional Counsel
P.O. Box 92007
Los Angeles, CA 90009
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(AZ, CA, HI, NV)

APPENDIX – LIST OF AUTHORITIES

Federal Statutes

- 49 U.S.C. §§ 40103, 44502, and 44701- 44735 (former Federal Aviation Act of 1958, as amended and recodified).

- FAA Modernization and Reform Act of 2012, Public Law No. 112-95 (Feb. 14, 2012), Subtitle B, "Unmanned Aircraft Systems."

Federal Regulations

- Title 14 of the Code of Federal Regulations, Chapter 1.

The U.S. Supreme Court

- "Congress has recognized the national responsibility for regulating air commerce. Federal control is intensive and exclusive. Planes do not wander about in the sky like vagrant clouds. They move only by federal permission, subject to federal inspection, in the hands of federally certified personnel and under an intricate system of federal commands. The moment a ship taxies onto a runway it is caught up in an elaborate and detailed system of controls. It takes off only by instruction from the control tower, it travels on prescribed beams, it may be diverted from its intended landing, and it obeys signals and orders. Its privileges, rights, and protection, so far as transit is concerned, it owes to the Federal Government alone and not to any state government." *Northwest Airlines v. State of Minnesota*, 322 U.S. 292, 303 (1944)(Jackson, R., concurring).

- "If we were to uphold the Burbank ordinance [which placed an 11 p.m. to 7 a.m. curfew on jet flights from the Burbank Airport] and a significant number of municipalities followed suit, it is obvious that fractionalized control of the timing of takeoffs and landings would severely limit the flexibility of FAA in controlling air traffic flow. The difficulties of scheduling flights to avoid congestion and the concomitant decrease in safety would be compounded." *Burbank v. Lockheed Air Terminal Inc.*, 411 U.S. 624, 639 (1973).

- "The Federal Aviation Act requires a delicate balance between safety and efficiency, and the protection of persons on the ground … The interdependence of these factors requires a uniform and exclusive system of federal regulation if the congressional objectives underlying the Federal Aviation Act are to be fulfilled." *Burbank* at 638-639.

- "The paramount substantive concerns of Congress [in enacting the FAA Act] were to regulate federally all aspects of air safety … and, once aircraft were in 'flight,' airspace management…." *Burbank* at 644 (Rehnquist, J. dissenting).

U.S. Courts of Appeals

- "Air traffic must be regulated at the national level. Without uniform equipment specifications, takeoff and landing rules, and safety standards, it would be impossible to operate a national air transportation system." *Gustafson v. City of Lake Angeles*, 76 F.3d 778, 792-793 (6th Cir. 1996)(Jones, N., concurring).

- "The purpose, history, and language of the FAA [Act] lead us to conclude that Congress intended to have a single, uniform system for regulating aviation safety. The catalytic events leading to the enactment of the FAA [Act] helped generate this intent. The FAA [Act] was drafted in response to a series of fatal air crashes between civil and military aircraft operating under separate flight rules .... In discussing the impetus for the FAA [Act], the Supreme Court has also noted that regulating the aviation industry requires a delicate balance between safety and efficiency. It is precisely because of 'the interdependence of these factors' that Congress enacted 'a uniform and exclusive system of federal regulation.'" *Montalvo v. Spirit Airlines,* 508 F.3d 464, 471 (9th Cir. 2007), citing *City of Burbank v. Lockheed Air Terminal Inc.*, 411 U.S. 624, 638-39 (1973).

- "[W]hen we look to the historical impetus for the FAA, its legislative history, and the language of the [FAA] Act, it is clear that Congress intended to invest the Administrator of the Federal Aviation Administration with the authority to enact exclusive air safety standards. Moreover, the Administrator has chosen to exercise this authority by issuing such pervasive regulations that we can infer a preemptive intent to displace all state law on the subject of air safety." *Montalvo* at 472.

- "We similarly hold that federal law occupies the entire field of aviation safety. Congress' intent to displace state law is implicit in the pervasiveness of the federal regulations, the dominance of the federal interest in this area, and the legislative goal of establishing a single, uniform system of control over air safety. This holding is fully consistent with our decision in *Skysign International, Inc. v. Honolulu*, 276 F.3d 1109 (9th Cir. 2002), where we considered whether federal law preempted state regulation of aerial advertising that was distracting and potentially dangerous to persons on the ground. In upholding the state regulations, we held that federal law has not 'preempt[ed] altogether any state regulation purporting to reach into the navigable airspace.' *Skysign* at 1116. While Congress may not have acted to occupy exclusively all of air commerce, it has clearly indicated its intent to be the sole regulator of aviation safety. The FAA, together with federal air safety regulations, establish complete and thorough safety standards for interstate and international air transportation that are not subject to supplementation by, or variation among, states." *Montalvo* at 473-474.

