Tab 1	**SB 920** by **Pizzo**; (Identical to H 01021) DNA Database

741628	A	S	CJ, Pizzo	Delete L.17 - 18:	03/15 01:10 PM

Tab 2	**SB 1030** by **Bracy**; Mitigating Circumstances in Sentencing

215974	D	S	CJ, Bracy	Delete everything after	03/15 01:10 PM

Tab 3	**SB 1074** by **Brandes**; Sentencing

940794	D	S	CJ, Brandes	Delete everything after	03/15 01:11 PM

Tab 4	**SB 1334** by **Brandes**; (Compare to CS/H 00589) Criminal Justice

537118	A	S	CJ, Brandes	Delete L.783 - 865:	03/15 01:11 PM

Tab 5	**SB 1766** by **Gruters**; (Similar to H 01315) Crime Stoppers Programs

Tab 6	**SPB 7082** by **CJ**; Controlled Substances

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Perry, Chair
Senator Brandes, Vice Chair

MEETING DATE: Monday, March 18, 2019
TIME: 1:30—3:30 p.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 920** Pizzo (Identical H 1021)	DNA Database; Revising legislative findings relating to the use of the DNA database, etc. CJ 03/18/2019 JU RC	
2	**SB 1030** Bracy	Mitigating Circumstances in Sentencing; Revising the mitigating circumstances under which a departure from the lowest permissible sentence is justified, to include when a defendant is amenable to treatment and he or she requires specialized treatment for a certain substance addiction, etc. CJ 03/18/2019 ACJ AP	
3	**SB 1074** Brandes	Sentencing; Creating a probationary split sentence for substance use and mental health offenders in accordance with a specified provision; authorizing a court to sentence an offender to a probationary split sentence; authorizing the sentencing court to have the Department of Corrections provide a presentence investigation report in accordance with a specified provision to provide the court with certain information to determine the type of probation most appropriate for the offender; requiring an offender to comply with specified terms of drug offender or mental health probation, etc. CJ 03/18/2019 ACJ AP	

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 1334** Brandes (Compare CS/H 589, H 595, H 607, CS/S 338, CS/S 346, S 400, S 406, CS/S 408, S 530, S 534, CS/S 642)	Criminal Justice; 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; authorizing each county to establish a supervised bond program with the concurrence of the chief judge of the judicial circuit, the county's chief correctional officer, the state attorney, and the public defender; authorizing the Department of Corrections to extend the limits of the place of confinement to allow an inmate to participate in supervised community release, subject to certain requirements, as prescribed by the department by rule, etc. CJ 03/18/2019 JU AP	
5	**SB 1766** Gruters (Similar H 1315)	Crime Stoppers Programs; Prohibiting a person who engages in privileged communication, a law enforcement crime stoppers coordinator or his or her staff, or a member of a crime stoppers organization's board of directors from being required to disclose privileged communications or produce protected information; providing an exception; authorizing a person charged with a criminal offense to petition the court to inspect the protected information under certain circumstances, etc. CJ 03/18/2019 ACJ AP	
	Consideration of proposed bill:		
6	**SPB 7082**	Controlled Substances; Adding to Schedule V of the controlled substances list certain drug products in their finished dosage formulations which are approved by the United States Food and Drug Administration, etc.	
	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:	SB 920
INTRODUCER:	Senator Pizzo
SUBJECT:	DNA Database
DATE:	March 15, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Jones	CJ	**Pre-meeting**
2.			JU	
3.			RC	

I. Summary:

SB 920 amends the Legislative Intent found in s. 943.325(1)(b), F.S., of the DNA Database statute. The intent language currently provides that "a match between casework evidence DNA samples from a criminal investigation and DNA samples from a state or federal DNA database of certain offenders may be used to find probable cause for the issuance of a warrant to obtain the DNA sample from an offender."

The bill deletes the provision related to the DNA match being used to find probable cause for a search warrant to obtain a DNA sample from an offender. The bill adds language making it possible to use the match to find probable cause to obtain a warrant for the offender's arrest.

There is no known fiscal impact from the bill.

The bill is effective July 1, 2019.

II. Present Situation:

Using DNA to Solve Crimes

A person's unique Deoxyribonucleic acid (DNA) profile is present in bodily fluids, a strand of hair, and even skin cells.[1] Because a perpetrator often leaves DNA at the scene of a crime, that DNA evidence can be used to aid in solving crimes in two ways:

- In cases where there is a suspect, by comparing the suspect's DNA (known sample) to DNA evidence collected at the crime scene (unknown sample); and

[1] William Harris, HowStuffWorks, *How DNA Evidence Works*, January 18, 2001, available at https://science.howstuffworks.com/life/genetic/dna-evidence2.htm (last viewed March 11, 2019).

- If there is no known suspect, DNA evidence gathered at the crime scene can be compared to DNA database profiles to help identify the perpetrator if he or she has a sample in a database.[2]

Forensic crime laboratories extract and analyze DNA found at a crime scene. To identify the DNA contributor, the crime scene DNA profile must be matched either to a known suspect or to a DNA profile stored in a database.[3] Accurate identification depends upon factors such as:

- The quality of the DNA sample;
- The number of genetic markers analyzed;
- Whether the sample was prepared properly; and
- The ability of those doing the analysis to interpret the results.[4]

All 50 states and the federal government have laws requiring the collection of DNA samples from some category of offenders. There currently exists a network of local, state, and federal DNA databases available to law enforcement agencies for the purpose of comparing crime scene evidence to DNA profiles. State DNA profiles are sent to the National DNA Index System. This national database can be searched using a technology platform, developed by the Federal Bureau of Investigation, known as the Combined DNA Index System (CODIS).[5]

CODIS searches the national database system weekly and if there is a match between a crime scene DNA sample and a DNA database profile, the agency that submitted the profile is notified, making it possible to link suspects to unsolved crimes.[6] CODIS is also capable of linking DNA evidence from crime scenes in different locations, potentially aiding multi-jurisdictional cooperation in solving crimes attributable to serial offenders.[7]

Current Law

Section 943.325, F.S., created the DNA database within the Florida Department of Law Enforcement (FDLE) in 1989 and required persons convicted of certain sex crimes to provide blood samples to be tested for genetic markers for the purpose of personal identification of the person submitting the sample.[8] The results from the blood samples were then entered into a DNA database maintained by the FDLE to be available in a statewide automated personal identification system for classifying, matching, and storing DNA analyses.[9]

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[2] *Advancing Justice through DNA Technology: Using DNA to Solve Crimes*, The U.S. Department of Justice, updated March 7, 2017, available at https://www.justice.gov/archives/ag/advancing-justice-through-dna-technology-using-dna-solve-crimes (last viewed March 11, 2019).
[3] William Harris, HowStuffWorks, *How DNA Evidence Works*, January 18, 2001, available at https://science.howstuffworks.com/life/genetic/dna-evidence2.htm (last viewed March 11, 2019).
[4] Stephen Leahy, National Geographic, *Alleged Golden State Killer Busted by DNA. But are Tests 100% Accurate?*, April 25, 2018, available at https://news.nationalgeographic.com/2018/04/dna-testing-accuracy-golden-state-killer-science-spd/ (last viewed March 13, 2019).
[5] *Id*.
[6] *Id*.
[7] FBI, *Combined DNA Index System (CODIS)*, available at https://www.fbi.gov/services/laboratory/biometric-analysis/codis (last viewed March 11, 2019)
[8] Ch. 89-335, L.O.F.
[9] *Id*.

Since its creation, the statewide DNA database has evolved to the point where the FDLE now accepts oral swab samples (known samples) from qualifying offenders, which means any person who is:

- Committed to a county jail;
- Committed to or under the supervision of the Department of Corrections, including persons incarcerated in a private correctional institution;
- Committed to or under the supervision of the Department of Juvenile Justice;
- Transferred to this state under the Interstate Compact on Juveniles, part XIII of ch. 985, F.S.; or
- Accepted under Article IV of the Interstate Corrections Compact, part III of ch. 941, F.S.; and who is:
  - Convicted of any felony offense or attempted felony offense in this state or of a similar offense in another jurisdiction;
  - Convicted of a violation of ss. 784.048, 810.14, 847.011, 847.013, 847.0135, or 877.26, F.S., or an offense that was found, pursuant to s. 874.04, F.S., to have been committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang as defined in s. 874.03, F.S.;[10] or
  - Arrested for any felony offense or attempted felony offense in this state.[11]

The collection of samples from a person booked into a jail, correctional facility, or juvenile facility for a felony has been a phased-in process. The process started in January 2011 with the last phase slated to begin January 1, 2019, subject to sufficient funding appropriations passed by the Legislature and approved by the Governor.[12]

Legislative Intent in Section 943.325, F.S.

Section 943.325(1)(b), F.S., contains legislative findings approving the use of a DNA match between crime scene evidence and a DNA database sample match to establish probable cause for a judge to issue a search warrant to obtain a suspect's DNA (known) sample. Section 943.325(1)(b), F.S., states:

> The Legislature also finds that upon establishment of the Florida DNA database a match between casework evidence DNA samples from a criminal investigation and DNA samples from a state or federal DNA database of certain offenders may be used to find probable cause for the issuance of a warrant to obtain the DNA sample from an offender.

Once the law enforcement officer serves the search warrant on the person, the officer can then obtain a DNA sample from the suspect that will be compared to the sample from the crime scene and the match sample from a DNA database. The timetable for the laboratory comparison of the three DNA samples cannot be stated with certainty. If the known sample confirms that the match is accurate, the officer may then arrest the suspect. This is at best a two-step process for the law

[10] These offenses are: stalking; voyeurism; certain acts in connection with obscene, or lewd, materials; renting, selling, or loaning harmful motion pictures, exhibitions, shows, presentations, or representations to minors; computer pornography, prohibited computer usage, or traveling to meet a minor; direct observation, videotaping, or visual surveillance of customers in a merchant's dressing room; and criminal gang related offenses.
[11] Section 943.325(2)(g), F.S.
[12] Section 943.25(3)(b), F.S.

enforcement officer who must first obtain the suspect's sample, wait for results from a lab confirming the three DNA profiles match one another (crime scene, database, and officer-obtained suspect sample), and then arrest the suspect.[13]

Case Law

In a factual scenario similar to the one that may result under the bill, a Florida court has found that a DNA sample in the FDLE database and a match to DNA crime scene evidence is "sufficient to create probable cause to arrest the defendant."[14] In the case, a voluntary DNA swab was obtained from the defendant during the investigation of an unrelated crime. The DNA – a known sample – was then analyzed and stored in the FDLE DNA database. Crime scene DNA evidence from an unsolved sexual battery, also in the database, and the defendant's known DNA sample matched.[15]

The defendant was arrested for the unsolved sexual battery based on the DNA match. At the police station, subsequent to his arrest, the defendant provided another known DNA sample, for identification confirmation. Later, the defendant argued that the second known sample should not be admissible at trial because the "cold DNA hit does not constitute probable cause to arrest a defendant."[16]

Analogizing latent fingerprints from a crime scene and prints already on file to the DNA match from the crime scene and the first known DNA sample, the court disagreed. The court found that the defendant's arrest was legal and the second known sample, post-arrest, was admissible at trial.[17]

III. Effect of Proposed Changes:

The bill amends s. 943.325(1)(b), F.S., by deleting the provision related to the search warrant for a DNA sample. Although an officer may otherwise be able to satisfy the probable cause threshold for a DNA sample search warrant, the statutory authority is effectively eliminated by the bill.

The bill adds a provision that allows a law enforcement officer to seek an arrest warrant for a suspect from a judge that may be based upon probable cause found in a match between crime scene DNA evidence and a DNA sample stored in a database. This creates the potential for the officer to by-pass the identification confirmation DNA sample currently taken from the suspect pursuant to a search warrant, prior to arrest.

The bill is effective July 1, 2019.

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[13] Information based upon Senate Criminal Justice Committee staff conversations with law enforcement officer representatives on March 7, 8, and 12, 2019, and a conference call with law enforcement representatives and FDLE representatives on March 8, 2019.
[14] *Myles v. State*, 54 So.3d 509 (Fla. 3rd DCA, 2010), rev.den. (Fla. 2011).
[15] *Id*.
[16] *Id*.
[17] *Id*.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

If no identification confirmation DNA sample is taken prior to a defendant's arrest it may be problematic in the criminal proceedings because once a suspect is arrested the right to a speedy trial attaches, both procedurally and constitutionally.[18] Essentially this means that if a defendant asserts his or her right to a speedy trial under the Florida Rules of Criminal Procedure and, barring any procedural issues or delays by the defendant, the trial must commence within 60

[18] "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial." U.S. Const. Amend. VI; *See also* Rule 3.191, Fla. R. Crim. Pro.

days.[19] If the identification confirmation DNA analysis and comparison has not been completed in a timely manner, the prosecutor may not be able to prove beyond a reasonable doubt that the defendant committed the crime.

VIII. Statutes Affected:

This bill substantially amends section 943.325 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.

[19] Rule 3.191, Fla. R. Crim. Pro.

741628

LEGISLATIVE ACTION

Senate . House

. . . . . .

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

Senate Amendment

Delete lines 17 - 18
and insert:
to find probable cause for the issuance of a warrant for arrest, or to obtain the DNA sample from an offender.

By Senator Pizzo

38-01509-19 2019920__

A bill to be entitled

An act relating to the DNA database; amending s. 943.325, F.S.; revising legislative findings relating to the use of the DNA database; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 943.325, Florida Statutes, is amended to read:

943.325 DNA database.—

(1) LEGISLATIVE INTENT.—

(b) The Legislature also finds that upon establishment of the Florida DNA database, a match between casework evidence DNA samples from a criminal investigation and DNA samples from a state or federal DNA database of certain offenders may be used to find probable cause for the issuance of a warrant for arrest ~~to obtain the DNA sample from an offender~~.

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

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

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 1030
INTRODUCER:	Senator Bracy
SUBJECT:	Mitigating Circumstances in Sentencing
DATE:	March 15, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Jones	CJ	**Pre-meeting**
2.			ACJ	
3.			AP	

I. Summary:

SB 1030 provides that substance addiction that predates the offense may be a reason for a court to impose a sentence that departs downward from the scored lowest permissible sentence under the Criminal Punishment Code.

Current law authorizes a court to impose a sentence that departs downward from the lowest permissible sentence under the Criminal Punishment Code based on the defendant requiring specialized treatment for a mental disorder that is unrelated to substance abuse or addiction, if the defendant is amenable to treatment. The bill removes the requirement that the mental disorder be unrelated to substance abuse or addiction.

The Legislature's Office of Economic and Demographic Research preliminarily estimates that the bill will have a "negative significant" prison bed impact (a decrease of more than 25 prison beds). See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2019.

II. Present Situation:

Criminal Punishment Code

The Criminal Punishment Code[1] (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (levels 1-10).[2] Points are assigned and accrue based upon the severity level ranking assigned to the primary offense,

[1] 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.

[2] 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.