- "[W]e remark the Supreme Court's reasoning regarding the need for uniformity [concerning] the regulation of aviation noise, see *City of Burbank v. Lockheed Air Terminal*, 411 U.S. 624 (1973), and suggest that the same rationale applies here. In *Burbank*, the Court struck down a municipal anti-noise ordinance placing a curfew on jet flights from a regional airport. Citing the 'pervasive nature of the scheme of federal

regulation,' the majority ruled that aircraft noise was wholly subject to federal hegemony, thereby preempting state or local enactments in the field. In our view, the pervasiveness of the federal web is as apparent in the matter of pilot qualification as in the matter of aircraft noise. If we upheld the Rhode Island statute as applied to airline pilots, 'and a significant number of [states] followed suit, it is obvious that fractionalized control ... would severely limit the flexibility of the F.A.A ....' [citing *Burbank*] Moreover, a patchwork of state laws in this airspace, some in conflict with each other, would create a crazyquilt effect ... The regulation of interstate flight-and flyers-must of necessity be monolithic. Its very nature permits no other conclusion. In the area of pilot fitness as in the area of aviation noise, the [FAA] Act as we read it 'leave[s] no room for ... local controls.' [citing *Burbank*]. *French v. Pan Am Express, Inc.*, 869 F.2d 1, 6 (1st Cir. 1989).

2019 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Corrections

BILL INFORMATION	
BILL NUMBER:	SB 7046
BILL TITLE:	Critical Infrastructure Facilities and Staff
BILL SPONSOR:	Criminal Justice
EFFECTIVE DATE:	July 1, 2019

COMMITTEES OF REFERENCE
1) Criminal Justice
2)
3)
4)
5)

CURRENT COMMITTEE

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

IDENTICAL BILLS	
BILL NUMBER:	
SPONSOR:	

Is this bill part of an agency package?
Yes.

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	February 15, 2019
LEAD AGENCY ANALYST:	Kenneth Steely; Ricky Dixon
ADDITIONAL ANALYST(S):	Jeff Mortham
LEGAL ANALYST:	Dorothy Burnsed; Philip Fowler; Kyle Magee
FISCAL ANALYST:	Sharon McNeal

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

SB 7046 redefines the term "critical infrastructure facility" by adding fixed-site facilities to the list of facilities protected by the Unmanned Aircraft Systems Act, s. 330.41, F.S. Fixed-site facilities include state correctional institutions, secure detention centers, high-risk or maximum-risk residential facilities, and county detention facilities. The bill also amends s. 943.13, F.S., requiring any person employed as a full-time, a part-time, or an auxiliary correctional officer be at least 18 years of age.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

a. Drones

Drones pose a wide range of security challenges to prisons nationwide including increased introduction of contraband into correctional institutions. Prisons should be included in the list of protected facilities under state law making it illegal to fly a drone over a correctional institution or facility. This deterrence will assist in the reduction of dangerous and illegal contraband in Florida's prisons and help ensure public safety and security.

Recent reports show that drones are currently being utilized across the nation to introduce contraband including smaller payloads such as cell phones, illegal drugs, and tobacco into correctional institutions. As drones become more capable and available, contraband including large payloads like guns, ammunition, and other weapons are increasingly more likely to be introduced to a correctional institution via drone drop.

The threat of the use of drones to introduce contraband into prison facilities is a major concern. As drones become more and more capable and available, large payloads like guns, ammunition, and other weapons are increasingly more likely to be introduced to a facility. Smaller payloads like cell phones, illegal drugs, and tobacco can be easily carried by the inexpensive smaller drones sold at many retail stores.

Below are some examples of recent incidents at various prisons in several other states:

- July 4, 2017 – "A South Carolina inmate used wire cutters that were likely dropped from a drone as part of an elaborate escape plan that also included cellphones smuggled into prison, guns and at least $47,000 in cash, authorities said Friday after his capture." https://www.correctionsone.com/drones/
- August 4, 2015 - "Officers rushed into the north yard of Mansfield Correctional Institution in Mansfield, Ohio, last week after noticing 75 inmates gathering and a fight breaking out, according to an incident report from the Ohio Department of Rehabilitation and Correction. Inmates were able to get their hands on the delivery containing 144.5 grams of tobacco, 65.4 grams of marijuana and 6.6 grams of heroin before the fight ensued…" http://www.cnn.com/2015/08/04/us/prison-yard-drone-drugs-ohio/
- August 18, 2017 – "3 arrested after drone drops cellphone, drugs to prison yard. Michigan Department of Corrections says two guards at the Richard A. Handlon Correctional Facility in the western Michigan city of Ionia heard the drone in the prison yard shortly before 4 a.m. Thursday. Moments later, the drone dropped a package near a housing unit. The Corrections Department says that as officers responded to the scene, the drone dropped a second package." https://www.correctionsone.com/drones/

The "Unmanned Aircraft Systems Act" in s. 330.41, F.S., vests the authority to regulate the operation of unmanned aircraft systems in the state, except as provided in federal regulations, authorizations, or exemptions.