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.[3] Generally, the permissible sentencing range under the Code is the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.[4]

Downward Departure Sentences

The "primary purpose" of the Code "is to punish the offender."[5] However, a court may "mitigate" or "depart downward" from the scored lowest permissible sentence under the Code, if the court finds a valid, supported mitigating circumstance for the downward departure and determines the downward departure is appropriate. Section 921.0026(2), F.S., provides a non-exclusive list of mitigating circumstances. For example, s. 958.04, F.S., authorizes a court to sentence certain young adults as a "youthful offender." In lieu of incarceration, the court may place a youthful offender under supervision, on probation, or in a community control program, with or without an adjudication of guilt, under such conditions as the court may lawfully impose for a specified period.[6] A youthful offender sentence is a mitigating circumstance listed in s. 921.0026(2)(l), F.S.

The stated legislative sentencing policy regarding downward departure sentences are that such sentences are "prohibited unless there are circumstances or factors that reasonably justify the downward departure."[7] "The mitigating factors specifically listed by the legislature focus on the nature of the crime, the conduct of the defendant or the mental capacity, condition, or attitude of the defendant."[8]

"[T]he list of statutory departure reasons provided is section 921.0026(2) is not exclusive."[9] A court "can impose a downward departure sentence for reasons not delineated in section 921.0026(2), so long as the reason given is supported by competent, substantial evidence and is not otherwise prohibited."[10] Further, "[i]n evaluating a non-statutory mitigator, a court must determine whether the asserted reason for a downward departure is consistent with legislative sentencing policies."[11]

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[3] Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.
[4] 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.
[5] Section 921.002(1)(b), F.S. "Rehabilitation is a desired goal of the criminal justice system but is subordinate to the goal of punishment." *Id.*
[6] Section 958.04(2)(a), F.S
[7] Section 921.0026(1), F.S.
[8] *State v. Chestnut*, 718 So.2d 312, 313 (Fla. 5th DCA 1999).
[9] *State v. Stephenson*, 973 So.2d 1259, 1263 (Fla. 5th DCA 2008) (citation omitted).
[10] *State v. Henderson*, 108 So.3d 1137, 1140 (Fla. 5th DCA 2013) (citation omitted).
[11] *State v. Knox*, 990 So.2d 665, 669 (Fla. 5th DCA 2008).

Whether dealing with statutory or nonstatutory mitigating circumstances, the court follows a two-step process to determine if a downward departure sentence is appropriate, unless the court determines in the first step of the process that it cannot depart downward. The first step is to determine if the court "*can* depart, i.e., whether there is a valid legal ground and adequate factual support for that ground in the case pending before it[.]"[12] If the first step is satisfied, the court moves on to the second step, which is for the court to determine if it "*should* depart, i.e., whether departure is indeed the best sentencing option for the defendant in the pending case."[13]

History of Substance Addiction as a Reason for a Downward Departure Sentence

The pre-Code sentencing guidelines provided for the following mitigating circumstance: "The defendant requires specialized treatment for addiction, mental disorder, or physical disability, and the defendant is amenable to treatment."[14]

With the enactment of the Code, this mitigating circumstance was modified.[15] As modified, the mitigating circumstance read: "The defendant requires specialized treatment for a mental disorder that is unrelated to substance abuse or addiction or for a physical disability, and the defendant is amenable to treatment."[16] The Code also specified that the defendant's "substance abuse or addiction, including intoxication,[17] at the time of the offense" was not a mitigating factor and did "not, under any circumstance, justify a downward departure from the permissible sentencing range."[18]

In 2009, the Legislature created a mitigating circumstance in which substance abuse or addiction could be considered: "The defendant's offense is a nonviolent felony, the defendant's Criminal Punishment Code scoresheet total sentence points under s. 921.0024 are 52 points or fewer, and the court determines that the defendant is amenable to the services of a postadjudicatory treatment-based drug court program and is otherwise qualified to participate in the program as part of the sentence."[19] The only subsequent change to this mitigating circumstance occurred in 2011 when the Legislature increased total sentence points from 52 points to 60 points.[20] Further,

[12] *Banks v. State*, 732 So.2d 1065, 1067 (Fla. 1999)(emphasis provided by the court).
[13] *Id.* (emphasis provided by the court) (footnote omitted).
[14] Section 921.0016, F.S. (1996). In 1993, the Legislature codified this mitigating factor which was created by the Florida Supreme Court in 1987. Chapter 93-406, s. 13, L.O.F.; *Barbera v. State*, 505 So.2d 413 (Fla. 1987). In *Barbera*, the court was persuaded that intoxication and drug dependency could mitigate a sentence because the defense of intoxication could be used by a jury to justify convicting a defendant of a lesser offense. In 1999, the Legislature eliminated the voluntary intoxication defense. Chapter 99-174, L.O.F.; s. 775.051, F.S.
[15] Chapter 97-194, s. 8, L.O.F.
[16] Section 921.0026(2)(d), F.S. (1997).
[17] While s. 775.051, F.S., provides that voluntary intoxication resulting from the consumption, injection, or other use of alcohol or other controlled substances (except those legally prescribed) is not a defense to any offense, this does not necessarily preclude the Legislature from addressing substance abuse or addiction, including intoxication, as a mitigating circumstance. For example, while a defendant may not raise as a defense that the victim was a willing participant in the crime, the Legislature has authorized mitigation of a Code sentence based on this circumstance. Section 921.0026(2)(f), F.S.*; State v. Rife*, 789 So.2d 288 (Fla. 2001).
[18] Section 921.0026(3), F.S. (1997).
[19] Section 921.0026(2)(m), F.S.; ch. 2009-64, s. 2, L.O.F. The term "nonviolent felony" has the same meaning as provided in s. 948.08(6), F.S., which defines "nonviolent felony" as a third degree felony violation of ch. 810, F.S., or any other felony offense that is not a forcible felony as defined in s. 776.08, F.S.
[20] Chapter 2011-33, s. 2, L.O.F.

since the 2009 change, the law specifies that, except for this mitigating circumstance, the defendant's substance abuse or addiction, including intoxication, is not a mitigating factor.[21]

III. Effect of Proposed Changes:

The bill amends s. 921.0026, F.S., to provide that substance addiction that predates the offense may be a reason for a court to impose a sentence that departs downward from the scored lowest permissible sentence under the Criminal Punishment Code.

Section 921.0026(2)(d), F.S., authorizes a court to impose a sentence that departs downward from the lowest permissible sentence under the Criminal Punishment Code based on the defendant requiring specialized treatment for a mental disorder that is unrelated to substance abuse or addiction, if the defendant is amenable to treatment. The bill removes the requirement that the mental disorder be unrelated to substance abuse or addiction.

The bill does not currently limit the operation of s. 921.0026(2)(m), F.S., the current and more limited mitigating circumstance relating to substance addiction, to crimes committed before the effective date of the bill. More importantly, the bill does not limit the operation of s. 921.0026(3), F.S., which prohibits using substance addiction as a mitigating circumstance, except as provided in s. 921.0026(2)(m), F.S. Absent changes to the bill to address these omissions, the bill will conflict with current law and will not be effectively implemented. (See "Technical Deficiencies" section of this analysis).

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.

[21] Section 921.0026(3), F.S. Further, while current law provides for a mitigating circumstance based on the defendant requiring specialized treatment for a mental disorder if the defendant is amenable to treatment, that mental disorder cannot be related to substance abuse or addiction. Section 921.0026(2)(d), F.S.

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 Legislature's Office of Economic and Demographic Research (EDR) preliminarily estimates that the bill will have a "negative significant" prison bed impact (a decrease of more than 25 prison beds).[22]

VI. Technical Deficiencies:

The bill provides that substance addiction that predates the offense may be a reason for a court to impose a sentence that departs downward from the scored lowest permissible sentence under the Criminal Punishment Code. However, there are several changes that need to be made to existing law, including but not limited to, amending the current prohibition on substance addiction being used as a mitigating circumstance, except with regard to s. 921.0026(2)(m), F.S. (certain nonviolent felony offenders determined by the court to be amenable to services of a postadjudicatory treatment-based drug court program). The bill does not make those necessary changes.

Further, the bill does not reenact provisions of other statutes that reference s. 921.0026, F.S., which is amended by the bill.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 921.0026 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] The EDR estimate is on file with the Senate Committee on Criminal Justice.

B. Amendments:

None.

215974

LEGISLATIVE ACTION

Senate . House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 921.0026, Florida Statutes, is amended to read:

921.0026 Mitigating circumstances.—Except as otherwise provided in this section, this section applies to any felony offense, except any capital felony, committed on or after October 1, 1998.

215974

(1) A downward departure from the lowest permissible sentence, as calculated according to the total sentence points pursuant to s. 921.0024, is prohibited unless there are circumstances or factors that reasonably justify the downward departure. Mitigating factors to be considered include, but are not limited to, those listed in subsection (2). The imposition of a sentence below the lowest permissible sentence is subject to appellate review under chapter 924, but the extent of downward departure is not subject to appellate review.

(2) Mitigating circumstances under which a departure from the lowest permissible sentence is reasonably justified include, but are not limited to:

(a) The departure results from a legitimate, uncoerced plea bargain.

(b) The defendant was an accomplice to the offense and was a relatively minor participant in the criminal conduct.

(c) The capacity of the defendant to appreciate the criminal nature of the conduct or to conform that conduct to the requirements of law was substantially impaired.

(d) For an offense committed on or after October 1, 1998, but before July 1, 2019, the defendant requires specialized treatment for a mental disorder that is unrelated to substance abuse or addiction or for a physical disability, and the defendant is amenable to treatment.

(e) For an offense committed on or after July 1, 2019, the defendant requires specialized treatment for a mental disorder, a substance addiction that predates the date of the offense, or a physical disability, and the defendant is amenable to treatment.

(f) ~~(e)~~ The need for payment of restitution to the victim outweighs the need for a prison sentence.

(g) ~~(f)~~ The victim was an initiator, willing participant, aggressor, or provoker of the incident.

(h) ~~(g)~~ The defendant acted under extreme duress or under the domination of another person.

(i) ~~(h)~~ Before the identity of the defendant was determined, the victim was substantially compensated.

(j) ~~(i)~~ The defendant cooperated with the state to resolve the current offense or any other offense.

(k) ~~(j)~~ The offense was committed in an unsophisticated manner and was an isolated incident for which the defendant has shown remorse.

(l) ~~(k)~~ At the time of the offense the defendant was too young to appreciate the consequences of the offense.

(m) ~~(l)~~ The defendant is to be sentenced as a youthful offender.

(n) ~~(m)~~ For an offense committed on or after October 1, 1998, but before July 1, 2019, the defendant's offense is a nonviolent felony, the defendant's Criminal Punishment Code scoresheet total sentence points under s. 921.0024 are 60 points or fewer, and the court determines that the defendant is amenable to the services of a postadjudicatory treatment-based drug court program and is otherwise qualified to participate in the program as part of the sentence. Except as provided in this paragraph, the defendant's substance abuse or addiction, including intoxication at the time of the offense, is not a mitigating factor for an offense committed on or after October 1, 1998, but before July 1, 2019, and does not, under any

circumstance, justify a downward departure from the permissible sentencing range. For purposes of this paragraph, the term "nonviolent felony" has the same meaning as provided in s. 948.08(6).

(o) ~~(n)~~ The defendant was making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose.

~~(3) Except as provided in paragraph (2)(m), the defendant's substance abuse or addiction, including intoxication at the time of the offense, is not a mitigating factor under subsection (2) and does not, under any circumstances, justify a downward departure from the permissible sentencing range~~.

Section 2. For the purpose of incorporating the amendment made by this act to section 921.0026, Florida Statutes, in references thereto, paragraph (c) of subsection (1) of section 775.08435, Florida Statutes, is reenacted to read:

775.08435 Prohibition on withholding adjudication in felony cases.—

(1) Notwithstanding the provisions of s. 948.01, the court may not withhold adjudication of guilt upon the defendant for:

(c) A third degree felony that is a crime of domestic violence as defined in s. 741.28, unless:

1. The state attorney requests in writing that adjudication be withheld; or

2. The court makes written findings that the withholding of adjudication is reasonably justified based on circumstances or factors in accordance with s. 921.0026.

Section 3. For the purpose of incorporating the amendment made by this act to section 921.0026, Florida Statutes, in a

reference thereto, subsection (3) of section 921.002, Florida Statutes, is reenacted to read:

921.002 The Criminal Punishment Code.—The Criminal Punishment Code shall apply to all felony offenses, except capital felonies, committed on or after October 1, 1998.

(3) A court may impose a departure below the lowest permissible sentence based upon circumstances or factors that reasonably justify the mitigation of the sentence in accordance with s. 921.0026. The level of proof necessary to establish facts supporting the mitigation of a sentence is a preponderance of the evidence. When multiple reasons exist to support the mitigation, the mitigation shall be upheld when at least one circumstance or factor justifies the mitigation regardless of the presence of other circumstances or factors found not to justify mitigation. Any sentence imposed below the lowest permissible sentence must be explained in writing by the trial court judge.

Section 4. For the purpose of incorporating the amendment made by this act to section 921.0026, Florida Statutes, in a reference thereto, subsection (1) of section 921.00265, Florida Statutes, is reenacted to read:

921.00265 Recommended sentences; departure sentences; mandatory minimum sentences.—This section applies to any felony offense, except any capital felony, committed on or after October 1, 1998.

(1) The lowest permissible sentence provided by calculations from the total sentence points pursuant to s. 921.0024(2) is assumed to be the lowest appropriate sentence for the offender being sentenced. A departure sentence is prohibited

unless there are mitigating circumstances or factors present as provided in s. 921.0026 which reasonably justify a departure.

Section 5. This act shall take effect July 1, 2019.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to mitigating circumstances in sentencing; amending s. 921.0026, F.S.; revising the mitigating circumstances under which a departure from the lowest permissible sentence is reasonably justified; authorizing mitigation of the lowest permissible sentence when a defendant requires specialized treatment for a certain substance addiction and is amenable to treatment; making technical changes; reenacting ss. 775.08435(1)(c), 921.002(3), and 921.00265(1), F.S., relating to the prohibition on withholding adjudication in felony cases, the Criminal Punishment Code, and recommended and departure sentences, respectively, to incorporate the amendment made to s. 921.0026, F.S., in references thereto; providing an effective date.

By Senator Bracy

11-01395-19 20191030__

A bill to be entitled

An act relating to mitigating circumstances in sentencing; amending s. 921.0026, F.S.; revising the mitigating circumstances under which a departure from the lowest permissible sentence is justified, to include when a defendant is amenable to treatment and he or she requires specialized treatment for a certain substance addiction; providing an effective date.

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

Section 1. Paragraph (d) of subsection (2) of section 921.0026, Florida Statutes, is amended to read:

921.0026 Mitigating circumstances.—This section applies to any felony offense, except any capital felony, committed on or after October 1, 1998.

(2) Mitigating circumstances under which a departure from the lowest permissible sentence is reasonably justified include, but are not limited to:

(d) The defendant requires specialized treatment for a mental disorder, a substance addiction that predates the date of the offense, or ~~that is unrelated to substance abuse or addiction or for~~ a physical disability, and the defendant is amenable to treatment.