"Unmanned aircraft system" is defined as a drone and its associated elements, including communication links and the components used to control the drone that are required for the pilot in command to operate the drone safely and efficiently. "Drone" is defined as an aerial vehicle that:

- does not carry a human operator;
- uses aerodynamic forces to provide vehicle lift;
- can fly autonomously or be piloted remotely;
- can be expendable or recoverable; and
- can carry a lethal or nonlethal payload.

The Act preempts local governments from regulating certain activities related to unmanned aircraft systems. The Act does allow local governments to enact or enforce local ordinances relating to illegal acts arising from the use of unmanned aircraft systems (e.g., nuisance, voyeurism, harassment, etc.) if the ordinances are not specifically related to the use of an unmanned aircraft system for those illegal acts.

The Act protects critical infrastructure facilities, as defined in s. 330.41 F.S., by prohibiting any person from knowingly or willfully:

- operating a drone over a critical infrastructure facility;
- allowing a drone to make contact with a critical infrastructure facility, including any person or object on the premises of or within the facility; or
- allowing a drone to come within a distance of a critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility.

The Act's prohibitions do not apply to actions carried out by:

- a federal, state, or other governmental entity, or a person under contract or otherwise acting under the direction of a federal, state, or other governmental entity;
- a law enforcement agency that is in compliance with s. 934.50, F.S., or a person under contract with or otherwise acting under the direction of such law enforcement agency;
- an owner, operator, or occupant of the critical infrastructure facility, or a person who has prior written consent of such owner, operator, or occupant.

Moreover, portions of the Act do not apply to drones operating in transit for commercial purposes in compliance with the Federal Aviation Administration regulations, authorizations, or exemptions.

The prohibitions set forth in the Act will sunset 60 days after the date that a process pursuant to Section 2209 of the FAA Extension, Safety, and Security Act of 2016 becomes effective.

b. Correctional Officer Age Requirements

The Florida Department of Corrections (FDC or Department) is experiencing critical staffing and retention issues with its Correctional Officers. Properly staffed correctional institutions help strengthen public safety across the state and the proposed amendments to s. 943.13 would directly assist the Department by increasing the number of eligible candidates for hire.

Currently, s. 943.13, F.S., establishes the minimum qualifications for officers, including Correctional Officers employed by FDC. The statute specifies that those individuals must be at least 19 years of age. Florida has the third largest prison system in the country, and it is critically understaffed. Increasing applicant quantity and quality is of high importance. As of 2018, 23 states allowed 18-year-olds to be employed as correctional officers. Nearly half of the states in the country allow 18 year olds to be employed as Correctional Officers. A multitude of career paths allow 18 year olds to gain employment with entities that include high risk fields such as the United States Armed Forces and county/city fire departments. Most young adults at the age of 18 are graduating from high school and are exploring potential career paths. If becoming a Correctional Officer is not a viable career path due to age, the Department potentially loses thousands of quality candidates to other career opportunities.

2. EFFECT OF THE BILL:

Section 1.

Section 1. of the bill adds "fixed-site facilities" which include state correctional institutions, secure detention centers, and high-risk or maximum-risk residential facilities to the list of protected facilities set forth in s. 330.41, F.S.

"State correctional facility" is defined in ss. 944.02(8), F.S., as any prison, road camp, prison industry, prison forestry camp, or any prison camp or prison farm or other correctional facility, temporary or permanent, in which prisoners are housed, worked, or maintained, under the custody and jurisdiction of the department.

"Secure detention center or facility" is defined in s. 985.03, F.S., as a physically restricting facility for the temporary care of children pending adjudication, disposition, or placement. High-risk and maximum-risk residential facilities are defined as those which are "hardware-secure with perimeter fencing and locking doors."

Section 2.

Many career paths allow individuals who are 18 years of age or older to gain employment with entities that include high risk fields such as the United States Armed Forces and county or city fire departments. Section 2 of the bill will expand the applicant base for Correctional Officers by amending s. 943.13(1), F.S., to provide authority to hire an individual at 18 years of age or older instead of 19 years of age or older. The Department is currently experiencing critical staffing and retention issues. Hiring at 18 years of age or older allows the applicant to enroll in Correctional Officer Academy and gain the required training and credentials prior to certification. By increasing applicant quantity and recruit quality, the state's public safety and communities will be enhanced.

Sections 3-16. reenact statutes cross-referencing ss. 330.41 and 943.13, F.S.

Section 17. establishes the effective date of the act as July 1, 2019.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y☐ N☒

If yes, explain:	
Is the change consistent with the agency's core mission?	Y☐ N☐
Rule(s) impacted (provide references to F.A.C., etc.):	

4. **WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

Proponents and summary of position:	Florida Department of Corrections. The bill will assist in ensuring public safety and security.
Opponents and summary of position:	

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y☐ N☒

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y☐ N☒

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y☐ N☒

Revenues:	
Expenditures:	

Does the legislation increase local taxes or fees? If yes, explain.	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y☐ N☒

Revenues:	
Expenditures:	
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y☐ N☒

Revenues:	
Expenditures:	
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y☐ N☒

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y☐ N☒

If yes, describe the anticipated impact to the agency including any fiscal impact.	