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

SB 1030 – Mitigating Circumstances in Sentencing

This bill amends s. 921.0026(2)(d), F.S., deleting that a mental disorder should be unrelated to substance abuse or addiction and adding the following for mitigating circumstances under which a departure from the lowest permissible sentence is reasonably justified (in bold): "The defendant requires specialized treatment for a mental disorder, **a substance addiction that predates the date of the offense, or** a physical disability, and the defendant is amenable to treatment."

Per DOC, on June 30th, 2018, roughly 60% of the inmate population had a substance abuse problem. It is not known how many of these people fit the criteria for mitigating circumstances. However, 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.). Although these offenses do not indicate substance abuse problems, it is likely that due to their nature a large number of those sentenced to prison would fit the criteria added in the bill. Additionally, these sentences tend to be shorter in length, and represent the largest share of all offense categories for year-and-a-day sentences, with 27.6% in FY 17-18, and a total of 565 new commitments.

EDR PROPOSED ESTIMATE: Negative Significant

Requested by: Senate

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 1074
INTRODUCER:	Senator Brandes
SUBJECT:	Sentencing
DATE:	March 15, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones	CJ	**Pre-meeting**
2.			ACJ	
3.			AP	

I. Summary:

SB 1074 creates a probationary split sentence for substance use and mental health offenders. An offender must be a nonviolent offender that is in need of substance use or mental health treatment and does not pose a danger to the community. The bill enumerates specified offenses that deem an offender ineligible for a split sentence for substance use and mental health.

The bill requires the following conditions to be part of a probationary split sentence for substance use or mental health offenders:

- A term of imprisonment, which must include an in-prison treatment program for substance use, mental health or co-occurring disorders that is a minimum of 90-days of in-custody treatment and is administered by the Department of Corrections (DOC) at a DOC facility;
- A 24 month term of probation that consists of:
  - Either drug offender or mental health probation, as determined by the court at sentencing;
  - Any special conditions of probation ordered by the sentencing court; and
  - Any recommendations made by the DOC in the postrelease treatment plan for substance use or mental health aftercare services.

The bill authorizes the DOC to refuse to place an offender in the in-prison treatment program for specified reasons. Following completion of the in-prison treatment program, the bill provides that an offender must be immediately transitioned into the community on drug offender or mental health probation for the last 24 months of his or her sentence.

The DOC must develop a computerized system to track data on the recidivism and recommitment of offenders who have received such a sentence and report the findings to the Governor, President of the Senate, and Speaker of the House of Representatives.

The DOC reports that the bill will have a negative indeterminate fiscal impact on the department. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2019.

II. Present Situation:

The Criminal Punishment Code[1] (Code) applies to sentencing for felony offenses committed on or after October 1, 1998.[2] The permissible sentence (absent a downward departure) for an offense ranges from the calculated lowest permissible sentence as determined by the Code to the statutory maximum for the primary offense. The statutory maximum sentence for a first-degree felony is 30 years, for a second-degree felony is 15 years, and for a third degree felony is five years.[3]

The sentence imposed by the sentencing judge reflects the length of actual time to be served, lessened only by the application of gain-time,[4] and may not be reduced in an amount that results in the defendant serving less than 85 percent of his or her term of imprisonment.[5]

Sentencing Options

The Florida Supreme Court has identified six statutory sentencing options in Florida, including a:

- Term of imprisonment, which may be served in jail or prison;
- True split sentence, which consists of a total period of confinement with a portion of the confinement period suspended and the defendant placed on probation for that suspended portion;
- Probationary split sentence, which consists of a period of confinement, none of which is suspended, followed by a period of probation;[6]
- *Villery* sentence, which consists of a period of probation preceded by a period of confinement imposed as a special condition;[7]
- Sentence of supervision, which consists of probation or community control; and
- Reverse split sentence, which consists of a period of probation followed by a period of incarceration.[8]

There are also existing statutes that allow a court to modify a sentence to probation terms for a youthful offender[9] upon completion of specified in-prison programming.[10]

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[1] 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.
[2] Section 921.0022, F.S.
[3] Section 775.082, F.S.
[4] Section 944.275, F.S., provides for various types of incentive and meritorious gain-time.
[5] Section 921.002(1)(e), F.S.
[6] Section 948.012, F.S., provides the authority for this type of split sentence.
[7] *Villery v. Florida Parole & Probation Com'n*, 396 So.2d 1107 (Fla. 1980).
[8] *Gibson v. Florida Department of Corrections*, 885 So.2d 376, 381 (Fla. 2004).
[9] A "youthful offender" is a person who is younger than 21 at the time of sentencing, who has not been found guilty or plead to a capital or life felony and has not previously been sentenced as a youthful offender. The court can sentence a person as a youthful offender or the DOC can classify a person as a youthful offender.
[10] *See* ss. 958.04(2)(d) and 958.045(6), F.S.

Substance Abuse Services for Inmates

Chapter 397, F.S., provides comprehensive laws for the provision of substance abuse services to citizens throughout Florida, including licensure of substance abuse service providers and inmate substance abuse programs.

Substance use programming within the DOC institutions seeks to treat participants with histories of dependency by focusing on changing the behaviors that led to the addiction.[11] The DOC has developed Correctional Substance Abuse Programs at its institutions and community-based sites throughout the state. The programs' principle objectives are to identify substance users, assess the severity of their drug problems, and provide the appropriate services.[12] The Department of Children and Families license all in-prison substance abuse programs.[13] The Bureau of Readiness and Community Transitions within the DOC is responsible for the coordination and delivery of substance abuse program services for individuals incarcerated in a state correction facility.[14]

Determining the Appropriate Services for Inmates

All inmates are screened at reception and assessed and placed into programs using the Correctional Integrated Needs Assessment System (CINAS).[15] The CINAS is based on the Risk-Needs-Responsivity Principle (RNR). The RNR principle refers to predicting which inmates have a higher probability of recidivating, and treating the criminogenic needs of those higher risk inmates with appropriate programming and services based on their level of need.[16]

The CINAS is administered to inmates again at 42 months from release. Additionally, the DOC conducts updates every six months thereafter to evaluate the inmate's progress and ensure enrollment in needed programs. The DOC's use of the CINAS allows for development and implementation of programs that increase the likelihood of successful transition. The DOC matches factors that influence an inmate's responsiveness to different types of services with programs that are proven to be effective within an inmate population. This involves selecting services that are matched to the offender's learning characteristics and then to the offender's stage of change readiness.[17]

Additionally, the CINAS allows for a flow of information between the DOC's Office of Community Corrections and Office of Institutions. For instance, when an inmate is received at a Reception Center, the staff has access to detailed information about prior supervision history.

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[11] The DOC, *Bureau of Readiness and Community Transition*, available at http://www.dc.state.fl.us/development/readiness.html (last visited March 13, 2019).
[12] DOC, Bureau of Readiness and Community Transition, Inmate Programs, *Substance Use Treatment, Annual Report, Fiscal Year 2016-2017*, p. 1 (hereinafter cited as "Substance Abuse Annual Report")(on file with the Senate Criminal Justice Committee).
[13] Licensure is conducted in accordance with ch. 397, F.S., and Fla. Admin. Code R. 65D-30.003.
[14] Substance Abuse Annual Report at p. 6.
[15] DOC, *Agency Analysis for SB 1222 (2018)*, p. 2, January 18, 2018 (on file with the Senate Criminal Justice Committee) (hereinafter cited as "DOC SB 1222 Analysis").
[16] DOC reports that criminogenic needs are those factors that are associated with recidivism that can be changed (e.g. lack of education, substance abuse, criminal thinking, lack of marketable job skills, etc.). Offenders are not higher risk because they have a particular risk factor, but, rather, because they have multiple risk factors. Accordingly, a range of services and interventions is provided that target the specific crime producing needs of offenders who are higher risk. *Id*.
[17] DOC SB 1222 Analysis, p. 2.

Likewise, if an inmate is released to community supervision, probation officers will have access to an offender's incarceration history and relevant release information. The DOC reports that this information is to be used to better serve the offender and prepare them for successful transition back into the community.[18]

Drug Offender and Mental Health Probation

Probation is a form of community supervision requiring specified contacts with probation officers and other conditions a court may impose.[19] Specifically, drug offender probation is a form of intensive supervision that emphasizes treatment of drug offenders in accordance with individualized treatment plans administered by probation officers with reduced caseloads.[20] Mental health probation means a form of specialized supervision that emphasizes mental health treatment and working with treatment providers to focus on underlying mental health disorders and compliance with a prescribed psychotropic medication regimen in accordance with individualized treatment plans. Mental health probation is supervised by officers with reduced caseloads who are sensitive to the unique needs of individuals with mental health disorders, and who will work in tandem with community mental health case managers assigned to the defendant.[21]

Gain-time

Gain-time awards, which result in deductions to the court-ordered sentences of specified eligible inmates, are used to encourage satisfactory prisoner behavior or to provide incentives for prisoners to participate in productive activities while incarcerated.[22] An inmate is not eligible to earn or receive gain-time in an amount that results in his or her release prior to serving a minimum of 85 percent of the sentence imposed.[23]

III. Effect of Proposed Changes:

The bill creates a probationary split sentence for substance use or mental health offenders.

Eligibility

An offender must be a nonviolent offender that is in need of substance use or mental health treatment and does not pose a danger to the community. The bill defines a "nonviolent offender" to mean an offender that has never been convicted of, or plead guilty or no contest to, the commission of, an attempt to commit, or a conspiracy to commit any of the following:

- Any capital, life, or first degree felony;

[18] *Id*.
[19] Section 948.001(8), F.S.
[20] Section 948.001(4), F.S.
[21] Section 948.001(5), F.S.
[22] Section 944.275(1), F.S. Section 944.275(4)(f), F.S., further provides that an inmate serving a life sentence is not able to earn gain-time. Additionally, an inmate serving the portion of his or her sentence that is included in an imposed mandatory minimum sentence or whose tentative release date is the same date as he or she achieves service of 85 percent of the sentence are not eligible to earn gain-time. Section 944.275(4)(e), F.S., also prohibits inmates committed to the DOC for specified sexual offenses committed on or after October 1, 2014, from earning incentive gain-time.
[23] Section 944.275(4)(f), F.S.

- Any second degree or third degree felony offense listed in s. 775.084(1)(c)1., F.S.;[24]
- Aggravated assault as described in s. 784.021, F.S.;
- Assault or battery of a law enforcement officer and other specified persons as described in s. 784.07, F.S.;
- Abuse, aggravated abuse, and neglect of a child as described in s. 827.03, F.S.;
- Resisting an officer with violence as described in s. 843.01, F.S.;
- Any offense that requires a person to register as a sex offender under s. 943.0435, F.S.;[25]
  - Any offense for which the sentence was enhanced under s. 775.087, F.S.;[26] or
  - Any offense committed in another jurisdiction which would be an offense described above or would have been enhanced as described above, if committed in this state.

Sentencing Requirements

The bill requires the following conditions to be part of a probationary split sentence for substance use or mental health offenders:

- A term of imprisonment, which must include an in-prison treatment program for substance use, mental health or co-occurring disorders that is a minimum of 90-days of in-custody treatment and is administered by the DOC at a DOC facility;
- A 24 month term of probation that consists of:
  - Either drug offender or mental health probation, as determined by the court at sentencing;
  - Any special conditions of probation ordered by the sentencing court; and
  - Any recommendations made by the DOC in the postrelease treatment plan for substance use or mental health aftercare services.

The court must also specify that if the DOC finds that the offender is ineligible or not appropriate for placement in an in-prison treatment program for a specified reason or any other reason the

[24] The offenses enumerated in s. 775.084(1)(c)1., F.S., include: arson; sexual battery; robbery; kidnapping; 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; aggravated stalking; home invasion/robbery; carjacking; or an offense which is in violation of a law of any other jurisdiction if the elements of the offense are substantially similar to the elements of any felony offense enumerated in s. 775.082(1)(c)1., F.S., or an attempt to commit any such felony offense.

[25] Section 943.0435, F.S., includes the following offenses: sexual misconduct by a covered person (s. 393.135(2), F.S.); sexual misconduct by an employee; kidnapping, false imprisonment, or luring or enticing a child, where the victim is a minor; human trafficking; sexual battery, excluding s. 794.011(10), F.S.; unlawful sexual activity with certain minors; former procuring person under age of 18 for prostitution; former selling or buying of minors into prostitution; lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age; video voyeurism; lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person; sexual performance by a child; prohibition of certain acts in connection with obscenity; computer pornography, excluding s. 847.0135(6), F.S.; transmission of pornography by electronic device or equipment prohibited; transmission of material harmful to minors to a minor by electronic device or equipment prohibited; selling or buying of minors; prohibited activities/RICO, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in s. 943.0435(1)(h)1.a.(I), F.S., or at least one offense listed in s. 943.0435(1)(h)1.a.(I), F.S., with sexual intent or motive); sexual misconduct prohibited; or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in s. 943.0435(1)(h)1.a.(I), F.S.

[26] Section 775.087, F.S., provides for the reclassification of an offense based on the possession or use of a weapon when such use or possession is not an element of the underlying offense.

DOC deems as good cause, the offender must serve the remainder of his or her imprisonment at a DOC facility.

The sentencing court may order a presentencing investigation report for any offender that the court believes may be sentenced to a probationary split sentence. The presentencing report will provide the court with the appropriate information to make a determination at sentencing of whether the offender is better suited for drug offender or mental health probation.

Department of Corrections Duties

The DOC is required to administer the in-prison treatment program and provide a special training program for staff members selected to implement the in-prison treatment program. The DOC is authorized to enter into performance-based contracts with qualified individuals, agencies, or corporations to supply any or all services provided through the in-prison treatment program. The bill prohibits the DOC from entering into a contract or renewing a contract for the purpose of providing services required under the act unless the contract offers a substantial savings to the DOC. Additionally, the DOC may establish a system of incentives within the in-prison treatment program to promote participation in rehabilitative programs and the orderly operation of institutions and facilities.

The DOC must send written notification of the offender's admission into the in-prison treatment program to the sentencing court, the state attorney, defense counsel, and any victim of the crime committed by the offender. Before an offender completes the in-prison treatment program, the DOC must evaluate the offender's needs and develop a postrelease treatment plan that includes substance or mental health aftercare services.

The bill provides rulemaking authority to the DOC to implement the in-prison treatment program. The DOC can refuse to place an offender in the in-prison treatment program if, after evaluating the offender for custody and classification status, the DOC determines that the offender does not meet the criteria for the in-prison treatment program as proscribed by rule. The DOC must notify the sentencing court, the state attorney, and the defense counsel of the inability to place the offender in the program and that the rest of the offender's sentence will be served in a DOC facility.

If, after placement in the in-prison treatment program, the offender appears to be unable to participate due to medical or other reasons, he or she must be examined by qualified medical personnel or qualified nonmedical personnel appropriate for the offender's situation. After consultation with the qualified personnel that evaluated the offender, the director of the in-prison treatment program must determine if the offender will continue with treatment or if the offender will be discharged from the program. If the offender is discharged from the in-prison treatment program the remaining portion of his or her sentence will be served in a DOC facility and the DOC must immediately notify the court, the state attorney, and the defense counsel that this portion of the sentence is served.

If an offender, after placement in the in-prison treatment program, appears to be unable to participate due to disruptive behavior or violations of any of the rules promulgated by the DOC, the director must determine if the offender will continue in treatment or be discharged from the

program. If the offender is discharged from the in-prison treatment program, the remaining portion of his or her sentence will be served in a DOC facility and the DOC must immediately notify the court, the state attorney, and the defense counsel that this portion of the sentence is served.

If an offender violates any rules, the DOC may impose sanctions including the loss of privileges, imposition of restrictions or disciplinary confinement, forfeiture of gain-time or the right to earn gain-time in the future, alteration of release plans, termination from the in-prison treatment program, or other program modifications dependent upon the severity of the violation. Additionally, the bill authorizes the DOC to place an offender that is a participant in the in-prison treatment program in administrative or protective confinement, as it deems necessary.

Drug Offender or Mental Health Probation Portion of Sentence

Upon completion of the term of imprisonment, an offender must be transitioned into the community on drug offender or mental health probation for the last 24 months of his or her sentence. An offender on probation is subject to:

- All standard terms of drug offender or mental health probation; and
- Any special condition of supervision ordered by the sentencing court, which may include:
  - Participation in an aftercare substance abuse or mental health program;
  - Residence in a postrelease transitional residential halfway house; or
  - Any other appropriate form of supervision or treatment.

The bill requires the DOC to collect the cost of supervision, as appropriate, from the offender. An offender who is financially able must also pay all costs of substance abuse or mental health treatment. The court may impose on the offender additional conditions such as requiring payment of restitution, court costs, and fines; community service; or compliance with other special conditions.

If an offender violates any condition of probation or order, the court may revoke the offender's probation and impose any sentence authorized by law.

The DOC must develop a computerized system to track data on the recidivism and recommitment of offenders who have been sentenced to a probationary split sentence.

The bill also requires the DOC to, on October 1 of every year, beginning on October 1, 2019,[27] submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives of the results of the recidivism and recommitment data collected by the DOC pursuant to the act.

The bill is effective on October 1, 2019.

[27] *See* Section VI. Technical Deficiencies.

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:

The bill authorizes the DOC to contract with qualified individuals, agencies, or corporations to supply any or all services provided for the in-prison treatment program. To the extent that this increases revenues of for-profit companies that offer these services, the bill will likely have a positive fiscal impact on such entities.

C. Government Sector Impact:

The DOC reported in its analysis of CS/SB 1222 (2018), which is identical to the current bill, that the bill will have a negative indeterminate fiscal impact on the DOC as additional resources may be needed to implement the in-prison treatment program.[28] The DOC further reported that there will likely be a need for increased contracted services funding to achieve the requirement of special training provided for in the bill as well as the need to obtain additional procurements or modifications of current contracts for comprehensive medical services, mental health care, and substance use treatment.[29]

[28] DOC SB 1222 Analysis, p. 6.
[29] *Id*.

VI. Technical Deficiencies:

The bill includes October 1, 2019 as the first reporting date. However, to ensure that there is time for the program to begin and collect data this date may need to be changed to a date no earlier than October 1, 2020.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 948.0121 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.

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LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 948.0121, Florida Statutes, is created to read:

948.0121 Conditional sentences for substance use or mental health offenders.—

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

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(a) "Department" means the Department of Corrections.

(b) "Offender" means a person found guilty of a felony offense and who receives a conditional sentence for substance use or mental health offenders as prescribed in this section.

(2) CREATION.—A conditional sentence for substance use or mental health offenders is established in accordance with s. 948.012. A court may sentence an offender to a conditional sentence in accordance with this section. A conditional sentence imposed by a court pursuant to this section does not confer to the offender any right to release from incarceration and placement on drug offender or mental health offender probation unless such offender complies with all sentence requirements in accordance with this section.

(3) ELIGIBILITY.—For an offender to receive a conditional sentence under this section, he or she must be a nonviolent offender who is in need of substance use or mental health treatment and who does not pose a danger to the community. As used in this subsection, the term "nonviolent offender" means an offender who has never been convicted of, or pled guilty or no contest to, the commission of, an attempt to commit, or a conspiracy to commit, any of the following:

(a) A capital, life, or first degree felony.

(b) A second degree felony or third degree felony listed in s. 775.084(1)(c)1.

(c) A violation of s. 784.021, s. 784.07, s. 827.03, or s. 843.01, or any offense that requires a person to register as a sex offender in accordance with s. 943.0435.

(d) An offense for which the sentence was enhanced under s. 775.087.

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(e) An offense in another jurisdiction which would be an offense described in this subsection, or which would have been enhanced under s. 775.087, if that offense had been committed in this state.

(4) SENTENCING REQUIREMENTS.—

(a) A court must order the offender as a part of a conditional sentence for substance use or mental health offenders, at a minimum, to:

1. Serve a term of imprisonment which must include an in-prison treatment program for substance use, mental health, or co-occurring disorders which is a minimum of 90 days in-custody treatment and is administered by the department at a department facility; and

2. Upon successful completion of such in-custody treatment program, comply with a term of special offender probation for 24 months, which shall serve as a modification of the remainder of his or her term of imprisonment, and must consist of:

a. Either drug offender or mental health probation, to be determined by the court at the time of sentencing;

b. Any special conditions of probation ordered by the sentencing court; and

c. Any recommendations made by the department in a postrelease treatment plan for substance use or mental health aftercare services.

(b) If the department finds that the offender is ineligible or not appropriate for placement in an in-custody treatment program for the reasons prescribed in subsection (7), or for any other reason the department deems as good cause then the offender shall serve the remainder of his or her term of

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imprisonment in the custody of the department.

(c) The appropriate type of special offender probation shall be determined by the court at the time of sentencing based upon the recommendation by the department in a presentence investigation report.

(5) PRESENTENCE INVESTIGATION REPORT.—The court may order the department to conduct a presentence investigation report in accordance with s. 921.231 for any offender who the court believes may be sentenced under this section to provide the court with appropriate information to make a determination at the time of sentencing of whether drug offender or mental health probation is most appropriate for the offender.

(6) DEPARTMENT DUTIES.—The department:

(a) Shall administer treatment programs that comply with the type of treatment required in this section.

(b) May develop and enter into performance-based contracts with qualified individuals, agencies, or corporations to provide any or all services necessary for the in-custody treatment program. Such contracts may not be entered into or renewed unless they offer a substantial savings to the department. The department may establish a system of incentives in an in-custody treatment program to promote offender participation in rehabilitative programs and the orderly operation of institutions and facilities.

(c) Shall provide a special training program for staff members selected to administer or implement an in-custody treatment program.

(d) Shall evaluate the offender’s needs and develop a postrelease treatment plan that includes substance use or mental

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health aftercare services.

(7) IN-PRISON TREATMENT.—

(a) The department shall give written notification of the offender's admission into an in-prison treatment program portion of the conditional sentence to the sentencing court, the state attorney, the defense counsel for the offender, and any victim of the offense committed by the offender.

(b) If, after evaluating an offender for custody and classification status, the department determines at any point during the term of imprisonment that an offender sentenced under this section does not meet the criteria for placement in an in-prison treatment program portion of the conditional sentence, as determined in rule by the department, or that space is not available for the offender's placement in an in-prison treatment program, the department must immediately notify the court, the state attorney, and the defense counsel that this portion of the sentence is unsuccessfully served in accordance with paragraph (4)(b).

(c) If, after placement in an in-prison treatment program, an offender is unable to participate due to medical concerns or other reasons, he or she must be examined by qualified medical personnel or qualified nonmedical personnel appropriate for the offender's situation, as determined by the department. The qualified personnel shall consult with the director of the in-prison treatment program, and the director shall determine whether the offender will continue with treatment or be discharged from the program. If the director discharges the offender from the treatment program, the department must immediately notify the court, the state attorney, and the

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defense counsel that this portion of the sentence is unsuccessfully served in accordance with paragraph (4)(b).

(d) If, after placement in an in-prison treatment program, an offender is unable to participate due to disruptive behavior or violations of any of the rules the department adopts to implement this section, the director shall determine whether the offender will continue with treatment or be discharged from the program. If the director discharges the offender from the treatment program, the department must immediately notify the court, the state attorney, and the defense counsel that this portion of the sentence is unsuccessfully served in accordance with paragraph (4)(b).

(e) An offender participating in an in-prison treatment program portion of his or her imprisonment must comply with any additional requirements placed on the participants by the department in rule. If an offender violates any of the rules, he or she may have sanctions imposed, including loss of privileges, restrictions, disciplinary confinement, forfeiture of gain-time or the right to earn gain-time in the future, alteration of release plans, termination from the in-prison treatment program, or other program modifications in keeping with the nature and gravity of the program violation. The department may place an inmate participating in an in-prison treatment program in administrative or protective confinement, as necessary.

(8) DRUG OFFENDER OR MENTAL HEALTH PROBATION.—

(a) Upon completion of the in-prison treatment program ordered by the court, the offender shall be transitioned into the community to begin his or her drug offender or mental health probation for a term of 24 months, as ordered by the court at

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the time of sentencing in accordance with subsection (4).

(b) An offender on drug offender or mental health probation following a conditional sentence imposed pursuant to this section must comply with all standard conditions of drug offender or mental health probation and any special condition of probation ordered by the sentencing court, including participation in an aftercare substance abuse or mental health program, residence in a postrelease transitional residential halfway house, or any other appropriate form of supervision or treatment.

(c)1. If an offender placed on drug offender probation resides in a county that has established a drug court or a postadjudicatory drug court, the offender shall be monitored by the court as a condition of drug offender probation.

2. If an offender placed on mental health offender probation resides in a county that has established a mental health court, the offender shall be monitored by the court as a condition of mental health offender probation.

(d) While on probation pursuant to this subsection, the offender shall pay all appropriate costs of probation to the department. An offender who is determined to be financially able shall also pay all costs of substance abuse or mental health treatment. The court may impose on the offender additional conditions requiring payment of restitution, court costs, fines, community service, or compliance with other special conditions.

(e) An offender’s violation of any condition or order may result in revocation of probation by the court and imposition of any sentence authorized under the law, with credit given for the time already served in prison.

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(9) REPORTING.—The department shall develop a computerized system to track data on the recidivism and recommitment of offenders who have been sentenced to a conditional sentence for substance use or mental health offenders. On October 1, 2020, and on each October 1 thereafter, the department shall submit an annual report of the results of the collected data to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(10) RULEMAKING.—The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.

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

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to sentencing; creating s. 948.0121, F.S.; defining terms; creating a conditional sentence for substance use and mental health offenders in accordance with s. 948.012, F.S.; authorizing a court to sentence an offender to a conditional sentence; specifying requirements an offender must meet to be eligible to receive a conditional sentence; requiring that an eligible offender be a nonviolent offender; defining the term "nonviolent offender"; providing minimum sentencing requirements for a conditional sentence; providing an exception to the court's order of a conditional sentence; authorizing the sentencing

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court to have the Department of Corrections provide a presentence investigation report in accordance with s. 921.231, F.S., to provide the court with certain information to determine the type of probation most appropriate for the offender; requiring the department to perform specified duties; authorizing the department to enter into certain contracts; requiring the department to provide written notification to specified parties upon the offender's admission into an in-prison treatment program; providing that the department may find that an offender is not eligible to participate in an in-prison treatment program under certain circumstances; requiring written notification from the department to certain parties if an offender is terminated from or prevented from entering an in-prison treatment program; requiring that an offender be transitioned to probation upon the completion of his or her in-prison treatment program; requiring an offender to comply with specified terms of drug offender or mental health probation; requiring the offender to pay specified costs associated with his or her probation; providing that certain violations may result in revocation of probation by the court and imposition of any sentence authorized by law; requiring the department to develop a computerized system to track certain data; requiring the department, on a certain date and annually thereafter, to submit an annual report to the Governor and the Legislature; requiring the department to adopt certain

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rules; providing an effective date.

By Senator Brandes

24-00771-19 20191074__

A bill to be entitled

An act relating to sentencing; creating s. 948.0121, F.S.; defining terms; creating a probationary split sentence for substance use and mental health offenders in accordance with s. 948.012, F.S.; authorizing a court to sentence an offender to a probationary split sentence; specifying requirements an offender must meet to be eligible to receive a probationary split sentence; requiring that an eligible offender be a nonviolent offender; defining the term "nonviolent offender"; providing minimum sentencing requirements for a probationary split sentence; providing an exception to the court's order of a probationary split sentence; authorizing the sentencing court to have the Department of Corrections provide a presentence investigation report in accordance with s. 921.231, F.S., to provide the court with certain information to determine the type of probation most appropriate for the offender; requiring the department to perform specified duties; authorizing the department to enter into certain contracts; requiring the department to provide written notification to specified parties upon the offender's admission into an in-prison treatment program; providing that the department may find that an offender is not eligible to participate in an in-prison treatment program under certain circumstances; requiring written notification from the department to certain parties if an offender is terminated from or prevented from entering an in-prison treatment

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program; requiring that an offender be transitioned to probation upon the completion of his or her term of imprisonment; requiring an offender to comply with specified terms of drug offender or mental health probation; requiring the offender to pay specified costs associated with his or her probation; providing that certain violations may result in revocation of probation by the court and imposition of any sentence authorized by law; requiring the department to develop a computerized system to track certain data; requiring the department, on a certain date and annually thereafter, to submit an annual report to the Governor and the Legislature; requiring the department to adopt certain rules; providing an effective date.

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

Section 1. Section 948.0121, Florida Statutes, is created to read:

948.0121 Probationary split sentences for substance use or mental health offenders.—

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

(a) "Department" means the Department of Corrections.

(b) "Offender" means a person found guilty of a felony offense and who receives a probationary split sentence for substance use or mental health offenders as prescribed in this section.

(2) CREATION.—A probationary split sentence for substance use or mental health offenders is established in accordance with

s. 948.012. A court may sentence an offender to a probationary split sentence in accordance with this section.

(3) ELIGIBILITY.—For an offender to receive a probationary split sentence under this section, he or she must be a nonviolent offender who is in need of substance use or mental health treatment and who does not pose a danger to the community. As used in this subsection, the term "nonviolent offender" means an offender who has never been convicted of, or pled guilty or no contest to, the commission of, an attempt to commit, or a conspiracy to commit, any of the following:

(a) A capital, life, or first degree felony.

(b) A second degree felony or third degree felony listed in s. 775.084(1)(c)1.

(c) A violation of s. 784.021, s. 784.07, s. 827.03, or s. 843.01, or any offense that requires a person to register as a sex offender in accordance with s. 943.0435.

(d) An offense for which the sentence was enhanced under s. 775.087.

(e) An offense in another jurisdiction which would be an offense described in this subsection, or which would have been enhanced under s. 775.087, if that offense had been committed in this state.