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y☐ N☒

If yes, describe the anticipated impact including any fiscal impact.	

ADDITIONAL COMMENTS

N/A

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	N/A

DRONE THREAT TO FDC FACILITIES
BACKGROUND INFORMATION

Office of Institutions

Bureau of Security Operations

BACKGROUND

The threat of the use of drones to introduce contraband into prison facilities is a major concern. As drones become more and more capable and available, large payloads like guns, ammunition, and other weapons are increasingly more likely to be introduced to a facility. Smaller payloads like cell phones, illegal drugs, and tobacco can be easily carried by the inexpensive smaller drones sold at many retail stores.

Below are some examples of recent incidents at various prisons in several other states:

- July 4, 2017 – "A South Carolina inmate used wire cutters that were likely dropped from a drone as part of an elaborate escape plan that also included cellphones smuggled into prison, guns and at least $47,000 in cash, authorities said Friday after his capture." https://www.correctionsone.com/drones/

- August 4, 2015 - "Officers rushed into the north yard of Mansfield Correctional Institution in Mansfield, Ohio, last week after noticing 75 inmates gathering and a fight breaking out, according to an incident report from the Ohio Department of Rehabilitation and Correction. Inmates were able to get their hands on the delivery containing 144.5 grams of tobacco, 65.4 grams of marijuana and 6.6 grams of heroin before the fight ensued…" http://www.cnn.com/2015/08/04/us/prison-yard-drone-drugs-ohio/

- August 18, 2017 – "3 arrested after drone drops cellphone, drugs to prison yard. Michigan Department of Corrections says two guards at the Richard A. Handlon Correctional Facility in the western Michigan city of Ionia heard the drone in the prison yard shortly before 4 a.m. Thursday. Moments later, the drone dropped a package near a housing unit. The Corrections Department says that as officers responded to the scene, the drone dropped a second package." https://www.correctionsone.com/drones/

THE THREAT

Tracking Drone sightings in the Florida Department of Corrections began in late 2016 with one reported sighting on December 26, 2016. To date, there have been 38 total reported incidents of drone sightings, some of which contain multiple drones sighted[1]:

Calendar Year	# Incidents Reported
2016	1
2017	13
2018	21
2019 (**As of 2/14/2019)*	3

May 2018 – Columbia CI Annex – Security Staff witnessed a drone flying in the area of the perimeter fence. Staff observed a green blinking light at the tree line, and Columbia County Sheriff's Office was contacted. Sheriff's deputies conducted an area search and recovered a drone with 6 smart cell phones attached.

[1] SOURCE: FDC Emergency Action Center database.

December 2018 – Martin Correctional Institution – Staff observed a drone hovering over the compound and dropping a package on top of one of the dorms. Staff recovered 8 cell phones upon retrieving the package. The Martin County Sheriff's Office arrested the drone operators and recovered the drone. The inmate for whom the cell phones were intended is a member of the Security Threat Group, Latin Kings, while the two drone operators were approved visitors on his visitation list.

FAQs Regarding High Payload Drones (https://www.dronethusiast.com/heavy-lift-drones/)

What does heavy lift drone mean?

Many of the drones that have become very popular among pilots who are gleaning footage and out there for recreation can carry anywhere from 2-4 lbs as a payload. Once you are getting into the "heavy lift" category, you are by most standards looking at something over 10 lbs. Some of the best consumer-level heavy lift drones carry above 40 lbs, and Norwegian company Griff Aviation has recently introduced a drone that can carry over 400 lbs.