(4) SENTENCING REQUIREMENTS.—As a condition of a probationary split sentence for substance use or mental health offenders, the court must order that the offender, at a minimum, serve:

(a) A term of imprisonment which must include an in-prison treatment program for substance use, mental health, or co-occurring disorders which is a minimum of 90 days in-custody

treatment and is administered by the department at a department facility;

(b) The remainder of his or her imprisonment in a department facility if the department finds that the offender is ineligible or not appropriate for placement in an in-custody treatment program for the reasons prescribed in subsection (7), or for any other reason the department deems as good cause; and

(c) A term of probation of 24 months that consists of:

1. Either drug offender or mental health probation, to be determined by the court at the time of sentencing;

2. Any special conditions of probation ordered by the sentencing court; and

3. Any recommendations made by the department in a postrelease treatment plan for substance use or mental health aftercare services.

(5) PRESENTENCE INVESTIGATION REPORT.—The court may order the department to conduct a presentence investigation report in accordance with s. 921.231 for any offender who the court believes may be sentenced under this section to provide the court with appropriate information to make a determination at the time of sentencing of whether drug offender or mental health probation is most appropriate for the offender.

(6) DEPARTMENT DUTIES.—The department:

(a) Shall administer treatment programs that comply with the type of treatment required in this section.

(b) May develop and enter into performance-based contracts with qualified individuals, agencies, or corporations to provide any or all services necessary for the in-custody treatment program. Such contracts may not be entered into or renewed

unless they offer a substantial savings to the department. The department may establish a system of incentives in an in-custody treatment program to promote offender participation in rehabilitative programs and the orderly operation of institutions and facilities.

(c) Shall provide a special training program for staff members selected to administer or implement an in-custody treatment program.

(d) Shall evaluate the offender's needs and develop a postrelease treatment plan that includes substance use or mental health aftercare services.

(7) IN-PRISON TREATMENT.—

(a) The department shall give written notification of the offender's admission into an in-prison treatment program portion of the probationary split sentence to the sentencing court, the state attorney, the defense counsel for the offender, and any victim of the offense committed by the offender.

(b) If, after evaluating an offender for custody and classification status, the department determines at any point during the term of imprisonment that an offender sentenced under this section does not meet the criteria for placement in an in-prison treatment program portion of the probationary split sentence, as determined in rule by the department, or that space is not available for the offender's placement in an in-prison treatment program, the department must immediately notify the court, the state attorney, and the defense counsel that this portion of the sentence is served in accordance with paragraph (4)(b).

(c) If, after placement in an in-prison treatment program,

an offender is unable to participate due to medical concerns or other reasons, he or she must be examined by qualified medical personnel or qualified nonmedical personnel appropriate for the offender's situation, as determined by the department. The qualified personnel shall consult with the director of the in-prison treatment program, and the director shall determine whether the offender will continue with treatment or be discharged from the program. If the director discharges the offender from the treatment program, the department must immediately notify the court, the state attorney, and the defense counsel that this portion of the sentence is served in accordance with paragraph (4)(b).

(d) If, after placement in an in-prison treatment program, an offender is unable to participate due to disruptive behavior or violations of any of the rules the department adopts to implement this section, the director shall determine whether the offender will continue with treatment or be discharged from the program. If the director discharges the offender from the treatment program, the department must immediately notify the court, the state attorney, and the defense counsel that this portion of the sentence is served in accordance with paragraph (4)(b).

(e) An offender participating in an in-prison treatment program portion of his or her imprisonment must comply with any additional requirements placed on the participants by the department in rule. If an offender violates any of the rules, he or she may have sanctions imposed, including loss of privileges, restrictions, disciplinary confinement, forfeiture of gain-time or the right to earn gain-time in the future, alteration of

release plans, termination from the in-prison treatment program, or other program modifications in keeping with the nature and gravity of the program violation. The department may place an inmate participating in an in-prison treatment program in administrative or protective confinement, as necessary.

(8) DRUG OFFENDER OR MENTAL HEALTH PROBATION.—

(a) Upon completion of the term of imprisonment ordered by the court, the offender shall be transitioned into the community to begin his or her drug offender or mental health probation for a term of 24 months, as ordered by the court at the time of sentencing in accordance with subsection (4).

(b) An offender on drug offender or mental health probation following a probationary split sentence imposed pursuant to this section must comply with all standard conditions of drug offender or mental health probation and any special condition of probation ordered by the sentencing court, including participation in an aftercare substance abuse or mental health program, residence in a postrelease transitional residential halfway house, or any other appropriate form of supervision or treatment.

(c) While on probation pursuant to this subsection, the offender shall pay all appropriate costs of probation to the department. An offender who is determined to be financially able shall also pay all costs of substance abuse or mental health treatment. The court may impose on the offender additional conditions requiring payment of restitution, court costs, fines, community service, or compliance with other special conditions.

(d) An offender's violation of any condition or order may result in revocation of probation by the court and imposition of

any sentence authorized under the law, with credit given for the time already served in prison.

(9) REPORTING.—The department shall develop a computerized system to track data on the recidivism and recommitment of offenders who have been sentenced to a probationary split sentence for substance use or mental health offenders. On October 1, 2019, and on each October 1 thereafter, the department shall submit an annual report of the results of the collected data to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(10) RULEMAKING.—The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.

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

Florida Department of Corrections

Bureau of Readiness & Community Transition

Inmate Programs

Substance Use Treatment

Annual Report
Fiscal Year 2016-2017

Division of Development: Improvement and Readiness

Published March 2018

IN-PRISON SUBSTANCE USE ANNUAL REPORT

FY 2016-17

PUBLISHED MARCH 2018

Prepared by:
Florida Department of Corrections
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PROGRAM TYPES

The Florida Department of Corrections has developed Correctional Substance Use Programs at Institutional and Community-Based sites throughout the state. These programs serve inmates with substance involvement, use, dependence or related problems. The Department of Children and Families in accordance with Chapter 397 Florida Statutes and Chapter 65D-30 Florida Administrative Code license all in-prison substance use programs. The programs' principle objectives are to identify substance users, assess the severity of their drug problems, and provide the appropriate services.

All inmates are screened at reception, and those inmates identified as being in need of treatment or services become Mandated Program Participants (MPP's) and are placed on the department's centralized statewide automated priority list for placement in a program. Inmates screened as being in need of services are either referred to a substance use program or placed on a waiting list pending availability of such programming. The Bureau of Readiness and Community Transitions is responsible for the coordination and delivery of substance use program services for individuals incarcerated in a state correction facility.

- **Prevention** services are offered on a limited basis and do not meet the requirements of a mandatory substance use program participation. Prevention services include activities and strategies that would increase awareness and knowledge of the risks of substance use, improve life skills, and responsible behavior. Generally, a substance use counselor provides these services in a group setting.

- **Intensive Outpatient (IOP)** services have a variable length of stay based on the individual's progress. The typical length of stay is four (4) months and may be extended up to six (6) months. A minimum of twelve (12) counselor-supervised hours of program activities occurs per week per inmate, a minimum of four (4) days per week.

- **Residential Therapeutic Community (TC)** services provide inmates participating in the program with housing together in an existing dormitory at the respective institution and separated from the general inmate population to the fullest extent possible. The length of stay will vary based on the individual's progress in the program. The typical length of stay is nine (9) months and may be extended up to twelve (12) months.

  Residential Therapeutic Community encompasses a diverse curriculum that encourages participants who have similar problems of chemical use or dependency to live and work together to change their lives. The TC model emphasizes structure, responsibility, credibility, accountability, discipline, consistency, peer-to-peer interaction, and consequences/limit setting. Residential Therapeutic Community services are dedicated to facilitating change, growth, and improved self-worth for each member of the community.

PROGRAM TYPES
(CONTINUED)

Clinical staff are available to provide and supervise activities a minimum of six (6) days per week, for a minimum of sixty (60) structured program hours per week. Program services attempt to instill educational, vocational and other work and social skills necessary for the inmates' successful re-entry into society.

- **Substance Use Transition Re-Entry Program** offers a continuum of substance use services including prevention, outpatient, intensive outpatient, and aftercare services as well as education/vocational services. The focus is on teaching, developing and practicing re-entry/transitional skills necessary for a successful drug-free re-entry into the community upon release from prison. Inmates residing in a program center will receive the appropriate level of substance use services in addition to groups focusing on criminal thinking, family development, anger management, domestic violence, victim awareness as well as other appropriate topics. The following services are available to inmates at the Program Center:

  - ***Prevention*** services include family development, anger management, domestic violence, victim awareness, criminal conduct and other appropriate modules. Inmates in this course are not substance use MPP's.

  - ***Outpatient*** services provide all the prevention modules in addition to substance use specific groups/modules. Inmates generally need to spend at least 4 months in the outpatient track (this is considered intensive outpatient). Inmates in this course are substance use MPP's who have not completed an Intensive Outpatient or Residential Therapeutic Community program prior to entering the program. These inmates will also have a ranking score.

  - ***Aftercare*** services are focused on relapse prevention-modules. Inmates in this track receive or have received all the prevention modules in addition to intensive substance use services.

- **Pre-Program Motivation/Readiness Classes** are didactic in nature and focus on denial, addiction, recovery principles, program motivation, self and mutual help concepts and other related substance use topics. These groups are open-ended, with no completion requirements and no clinical documentation required. Generally, they are held on a weekly basis. Inmates are directly admitted from these groups to either **Intensive Outpatient or Residential Therapeutic Community** at the earliest available date.

PROGRAM TYPES
(CONTINUED)

- **Alumni Groups** are held weekly for inmates who have completed Intensive Outpatient or Residential Therapeutic Community programs. Inmates who complete Intensive Outpatient or Residential Therapeutic Community are required to participate in the on-going Alumni groups, as long as they are at a facility offering them. Alumni groups may lead by peers, although a counselor is to be present when the group is conducted. Alumni groups serve as a support group. They are open-ended with no completion requirements.

- **Recovery and Support Groups** are available for both substance use program participants and for designated inmates in the institution's/facility's general population, and are coordinated by substance use staff at facilities that have substance use programs. Support groups are utilized as adjuncts to primary substance use programming.

- **Post-Release Substance Use Transitional Housing Programs** assist released offenders by providing substance use re-entry and relapse prevention services, transitional housing, and other support services. The program provides housing, three meals a day, electricity, access to local phone service, job placement assistance, and other transitional services. The target population for this program is recently released inmates with histories of substance use problems, particularly those who have completed a Department in-prison or community-based drug treatment program, and are in need of transitional housing and services upon their release from incarceration. Program participants do not have to be under Department supervision to participate. Enrollment in the program is strictly voluntary, however, all enrolled program participants are required to participate in program activities and abide by program rules. Program participants may not be discharged for failure to participate in post-release components of the program.

- **Department Operated Work Release Centers with Contracted Counselors**
These programs offer a continuum of licensed services including intervention, outpatient and aftercare. Services are provided based on inmate's individualized needs. Outpatient services are a minimum of four months and Aftercare/alumni services are provided until the inmate is released. Intervention services are provided to inmates with less than 4 months to serve. The counselor to client ratio is 1:50

GLOSSARY OF TERMS

ENROLLMENT TERMS	
Number of New Enrollment Events in the Program During the Year	This is a count of the total number of new enrollment events in the program during the fiscal year. It may include duplicate observations per inmate.
Number of New Inmates Enrolled in the Program During the Year	This is a count of the total number of new inmates who entered the program during the fiscal year. This number is unduplicated by inmate within program type.
Number of Different Inmates Enrolled in the Program During the Year	This is a count of the total number of inmates who participated in the program at any given time during the fiscal year. It is computed by taking the population enrolled in the program on July 1st and adding to it any inmates who enrolled during the fiscal year. This number is unduplicated by inmate within program type.
Number of Inmates Enrolled in the Program on June 30th	Also referred to as a status population, this is the number of inmates enrolled in the program on the last day of the fiscal year. This number is unduplicated by inmate within program type.
EXIT TERMS	
All Program Exits	Successful Exits + Unsuccessful Exits + Administrative Exits
Successful Outcome/Exit	A type of program outcome, denoting compliance with program requirements resulting in program completion.
Unsuccessful Outcome/Exit	A type of program outcome denoting noncompliance with program requirements resulting in termination from the program and non-completion.
Administrative Outcome/Exit	A type of program outcome denoting neither success nor failure in the program, and not counted when calculating program success rates.
Program Completers	Successful Exits; i.e., completed the program
Program Non-Completers	Unsuccessful Exits + Administrative Exits
Success Rate	Successful Exits/(Successful Exits + Unsuccessful Exits)
PROGRAM TERMS	
PREVENTION	Education/prevention program
READINESS GROUP	Pre-program motivation groups

GLOSSARY OF TERMS
(CONTINUED)

PROGRAM TERMS (Continued)	
IOP	Intensive outpatient services program. Formerly the TIER2 and Modality 1 Programs.
TC	Long term residential therapeutic community (TC) services program. Formerly the TIER3/4 and Modality 2 Programs.
PROGRAM CENTER	A continuum of substance use services including prevention, outpatient, intensive outpatient, and aftercare services as well as education/vocational services.
ALUMNI GROUP	Weekly continuing care groups for inmates who have completed the IOP or TC.
POST-RELEASE SUBSTANCE USE TRANSITIONAL HOUSING	Transitional housing programs providing substance use relapse prevention services using a cognitive-behavioral or Twelve-Step model and other transition services.
WORK RELEASE CENTER	These programs offer a continuum of licensed services including intervention, outpatient and aftercare for inmates once they move into a work release center.
RE-ENTRY CENTER	A continuum of substance use services behind-the-fence including prevention, outpatient, intensive outpatient, and aftercare services as well as education/vocational services for inmates within 50 months of release and returning to the area immediately surrounding the center.
OTHER TERMS	
RECOMMITMENT	The percentage of program releases who return to the department within a given time period. It includes returns to prison and community supervision for either a new offense or a technical violation.
WORKLOAD	The enrollment data for a particular program during a given time period.

DEMOGRAPHICS, OUTCOMES, AND RECOMMITMENTS ACROSS PROGRAM TYPES

EXECUTIVE SUMMARY

This report covers the time period from July 1, 2016 - June 30, 2017. Data are reported in sections by program type. Each major section includes an Executive Summary and sub-sections on Providers (as of 6/30/2016), Workload, Outcomes, and Recommitment Rates (where appropriate).

There is a companion report, titled *Substance Use Annual Report - Community Programs* that uses the same format to detail substance use programs for offenders on community supervision.

Salient points concerning the demographic break down by gender, race, and age for new enrollees in FY 2016-17 are as follows:

- The highest rate of male participants was in READINESS (98.7%).
- RESIDENTIAL THERAPEUTIC COMMUNITY programs were utilized more by males (86.6%) than females (13.4%).

The highest percentage of new participants for each program by age group was:

- INTENSIVE OUTPATIENT (age 45+ [23.2%]);
- RESIDENTIAL THERAPEUTIC COMMUNITY (age 45+ [21.4%]);
- PROGRAM CENTER (age 45+ [26.4%]);
- READINESS (age 45+ [25.1%]);
- ALUMNI (age 45+ [30.6%]);
- WR SAP (age 30-34 [23.5%]); and
- POST-RELEASE TRANSITIONAL HOUSING (age 45+ [49.4%]).