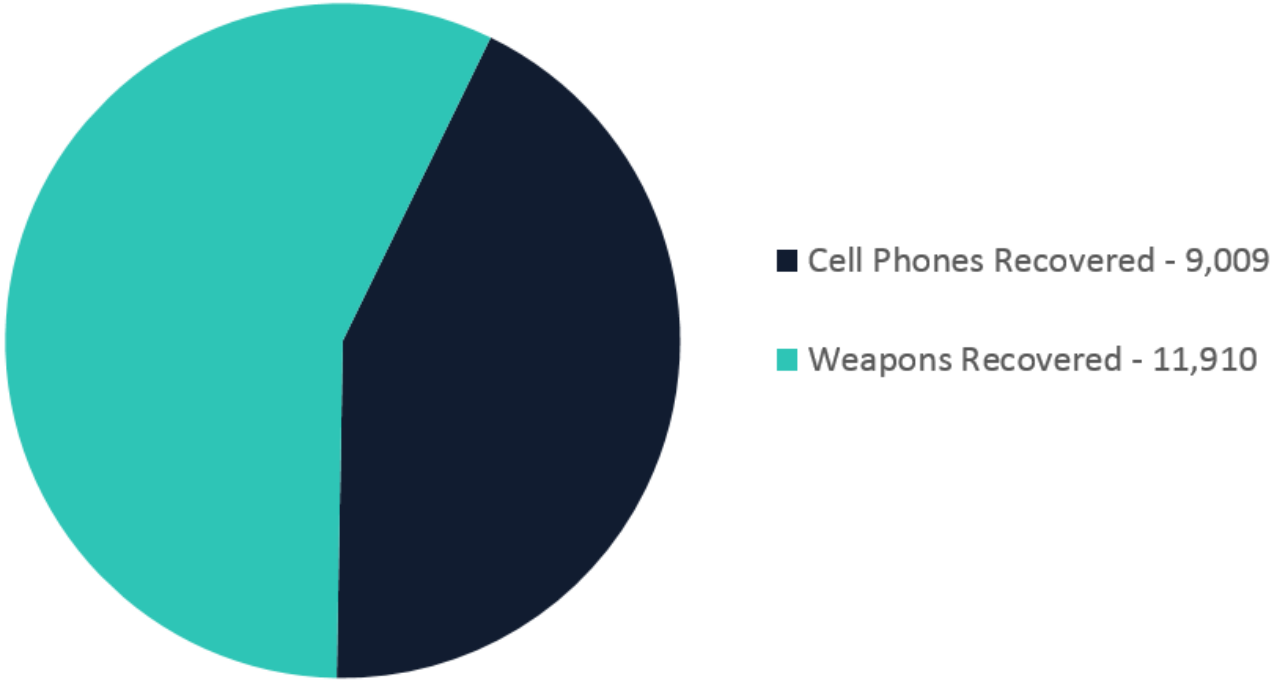
How much weight can a drone carry?

A popular and frequently-used drone such as the DJI Phantom 4 can carry 1.02 lbs as a safe, and everyday payload. While this does not seem like much, the primary use for the Phantom 4 is image capturing, and that technology does not weigh as much. Some other drones such as the Alta 8 can carry up to 15 lbs, which naturally renders it a bit more in the "aerial dolly" or "lugging" department.

How long can drones fly?

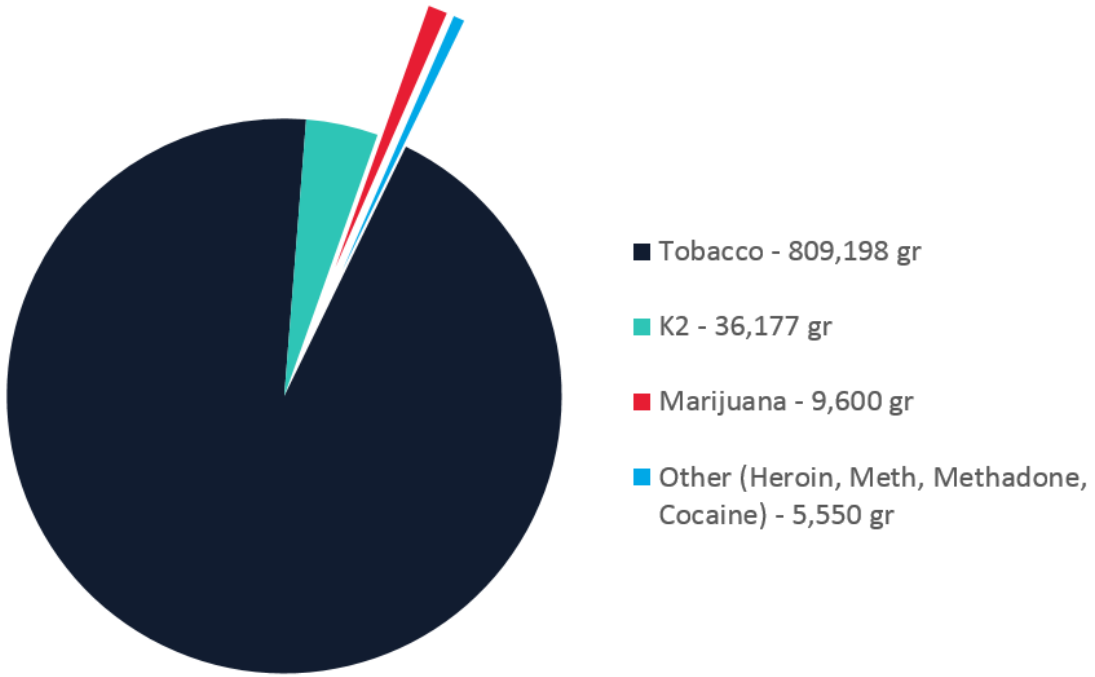
For a standard consumer drone, the flight time has been stuck at about 25-27 minutes for quite some time now. If you purchase a large quadcopter or heavy payload UAV, that flight time for the most part is sliced in half, but you are able to accomplish much more as far as hauling goods or machinery.