Success rates (excluding administrative exits) for all inmates who entered the program during FY 2013-14 based on exit data within three years after program entry, by applicable program type (from highest to lowest) were:

- INTENSIVE OUTPATIENT (93.0% out of 2,498);
- PROGRAM CENTER (74.5% out of 674).
- RESIDENTIAL THERAPEUTIC COMMUNITY (67.2% out of 2,071);

EXECUTIVE SUMMARY
(CONTINUED)

Older inmates were more successful than younger inmates, with INTENSIVE OUTPATIENT participants having a relatively high success rate among all age groups. The highest success rates (excluding administrative exits) three (3) years after program entry for FY 2013-14, by program type and age were:

- INTENSIVE OUTPATIENT (age 45+, 97.4% [670 out of 688])*;
- RESIDENTIAL THERAPEUTIC COMMUNITY (age 45+, 78.7% [311 out of 395]).
- PROGRAM CENTER (age 45+, 87.5% [161 out of 184]).

PERCENTAGES ARE NOT PROVIDED FOR CATEGORIES WITH LESS THAN TWENTY-FIVE (25) PARTICIPANTS BECAUSE ANY CONCLUSIONS DRAWN FROM THIS SMALL POPULATION MAY BE MISLEADING.

By program type, two-year recommitment rates for program completers released from prison in FY 2014-15, and who completed a substance use treatment program sometime during their incarceration (from lowest to highest) were:

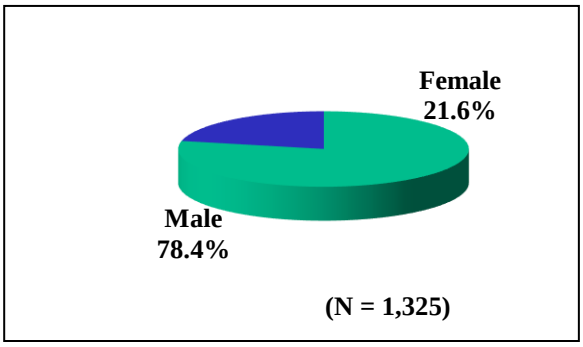
- PROGRAM CENTER (14.6% of 459);
- RESIDENTIAL THERAPEUTIC COMMUNITY (19.0% of 1,229); and
- INTENSIVE OUTPATIENT (21.6% of 2,285).

By program type and age, the lowest two-year recommitment rates for successful program completers released from prison in FY 2014-15, and who completed a substance use treatment program sometime during their incarceration, were as follows:

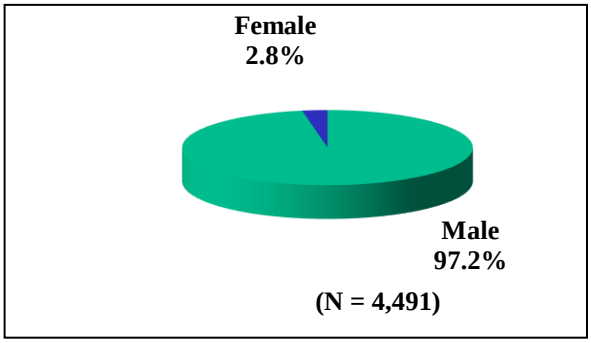
- INTENSIVE OUTPATIENT (age 25-29, 15.7% [61 out of 388]);
- RESIDENTIAL THERAPEUTIC COMMUNITY (age 45+, 15.7% [49 out of 313]).

GENDER OF NEW ENROLLEES, FY 2016-17 BY PROGRAM TYPE
(NON-DUPLICATED PROGRAM ENROLLEES)

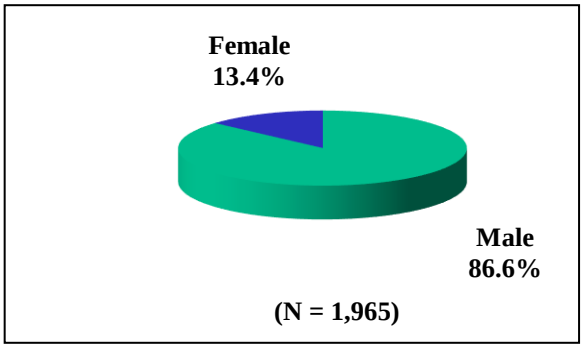
WR SAP



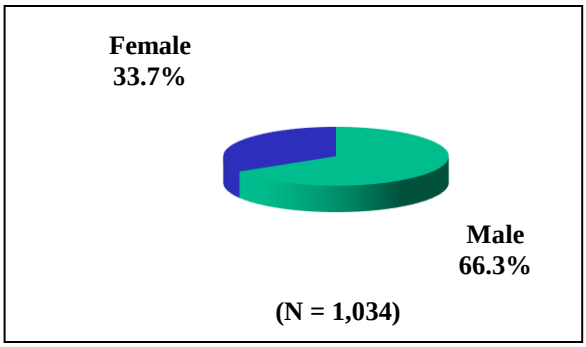
INTENSIVE OUTPATIENT



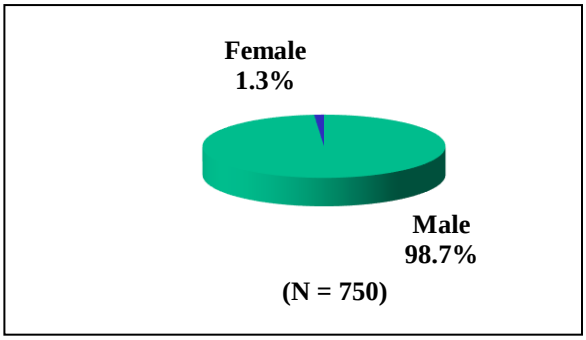
RESIDENTIAL THERAPEUTIC COMMUNITY



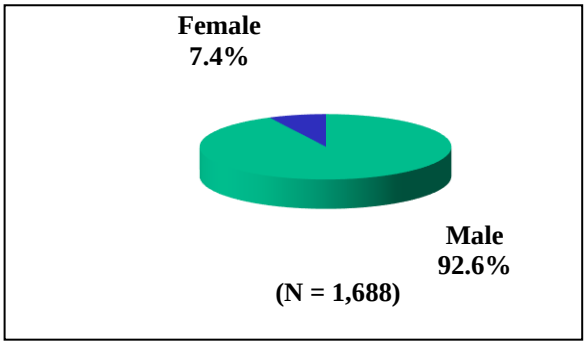
PROGRAM CENTER



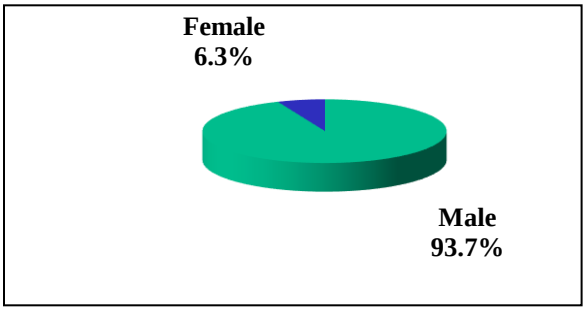
READINESS (TIERRD)



ALUMNI (IALUM)

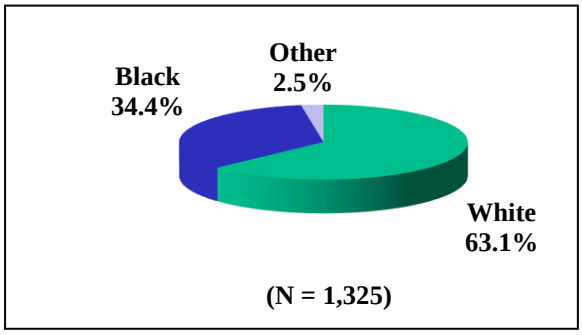


POST-RELEASE TRANSITIONAL HOUSING

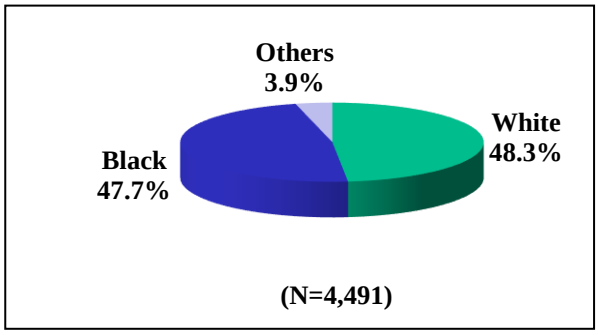


RACE OF NEW ENROLLEES, FY 2016-17 BY PROGRAM TYPE
(NON-DUPLICATED PROGRAM ENROLLEES)

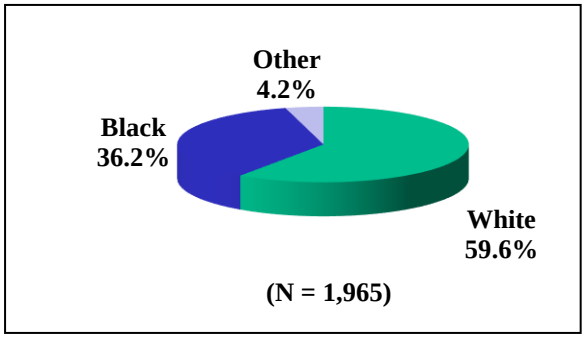
WR SAP



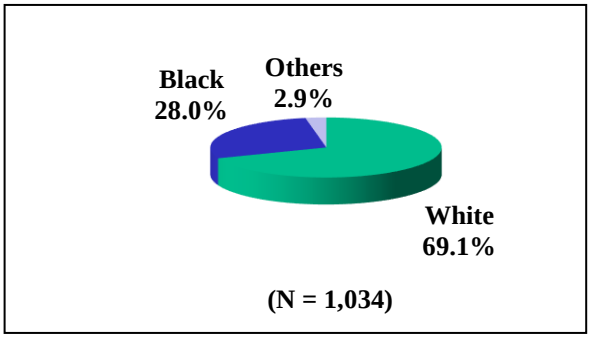
INTENSIVE OUTPATIENT



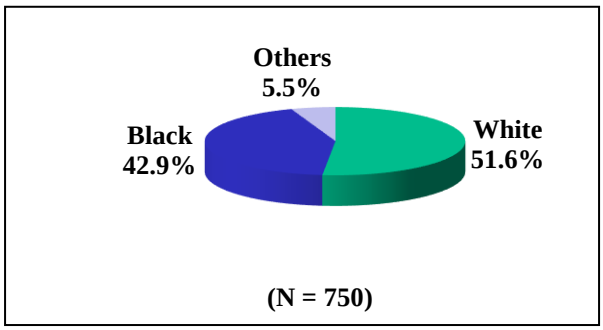
RESIDENTIAL THERAPEUTIC COMMUNITY



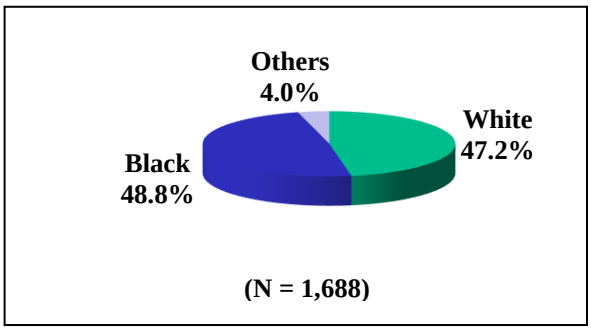
PROGRAM CENTER



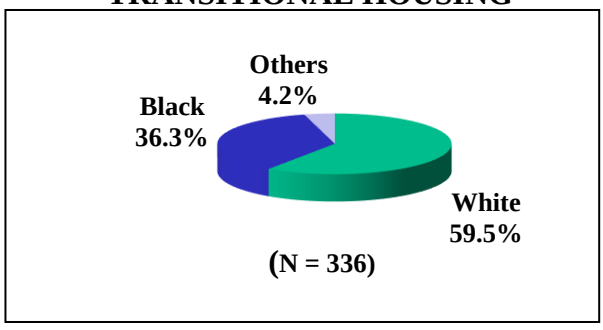
READINESS (TIERRD)



ALUMNI (IALUM)



POST-RELEASE TRANSITIONAL HOUSING



AGE OF NEW ENROLLEES, FY 2016-17 BY PROGRAM TYPE
(NON-DUPLICATED PROGRAM ENROLLEES)

AGE GROUP	PROGRAM TYPE												TOTAL	
	WR SAP		INTENSIVE OUTPATIENT		RESIDENTIAL THERAPEUTIC COMMUNITY		PROGRAM CENTER		READINESS		ALUMNI			
	N	%*	N	%*	N	%*	N	%*	N	%*	N	%*	N	%**
Under 18	0	0.0	0	0.0	0	0.0	0	0.0	0	0	0	0.0	0	0.0
18 – 24	106	8.0	488	10.9	213	10.8	77	7.5	104	13.9	112	6.6	1,100	9.8
25 – 29	264	19.9	882	19.6	388	19.8	180	17.4	144	19.2	273	16.2	2,131	19.0
30 – 34	312	23.5	848	18.9	412	21.0	219	21.2	125	16.7	293	17.4	2,209	19.6
35 – 39	248	18.7	754	16.8	313	15.9	170	16.4	107	14.2	279	16.5	1,871	16.6
40 – 44	153	11.6	476	10.6	219	11.1	115	11.1	82	10.9	215	12.7	1,260	11.2
45+	242	18.3	1,043	23.2	420	21.4	273	26.4	188	25.1	516	30.6	2,682	23.8
TOTAL	1,325	100.0	4,491	100.0	1,965	100.0	1,034	100.0	750	100.0	1,688	100.0	11,253	100.0

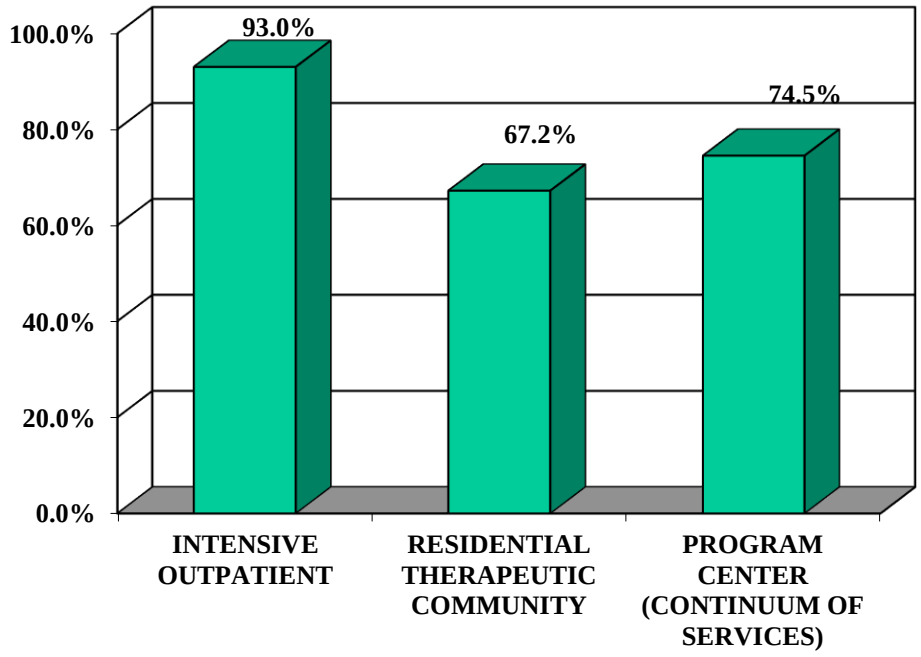
AGE OF NEW ENROLLEES, FY 2016-17 POST-RELEASE TRANSITIONAL HOUSING

AGE GROUP	N	%
Under 18	0	0.0%
18 – 24	23	6.9%
25 – 29	37	11.0%
30 – 34	33	9.8%
35 – 39	41	12.2%
40 – 44	36	10.7%
45 or older	166	49.4%
TOTAL	336	100.0%

N = NUMBER OF ENROLLEES BY AGE
* PERCENT OF ENROLLEES FOR EACH PROGRAM TYPE
** PERCENT OF ENROLLEES FOR ALL PROGRAM TYPES

SUCCESS RATES*

THREE YEARS AFTER INITIAL PROGRAM ENTRY, FY 2013-14
USE PROGRAM TABLE C FOR THESE NUMBERS**



Success Rate =	Successful Exits Divided By (Successful Exits + Unsuccessful Exits)
Intensive Outpatient:	Successful Exits + Unsuccessful Exits = 2,498
Residential Therapeutic Community:	Successful Exits + Unsuccessful Exits = 2,071
Program Center:	Successful Exits + Unsuccessful Exits = 674

SUCCESS RATES*

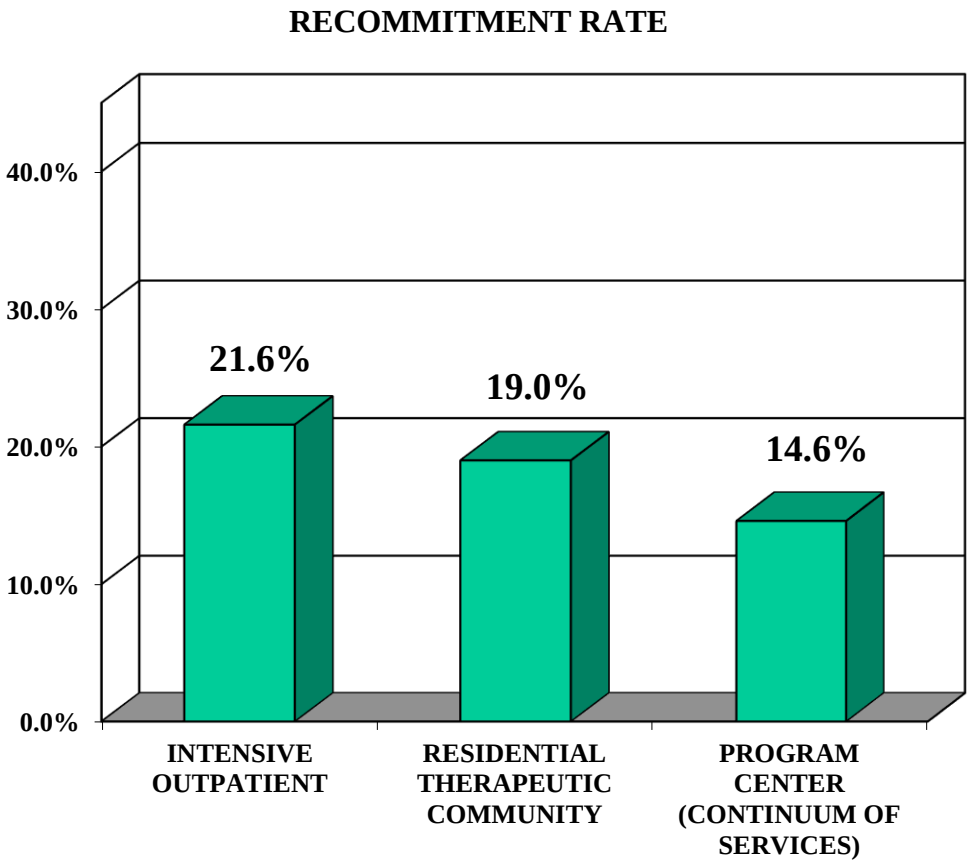
THREE YEARS AFTER INITIAL PROGRAM ENTRY, FY 2013-14
BY PROGRAM TYPE AND AGE (AT PROGRAM EXIT)

AGE GROUP	PROGRAM TYPE					
	INTENSIVE OUTPATIENT (M1)		RESIDENTIAL THERAPEUTIC COMMUNITY (M2)		PROGRAM CENTER (CONTINUUM OF SERVICES)	
	Total Exits (N)**	Success (%)	Total Exits (N)**	Success (%)	Total Exits (N)**	Success (%)
Under 18	1	-	0	-	0	-
18 – 24	262	82.1	238	47.9	61	39.3
25 – 29	415	88.9	443	57.7	107	66.4
30 – 34	490	93.5	450	66.7	125	73.6
35 – 39	339	94.1	343	74.3	107	71.0
40 – 44	303	96.4	202	74.8	90	86.7
45+	688	97.4	395	78.7	184	87.5
TOTAL	2,498	93.0	2,071	67.2	674	74.5

* Success Rate = Successful Exits Divided By (Successful Exits + Unsuccessful Exits)
** Total Exits = Successful Exits + Unsuccessful Exits.

\- PERCENTAGES ARE NOT PROVIDED FOR CATEGORIES WITH LESS THAN TWENTY-FIVE (25) PARTICIPANTS BECAUSE ANY CONCLUSIONS DRAWN FROM THIS SMALL POPULATION MAY BE MISLEADING.

2-YEAR RECOMMITMENT RATES
FOR PROGRAM COMPLETERS (RELEASED IN FY 2014-15)



Intensive Outpatient Completers = 2,285
Residential Therapeutic Community Completers = 1,229
Program Center Completers = 459

* As reflected in TABLE "E" of each respective section.

2-YEAR RECOMMITMENT RATES FOR PROGRAM COMPLETERS BY PROGRAM TYPE AND AGE (AT RELEASE IN FY 2014-15)

AGE GROUP	PROGRAM TYPE								
	INTENSIVE OUTPATIENT			RESIDENTIAL THERAPEUTIC COMMUNITY			PROGRAM CENTER (CONTINUUM OF SERVICES)		
	N	Recommitments	%	N	Recommitments	%	N	Recommitments	%
Under 18	1	0	-	0	0	-	0	0	-
18 – 24	156	31	19.9	75	20	26.7	32	5	15.6
25 – 29	388	61	15.7	205	43	21.0	64	8	12.5
30 – 34	395	93	23.5	245	39	15.9	84	12	14.3
35 – 39	352	81	23.0	215	42	19.5	71	6	8.5
40 – 44	302	79	26.2	176	41	23.3	76	13	17.1
45+	691	159	23.0	313	49	15.7	132	23	17.4
TOTAL	2285	504	22.1	1,229	234	19.0	459	67	14.6

N = Successful Completers

INTENSIVE OUTPATIENT SERVICES
SUBSTANCE USE PROGRAM SERVICES

EXECUTIVE SUMMARY
INTENSIVE OUTPATIENT SERVICES

Intensive Outpatient services are designed to be four (4) to six (6) months in length and delivers structured substance use program services to inmates with a history of addictions while still allowing participants to live, work and be maintained in general population. This program requires a minimum of 12 hours of face-to-face contact with counselor per week per inmate and is generally considered either an AM, PM or evening job/program assignment.

Profiles of Intensive Outpatient Services Program Facilities *On June 30, 2017*		
Facility	**Provider**	**Number of Program Seats**
AVON PARK CI	UNLIMITED PATH	85
LAKE CI	UNLIMITED PATH	85
EVERGLADES CI	GEO GROUP	110
GULF CI-ANNEX	UNLIMITED PATH, INC.	110
HERNANDO CI	GEO GROUP	60
SAGO PALM REENTRY CTR	GEO GROUP	110
LOWELL CI	DEPARTMENT OF CORRECTIONS	50
MADISON CI	GEO GROUP	85
MAYO CI-ANNEX	GEO GROUP	110
LAWTEY CI	GEO GROUP	85
OKEECHOBEE CI	GEO GROUP	110
TAYLOR CI	GEO GROUP	85
NWFRC MAIN UNIT	UNLIMITED PATH, INC.	85
BAKER CI	UNLIMITED PATH, INC.	160
POLK CI	UNLIMITED PATH, INC.	136
SANTA ROSA WC	UNLIMITED PATH, INC.	60
CROSS CITY EAST UNIT	UNLIMITED PATH, INC.	60
TOTAL		**1,586**

WORKLOAD

TABLE 1A: INTENSIVE OUTPATIENT PROGRAM ENROLLMENT DATA, BY FISCAL YEAR

- During the 14-year period covered by this report, 51,776 different inmates participated in IOP programming.
- On June 30, 2017, there were 1,356 inmates enrolled in IOP programming.
- Data for the last few fiscal years reflect the allocation of additional dollars to IOP Programming.

TABLE 1B: FY 2016-17 INTENSIVE OUTPATIENT PROGRAM ENROLLMENT DATA, BY FACILITY

- In FY 2016-17, 4,864 different inmates (by location) participated in IOP programming.
- Baker CI had the greatest number (547) of different inmates enrolled in IOP programming. Lowell CI had the smallest number (50). These figures are reflective of the seat capacity of each program respectively (160 vs. 50).

OUTCOMES

TABLE 1C (1): INTENSIVE OUTPATIENT PROGRAM OUTCOMES BY FISCAL YEAR, BY INMATE (3-YEAR FOLLOW-UP)

- Based on a 3-year follow-up after initial program entry, there were 30,605 program exits.
- During the 13-year period covered in this table, there were seven times as many successful exits as unsuccessful exits (22,912 vs. 3,214).

TABLE 1C (2): INTENSIVE OUTPATIENT PROGRAM OUTCOMES BY FISCAL YEAR, BY INMATE (2-YEAR FOLLOW-UP)

- For FY 2014-15 (2-Year Follow-up), the success rate was 93.1%

TABLE 1D: FY 2016-17 INTENSIVE OUTPATIENT EXIT DATA (EVENT-BASED), BY FACILITY

- The overall SUCCESS RATE across facilities for FY 2016-17 was 90.9%.
- For FY 2016-17 the majority of outcome events were successful (56.8%).

RECOMMITMENT RATES[1]

TABLE 1E: FY 2014-15 (2-YEAR FOLLOW-UP) INTENSIVE OUTPATIENT RECOMMITMENT DATA, BY LEVEL OF PARTICIPATION

- For a 2-year follow-up on participation for inmates released during FY 2014-15, program completers were less likely to be recommitted to prison or supervision than program non-completers (21.6% vs. 25.3%).

TABLE 1F: FY 2013-14 (3-YEAR FOLLOW-UP) INTENSIVE OUTPATIENT RECOMMITMENT DATA, BY LEVEL OF PARTICIPATION

- For a 3-year follow-up on participation for inmates released during FY 2013-14, program completers were less likely to be recommitted to prison or supervision than program non-completers (31.0% vs. 34.5%).

[1] Based on year released from prison. Program completion occurred sometime during the incarceration period.

TABLE 1A

FY 2016-17 INTENSIVE OUTPATIENT PROGRAM ENROLLMENT DATA, BY FISCAL YEAR

FISCAL YEAR	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30
2003-04	2,330	2,158	2,373	1,019
2004-05	4,015	3,772	4,722	1,353
2005-06	4,177	3,867	5,148	1,362
2006-07	3,584	3,302	4,572	1,211
2007-08	2,669	2,483	3,623	730
2008-09	2,008	1,847	2,492	777
2009-10	2,266	2,123	2,423	792
2010-11	2,507	2,293	3,023	923
2011-12	3,355	3,116	4,050	1,081
2012-13	3,845	3,482	4,476	1,135
2013-14	3,829	3,390	4,611	1,339
2014-15	3,782	3,351	4,500	1,279
2015-16	5,415	4,495	5,763	1,855
2016-17	4,123	3,676*	4,864*	1,356
TOTAL	47,905	39,679	51,776	16,212
AVERAGE	3,422	2,834	3,698	1,158

TABLE 1B

FY 2016-17 INTENSIVE OUTPATIENT PROGRAM ENROLLMENT DATA, BY FACILITY

FACILITY	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30, 2017
AVON PARK CI	258	216	291	83
BAKER CI	457	430	547	162
CROSS CITY EAST UNIT	236	213	266	60
EVERGLADES CI	243	206	264	90
GULF CI - ANNEX	302	286	385	92
HERNANDO CI	101	76	106	27
LAKE CI	239	199	261	66
LAWTEY CI	218	205	283	84
LOWELL CI	52	50	50	21
MADISON CI	254	219	292	79
MAYO CI ANNEX	287	264	353	88
NWFRC MAIN UNIT	211	192	249	76
OKEECHOBEE CI	190	172	224	64
POLK C.I.	352	301	423	132
SAGO PALM RE-ENTRY	247	216	301	89
SANTA ROSA WC	206	187	244	59
TAYLOR CI	270	244	325	84
TOTAL	4,123	3,676*	4,864*	1,356

*Total in these columns may not match the corresponding columns' total in TABLE 1A since an inmate may be enrolled in the same program at different facilities during the year.

TABLE 1C (1)
INTENSIVE OUTPATIENT
PROGRAM OUTCOMES/EXIT DATA BY FISCAL YEAR*, BY INMATE
(OUTCOMES** BASED ON 3-YEAR FOLLOW-UP AFTER INITIAL PROGRAM ENTRY)

FISCAL YEAR	*** Success Rate	SUCCESSFUL		UNSUCCESSFUL		ADMINISTRATIVE		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
2003-04	87.8%	1,624	77.1%	225	10.7%	256	12.2%	2,105
2004-05	86.1%	2,819	78.6%	454	12.7%	313	8.7%	3,586
2005-06	84.5%	2,758	75.1%	504	13.7%	411	11.2%	3,673
2006-07	86.8%	2,389	76.7%	363	11.7%	363	11.7%	3,115
2007-08	90.1%	1,638	70.6%	179	7.7%	504	21.7%	2,321
2008-09	88.2%	1,380	74.3%	185	10.0%	291	15.7%	1,856
2009-10	87.9%	1,646	74.5%	226	10.2%	337	15.3%	2,209
2010-11	86.0%	1,786	75.4%	291	12.3%	291	12.3%	2,368
2011-12	85.6%	2,094	71.7%	351	12.0%	477	16.3%	2,922
2012-13	90.4%	2,454	74.3%	262	7.9%	586	17.8%	3,302
2013-14	90.3%	2,324	73.8%	174	5.5%	650	20.7%	3,148
TOTAL	**87.7%**	**22,912**	**74.9%**	**3214**	**10.5%**	**4479**	**14.6%**	**30,605**

TABLE 1C (2)
INTENSIVE OUTPATIENT
PROGRAM OUTCOMES/EXIT DATA BY FISCAL YEAR*, BY INMATE
(OUTCOMES** BASED ON 2-YEAR FOLLOW-UP AFTER INITIAL PROGRAM ENTRY)

FISCAL YEAR	*** Success Rate	SUCCESSFUL		UNSUCCESSFUL		ADMINISTRATIVE		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
2006-07	87.0%	2,383	76.7%	356	11.5%	367	11.8%	3,106
2007-08	90.0%	1,631	70.3	181	7.8%	509	21.9	2,321
2008-09	88.2%	1,336	77.3%	178	10.3%	215	12.4%	1,729
2009-10	87.8%	1,639	74.2%	227	10.3%	343	15.5%	2,209
2010-11	86.1%	1,786	75.4%	289	12.2%	294	12.4%	2,369
2011-12	85.7%	2,096	71.7%	350	12.0%	477	16.3%	2,923
2012-13	90.4%	2,455	74.4%	261	7.9%	586	17.7%	3,302
2013-14	93.0%	2,325	73.9%	175	5.6%	648	20.6%	3,148
2014-15	93.1%	2,458	70.9%	182	5.2%	830	23.9%	3,470

* Fiscal year is determined by fiscal year of first enrollment.