Contraband – FY 17-18[2]



[2] *SOURCE: The Department's 2017-18 Annual Report - http://www.dc.state.fl.us/pub/annual/1718/FDC_AR2017-18.pdf*

Contraband Drugs – FY 17-18[3]



[3] *SOURCE: The Department's 2017-18 Annual Report - http://www.dc.state.fl.us/pub/annual/1718/FDC_AR2017-18.pdf*

FDC RECOVERED CONTRABAND

SOURCE: FDC MINS Incident Reports

SOURCE: FDC MINS Incident Reports

2018 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Corrections

BILL INFORMATION	
BILL NUMBER:	SB 854
BILL TITLE:	Corrections Specialists
BILL SPONSOR:	Senator Brandes
EFFECTIVE DATE:	July 1, 2018

COMMITTEES OF REFERENCE
1) Criminal Justice
2) Appropriations Subcommittee on Criminal and Civil Justice
3) Appropriations
4)
5)

CURRENT COMMITTEE

SIMILAR BILLS	
BILL NUMBER:	HB 365
SPONSOR:	Representative Gonzalez

PREVIOUS LEGISLATION	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

IDENTICAL BILLS	
BILL NUMBER:	
SPONSOR:	

Is this bill part of an agency package?
Yes.

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	January 8, 2018
LEAD AGENCY ANALYST:	Ricky Dixon, Kenneth Steely
ADDITIONAL ANALYST(S):	Chris Hendry, Sibyle Walker
LEGAL ANALYST:	Ryan Padgett
FISCAL ANALYST:	Kim Banks

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill creates, s. 943.1311, F.S., which establishes new minimum age requirements for Correctional Officers employed by the Florida Department of Corrections (FDC or Department). This would provide authority for FDC to employ an individual at 18 years of age or older as a Correctional Officer. It also prohibits a correctional officer under the age of 18 from supervising inmates.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Currently, s. 943.13, F.S., establishes the minimum qualifications for officers, including Correctional Officers employed by FDC. The statute specifies that those individuals must be at least 19 years of age.

Florida has the third largest prison system in the country, and it is critically understaffed. Increasing applicant quantity and quality is of high importance. Currently, 23 states allow 18-year-olds to be employed as correctional officers:

1. Arkansas
2. Georgia
3. Illinois
4. Indiana
5. Kansas
6. Louisiana
7. Michigan
8. Minnesota
9. Mississippi
10. Montana
11. Nebraska
12. New Jersey
13. New Mexico
14. Rhode Island
15. South Carolina
16. South Dakota
17. Tennessee
18. Texas
19. Virginia
20. Washington
21. West Virginia
22. Wisconsin
23. Wyoming

Nearly half of the states in the country allow 18 year olds to be employed as Correctional Officers. A multitude of career paths allow 18 year olds to gain employment with entities that include high risk fields such as the United States Armed Forces and county/city fire departments. Most young adults at the age of 18 are graduating from high school and are exploring potential career paths. If becoming a Correctional Officer is not a viable career path due to age, the Department potentially loses thousands of quality candidates to other careers opportunities.

2. EFFECT OF THE BILL:

This bill will expand the applicant base for Correctional Officers by amending ss. 943.13(1), F.S., to provide authority to hire an individual at 18 years of age or older instead of 19 years of age or older. It specifies that Correctional Officers under the age of 19 would not supervise inmates, but would be allowed to perform all other functions as those performed by an employee hired under s. 943.131, F.S.

The Department is currently experiencing critical staffing and retention issues. Hiring at 18 years of age or older allows the applicant to enroll in Correctional Officer Academy and gain the required training and credentials prior to certification. By increasing applicant quantity and recruit quality, the state's public safety and communities will be enhanced.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y☐ N☒

If yes, explain:	
Is the change consistent with the agency's core mission?	Y☐ N☐

Rule(s) impacted (provide references to F.A.C., etc.):	

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	The Florida Department of Corrections. This legislation will assist the Department in recruiting and hiring correctional officers.
Opponents and summary of position:	

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y☐ N☒

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y☐ N☒

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y☐ N☒

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees? If yes, explain.	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y☐ N☒

Revenues:	
Expenditures:	
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y☐ N☒

Revenues:	
Expenditures:	
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y☐ N☒

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y☐ N☒

If yes, describe the anticipated impact to the agency including any fiscal impact.	

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y☐ N☒

If yes, describe the anticipated impact including any fiscal impact.	

ADDITIONAL COMMENTS

N/A

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	N/A

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/2019
Meeting Date

7046
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City *State* *Zip*

Email justice2jesus@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Justice-2-Jesus

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

February 19, 2019
Meeting Date

SB 7046
Bill Number (if applicable)

Topic SB 7046 Critical Infrastructure Facilities and Staff

Amendment Barcode (if applicable)

Name Mark Inch

Job Title Secretary

Address 501 South Calhoun Street
Street

Phone 850-717-3030

Tallahassee FL 32399
City *State* *Zip*

Email Mark.Inch@fdc.myflorida.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Department of Corrections

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

CourtSmart Tag Report

Room: LL 37 **Case No.:** **Type:**
Caption: Senate Criminal Justice Committee **Judge:**

Started: 2/19/2019 10:00:46 AM
Ends: 2/19/2019 11:24:19 AM Length: 01:23:34

10:00:45 AM Meeting called to order by Chair Perry
10:00:49 AM Roll call by Administrative Assistant Sue Arnold
10:00:55 AM Quorum present
10:00:57 AM Comments from Chair Perry
10:01:06 AM Introduction of Tab 5, SB 554 by Chair Perry
10:01:25 AM Explanation of Tab 5, SB 554, Offenses Against Brokers, Broker Associates, or Sales Associates by Senator Pizzo
10:01:55 AM Comments from Chair Perry
10:02:06 AM Andrew Rutledge, Government Affairs, Florida Realtors waives in support
10:02:13 AM Speaker Brian Pitts, Justice-2-Jesus
10:05:07 AM Comments from Chair Perry
10:05:15 AM Closure by Senator Pizzo
10:06:12 AM Roll call by Administrative Assistant Sue Arnold
10:06:22 AM SB 554 reported favorably
10:06:29 AM Introduction of Tab 2, SB 498 by Chair Perry
10:06:41 AM Explanation of SB 498 by Senator Powell
10:07:11 AM Comments from Chair Perry
10:07:15 AM Introduction of Amendment, Barcode No. 785678 by Chair Perry
10:07:21 AM Explanation of Amendment Barcode No. 785678 by Senator Powell
10:07:44 AM Comments from Chair Perry
10:07:53 AM Closure waived on Amendment
10:07:58 AM Amendment Barcode No. 785678 adopted
10:08:10 AM Buddy Dewar, Florida Dire Sprinkler Association waives in support
10:08:16 AM Speaker Brian Pitts, Justice-2-Jesus
10:12:13 AM Eric Prutsman, Florida Fire Chiefs Association waives in support
10:12:23 AM Comments from Chair Perry
10:12:30 AM Closure waived by Senator Powell
10:12:33 AM Roll call by Administrative Assistant Sue Arnold
10:12:41 AM CS/SB 498 reported favorably
10:12:58 AM Tab 4, SB 540 introduced by Chair Perry
10:13:10 AM Explanation of SB 540, Human Trafficking by Senator Book
10:15:49 AM Comments from Chair Perry
10:15:56 AM Introduction of Amendment Barcode No. 494714 by Chair Perry
10:16:03 AM Explanation of Amendment Barcode No. 494714 by Senator Book
10:16:17 AM Introduction of Substitute Amendment Barcode No. 891934
10:16:24 AM Chair turned over to Chair Bracy
10:16:37 AM Explanation of Substitute Amendment No. 891934 by Senator Perry
10:17:16 AM Comments from Chair Bracy
10:17:26 AM Samantha Padgett, General Counsel, Florida Restaurant and Lodging Association waives in support
10:17:33 AM Andy Palmer, Government Affairs Consultant, Asian American Hotel Owners Association waives in support
10:17:44 AM Comments from Chair Bracy
10:18:07 AM Closure waived on Amendment Barcode No. 891934
10:18:10 AM Amendment Barcode No. 891934 adopted
10:18:14 AM Chair returned to Chair Perry
10:18:20 AM Introduction of Amendment Barcode No. 430052 by Chair Perry
10:18:26 AM Explanation of Amendment Barcode No. 430052 by Senator Book
10:18:34 AM Comments from Chair Perry
10:18:41 AM Closure waived by Senator Book
10:18:46 AM Amendment Barcode No. 430052 adopted
10:18:58 AM Chief Gary Hester, Government Affairs, Florida Police Chiefs Association waives in support
10:19:07 AM Speaker Chase Daniels, Assistant Executive Director, Pasco Sheriff's Office

10:21:13 AM Speaker Wendy Gray, Zonta Club of Tallahassee
10:21:55 AM Speaker Jill McCracken, PhD, SWOP Behind Bars in opposition of Bill
10:26:54 AM Speaker Sandra Browne, SWOP USA, SWOP Behind Bars, Sex Workers in opposition
10:30:04 AM Speaker Greg Pound
10:32:02 AM Comments from Chair Perry
10:32:09 AM Continued information from Mr. Pound
10:32:34 AM Speaker Savannah Parvin in support
10:34:02 AM Speaker Christine Hanavan, MSW, SWOP USA, SWOP Behind Bars in opposition
10:37:30 AM Question from Senator Pizzo
10:37:38 AM Response from Ms. Hanavan
10:38:43 AM Follow-up question from Senator Pizzo
10:38:51 AM Response from Ms. Hanavan
10:41:14 AM Question from Chair Perry
10:41:19 AM Response from Ms. Hanavan
10:41:24 AM Follow-up question from Chair Perry
10:41:30 AM Response from Ms. Hanavan
10:41:55 AM Additional question from Chair Perry
10:42:05 AM Response from Ms. Hanavan
10:42:16 AM Comments from Chair Perry
10:42:26 AM Response from Ms. Hanavan
10:43:02 AM Speaker Alex Andrews, SWOP USA, SWOP Behind Bars, Sex Workers in opposition
10:47:26 AM Speaker Brian Pitts, Justice-2-Jesus
10:51:25 AM Devon West, Policy Advisor, Broward County waives in support
10:51:36 AM Comments from Chair Perry
10:51:42 AM Senator Bracy in debate
10:52:17 AM Comments from Chair Perry
10:52:23 AM Comments from Senator Book on Closure
10:54:58 AM Speaker Corporal Alan Willett, Pasco County Sheriff's Office in support
10:56:20 AM Closure from Senator Book
10:56:35 AM Roll call by Administrative Assistant Sue Arnold
10:56:46 AM CS/SB 540 reported favorably
10:56:52 AM Introduction of Tab 7, SPB 7046 by Chair Perry
10:57:05 AM Explanation of SPB 7046, Critical Infrastructure and Staff by Ryan Cox
10:58:06 AM Comments from Chair Perry
10:58:17 AM Speaker Mark Inch, Secretary, Florida Department of Corrections
11:00:48 AM Brian Pitts, Justice-2-Jesus waives in support
11:00:58 AM Senator Brandes moves that SPB 7046 be submitted as a Committee Bill
11:01:06 AM Roll call on SPB 7046 by Administrative Assistant Sue Arnold
11:01:13 AM SPB 7046 reported favorably
11:01:24 AM Introduction of Tab 6 by Chair
11:01:35 AM Explanation of SPB 7044, Open Government Sunset Review/Concealed Carry Licenses by Connie Cellon
11:03:09 AM Comments from Chair Perry
11:03:16 AM Speaker Brian Pitts, Justice-2-Jesus
11:05:25 AM Carlos Nathan, Deputy Legislative Affairs Director, Florida Department of Agriculture and Consumer Services waives in support
11:05:35 AM Comments from Chair Perry
11:05:41 AM Senator Bracy moves that SPB 7044 be submitted as a Committee Bill
11:05:51 AM Roll call by Administrative Assistant Sue Arnold
11:05:53 AM SPB 7044 reported favorably
11:06:01 AM Introduction of Tab 1 by Chair Perry
11:06:10 AM Explanation of SB 408, Drug Offenses by Senator Brandes
11:07:54 AM Comments from Chair Perry
11:07:58 AM Question from Senator Bracy
11:08:05 AM Response from Senator Brandes
11:08:38 AM Comments from Chair Perry
11:08:44 AM Introduction of Amendment Barcode No. 447180 by Chair Perry
11:08:48 AM Explanation of Amendment Barcode No. 447180 by Senator Brandes
11:09:04 AM Comments from Chair Perry
11:09:14 AM Closure waived on Amendment
11:09:19 AM Amendment Barcode No. 447180 adopted
11:09:32 AM Speaker Brian Pitts, Justice-2-Jesus
11:13:47 AM Christian Minor, Executive Director, Florida Juvenile Justice Association waives in support

11:13:53 AM Chelsea Murphy, State Director, Right on Crime waives in support
11:13:57 AM Greg Newburn, FAMM waives in support
11:14:00 AM Sal Nuzzo, VP Policy, The James Madison Institute waives in support
11:14:11 AM Comments from Chair Perry
11:14:20 AM Closure by Senator Brandes
11:14:27 AM Roll call by Administrative Assistant Sue Arnold
11:14:38 AM CS/SB 408 reported favorably
11:14:47 AM Introduction of Tab 3, SB 530 by Chair Perry
11:15:07 AM Explanation of SB 530, Alcohol or Drug Overdose Prosecutions by Senator Brandes
11:16:08 AM Comments from Chair Perry
11:16:14 AM Question from Senator Pizzo
11:16:22 AM Response from Senator Brandes
11:16:38 AM Comments from Chair Perry
11:16:44 AM Speaker Sandra Browne, SWOP USA
11:18:59 AM Mark Fontaine, Director, Florida Alcohol and Drug Abuse Association waives in support
11:19:07 AM Christine Hanavan, MSW, SWOP USA, SWOP Behind Bars waives in support
11:19:13 AM Jill McCracken waives in support
11:19:20 AM Speaker Greg Pound
11:19:58 AM Speaker Brian Pitts, Justice-2-Jesus
11:22:59 AM Comments from Chair Perry
11:23:06 AM Closure by Senator Brandes
11:23:14 AM Roll call by Administrative Assistant Sue Arnold
11:23:44 AM SB 530 reported favorably
11:23:55 AM Comments from Chair Perry
11:23:59 AM Senator Bracy moves to adjourn, without objection meeting adjourned