** Unduplicated by inmates per fiscal year, using only first-time enrollments and a specified follow-up period, and using the last exit code during this period.

*** Success Rate = Successful Exits Divided By (Successful Exits + Unsuccessful Exits).

TABLE 1D

FY 2016-17 INTENSIVE OUTPATIENT PROGRAM OUTCOMES/EXIT DATA (EVENT-BASED*), BY FACILITY

FACILITY	*** Success Rate	SUCCESSFUL		UNSUCCESSFUL		ADMINISTRATIVE		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
AVON PARK CI	89.1%	155	60.0%	19	7.4%	84	32.6%	258
BAKER CI	90.9%	269	62.7%	27	6.3%	133	31.0%	429
CROSS CITY EAST UNIT	91.9%	113	47.9%	10	4.2%	113	47.9%	236
EVERGLADES CI	94.8%	128	57.7%	7	3.1%	87	39.2%	222
GULF CI – ANNEX	87.2%	157	49.7%	23	7.3%	136	43.0%	316
HERNANDO CI	97.4%	74	69.8%	2	1.9%	30	28.3%	106
LAKE CI	88.8%	127	52.3%	16	6.6%	100	41.1%	243
LANCASTER CI	42.9%	6	28.6%	8	38.1%	7	33.3%	21
LAWTEY CI	94.6%	157	70.4%	9	4.0%	57	25.6%	223
LOWELL CI	96.2%	25	80.7%	1	3.2%	5	16.1%	31
MADISON CI	99.3%	150	58.1%	1	0.4%	107	41.5%	258
MAYO CI ANNEX	92.6%	162	53.3%	13	4.3%	129	42.4%	304
NWFRC MAIN UNIT	82.8%	77	39.5%	16	8.2%	102	52.3%	195
OKEECHOBEE CI	95.7%	88	47.8%	4	2.2%	92	50.0%	184
POLK CI	91.1%	226	63.7%	22	6.2%	107	30.1%	355
SAGO PALM RE-ENTRY	90.5%	152	59.6%	16	6.3%	87	34.1%	255
SANTA ROSA WC	77.0%	117	56.3%	35	16.8%	56	26.9%	208
TAYLOR CI	97.5%	157	57.3%	4	1.5%	113	41.2%	274
TOTAL FY 2016-17	90.9%	2,340	56.8%	233	5.7%	1545	37.5%	4118
TOTAL FY 2015-16	93.8%	3,135	61.1%	209	4.1%	1,788	34.8%	5,132
TOTAL FY 2014-15	91.7%	2,220	59.3%	200	5.3%	1,326	35.4%	3,746
TOTAL FY 2013-14	91.7%	2,393	62.9%	218	5.7%	1,195	31.4%	3,806
TOTAL FY 2012-13	87.9%	2,218	61.9%	305	8.5%	1,062	29.6%	3,585
TOTAL FY 2011-12	83.4%	2,113	63.9%	420	12.7%	772	23.4%	3,305
TOTAL FY 2010-11	84.5%	1,555	65.0%	286	12.0%	550	23.0%	2,391

* Includes any exit events within the fiscal year for this program.

** Success Rate = Successful Exits Divided By (Successful Exits +Unsuccessful Exits).

TABLE 1E

FY 2014-15[2] (2-Year Follow-Up), INTENSIVE OUTPATIENT
RECOMMITMENT DATA, BY LEVEL OF PARTICIPATION

	ALL PROGRAM EXITS* (N=3,105)		PROGRAM COMPLETERS** (N=2,285)		PROGRAM NON-COMPLETERS*** (N=820)	
	Recommitments		Recommitments		Recommitments	
CATEGORY OF RECOMMITMENT TYPE	**Number**	**Percent**	**Number**	**Percent**	**Number**	**Percent**
1. Admission to Prison, New Offense	311	10.0%	212	9.3%	99	12.1%
2. Return to Prison, Technical Violation	292	9.4%	218	9.5%	74	9.0%
3. Admission to Supervision, New Offense	92	3.0%	58	2.5%	34	4.1%
4. Return to Supervision, Technical Violation	7	0.2%	6	0.3%	1	0.1%
TOTAL RECOMMITMENTS	702	22.6%	494	21.6%	208	25.3%
REASON FOR ADMISSION OR RETURN						
5.Admission to Prison or Community Supervision, For New Offense (1 & 3 Combined)	403	13.0%	270	11.8%	133	16.2%
6.Return to Prison or Community Supervision, For Technical Violation (2 & 4 Combined)	299	9.6%	224	9.8%	75	9.1%
WHERE ADMITTED/RETURNED, FOR EITHER REASON						
7. Admission/Return to Prison, For New Offense or Technical Violation (1 & 2 Combined)	603	19.4%	430	18.8%	173	21.1%
8. Admission/Return to Community Supervision, for New Offense or Technical Violation (3 & 4 Combined**)**	99	3.2%	64	2.8%	35	4.2%

* ALL PROGRAM EXITS = Successful Exits + Unsuccessful Exits + Administrative Exits.
** PROGRAM COMPLETERS = Successful Exits.
*** PROGRAM NON-COMPLETERS = Unsuccessful Exits + Administrative Exits.

[2] Based on year released from prison. Program completion occurred sometime during the incarceration period.

TABLE 1F

FY 2013-14[3] (3-Year Follow-Up)
INTENSIVE OUTPATIENT
RECOMMITMENT DATA, BY LEVEL OF PARTICIPATION

	ALL PROGRAM EXITS* (N=3,343)		PROGRAM COMPLETERS** (N=2,398)		PROGRAM NON-COMPLETERS*** (N=945)	
	Recommitments		Recommitments		Recommitments	
CATEGORY OF RECOMMITMENT TYPE	**Number**	**Percent**	**Number**	**Percent**	**Number**	**Percent**
1. Admission to Prison, New Offense	621	18.6%	421	17.6%	200	21.2%
2. Return to Prison, Technical Violation	276	8.3%	202	8.4%	74	7.8%
3. Admission to Supervision, New Offense	164	4.9%	115	4.8%	49	5.2%
4. Return to Supervision, Technical Violation	8	0.2%	5	0.2%	3	0.3%
TOTAL RECOMMITMENTS	1,069	32.0%	743	31.0%	326	34.5%
REASON FOR ADMISSION OR RETURN						
5. Admission to Prison or Community Supervision, For New Offense (1 & 3 Combined)	785	23.5%	536	22.4%	249	26.4%
6. Return to Prison or Community Supervision, For Technical Violation (2 & 4 Combined)	284	8.5%	207	8.6%	77	8.1%
WHERE ADMITTED/RETURNED, FOR EITHER REASON						
7. Admission/Return to Prison, For New Offense or Technical Violation (1 & 2 Combined)	897	26.9%	623	26.0%	274	29.0%
8. Admission/Return to Community Supervision, For New Offense or Technical Violation (3 & 4 Combined)	172	5.1%	120	5.0%	52	5.5%

* ALL PROGRAM EXITS = Successful Exits + Unsuccessful Exits + Administrative Exits.
** PROGRAM COMPLETERS = Successful Exits.
*** PROGRAM NON-COMPLETERS = Unsuccessful Exits + Administrative Exits.

[3] Based on year released from prison. Program completion occurred sometime during the incarceration period.

RESIDENTIAL THERAPEUTIC COMMUNITY [TC] SERVICES
SUBSTANCE USE PROGRAM SERVICES

EXECUTIVE SUMMARY
RESIDENTIAL TC SERVICES

Residential Therapeutic Community (TC) is a nine (9) to twelve (12) month residential therapeutic community program divided into four phases. Inmates are housed together, separate from other inmates. Inmates spend at least 20 hours per week in programming in a positive environment wherein participants have similar problems of chemical use and criminal thinking. They live and work together to change their lives residing in the therapeutic community. Clinical staff are available to provide and supervise activities a minimum of six (6) days per week, for a minimum of sixty (60) structured program hours per week.

Profiles of Residential TC Services Program Facilities
On June 30, 2017

Facility	Provider	Number of Program Seats
CENTURY CI	UNLIMITED PATH, INC.	136
JEFFERSON CI	UNLIMITED PATH, INC.	68
REALITY HOUSE	SMA BEHAVIORAL HEALTH SERVICES, INC.	85
LOWELL ANNEX	UNLIMITED PATH, INC.	165
NWFRC ANNEX	UNLIMITED PATH, INC.	136
JACKSON CI	UNLIMITED PATH, INC.	68
MARION CI	UNLIMITED PATH, INC.	266
LOWELL WORK CAMP	DEPARTMENT OF CORRECTIONS	30
FRANKLIN CI	UNLIMITED PATH, INC.	85
TOMOKA CRC	SMA BEHAVIORAL HEALTH SERVICES, INC.	60
JACKSONVILLE BRIDGE	BRIDGES OF AMERICA	165
TOTAL		**1,264**

WORKLOAD

TABLE 2A: RESIDENTIAL TC SERVICES PROGRAM ENROLLMENT DATA, BY FISCAL YEAR

- During the 14-year period of this report, 25,314 different inmates have been enrolled in TC programming.
- On June 30, 2017, there were 1,168 inmates enrolled in TC programming.

TABLE 2B: FY 2016-17 RESIDENTIAL TC SERVICES PROGRAM ENROLLMENT DATA, BY FACILITY

- In FY 2016-17, 3,020 different inmates participated in TC programming.
- In FY 2016-17, Marion CI had the greatest number (589) of different inmates enrolled in TC programming.

OUTCOMES

TABLE 2C (1): RESIDENTIAL TC SERVICES PROGRAM OUTCOMES BY FISCAL YEAR, BY INMATE (3-YEAR FOLLOW-UP)

- For the most recent outcome period, 58.0% (1,391) of the outcomes were successful, helping to achieve a success rate of 67.2%.
- Based on a 3-year follow-up after initial program entry, for the 13-year period covered by this report, the 13,915 program exits included 8,007 (57.5%) that were successful; 3,420 (24.6%) that were unsuccessful; and 2,488 (17.9%) that were administrative.
- The TOTAL SUCCESS RATE for the 13-year period covered by this report is 70.1%.
- Most of the exits for the 13-year period covered by this report (57.5%) were successful.

TABLE 2C (2): RESIDENTIAL TC SERVICES PROGRAM OUTCOMES BY FISCAL YEAR, BY INMATE (2-YEAR FOLLOW-UP)

- For FY 2014-15, the SUCCESS RATE was 63.5%.

TABLE 2D: FY 2016-17 RESIDENTIAL TC SERVICES EXIT DATA (EVENT-BASED), BY FACILITY

- The overall SUCCESS RATE across facilities for FY 2016-17 was 64.0%.
- For FY 2016-17, for TC programs with at least 75 exits. Tomoka CRC-285 had the highest success rate at 88.5%.

RECOMMITMENT RATES[4]

TABLE 2E: FY 2014-15 (2-YEAR FOLLOW-UP) RESIDENTIAL TC SERVICES RECOMMITMENT DATA, BY LEVEL OF PARTICIPATION

- For a 2-year follow-up on TC participants released during FY 2014-15 program completers were less likely to be recommitted to prison or community supervision than program non-completers (19.0% vs. 24.8%).

TABLE 2F: FY 2013-14 (3-YEAR FOLLOW-UP) RESIDENTIAL TC SERVICES RECOMMITMENT DATA, BY LEVEL OF PARTICIPATION

- For a 3-year follow-up on TC participants released during FY 2013-14, program completers were less likely to be recommitted to prison or community supervision than program non-completers (26.6% vs. 37.0%).

[4] Year released from prison. Program completion occurred sometime during the period of incarceration.

TABLE 2A

FY 2016-17 RESIDENTIAL TC SERVICES
PROGRAM ENROLLMENT DATA, BY FISCAL YEAR

FISCAL YEAR	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30, 2017
2003-04	1,569	1,346	2,042	455
2004-05	839	755	1,168	464
2005-06	937	832	1,251	448
2006-07	816	726	1,134	454
2007-08	635	601	1,031	332
2008-09	406	381	806	329
2009-10	523	510	820	332
2010-11	994	943	811	338
2011-12	945	900	1,484	412
2012-13	1,962	1,804	2,189	1,091
2013-14	2,693	2,516	3,537	1,358
2014-15	2,180	2,001	3,018	1,083
2015-16	2,122	1,942	3,018	1,101
2016-17	2,102	1,965	3,005	1,168
TOTAL	18,723	17,222	25,314	9,365
AVERAGE	1,337	1,230	1,808	669

TABLE 2B

FY 2016-17 RESIDENTIAL TC SERVICES
PROGRAM ENROLLMENT DATA, BY FACILITY

FACILITY	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30, 2017
CENTURY CI	269	250	360	132
FRANKLIN CI	173	162	218	67
JACKSON CI	117	112	176	70
JACKSONVILLE BRIDGE	244	242	382	141
JEFFERSON CI	178	158	214	66
LOWELL ANNEX	255	239	383	160
LOWELL WORK CAMP	30	28	44	16
MARION CI	405	388	589	248
NWFRC ANNEX	225	201	313	123
REALITY HOUSE	112	111	194	85
TOMOKA CRC-298	94	91	147	60
TOTAL	2,102	1,978*	3,020*	1,168

*Total in these columns may not match the corresponding columns' total in TABLE 2A since an inmate may be enrolled in the same program at different facilities during the year.

TABLE 2C (1)
RESIDENTIAL TC SERVICES
PROGRAM OUTCOMES/EXIT DATA BY FISCAL YEAR*, BY INMATE
(OUTCOMES BASED ON 3-YEAR FOLLOW-UP AFTER INITIAL PROGRAM ENTRY)**

FISCAL YEAR	*** Success Rate	SUCCESSFUL		UNSUCCESSFUL		ADMINISTRATIVE		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
2001-02	61.4%	801	39.2%	503	24.6%	740	36.2%	2,044
2002-03	71.6%	776	62.2%	308	24.7%	163	13.1%	1,247
2003-04	69.4%	631	54.8%	278	24.2%	242	21.0%	1,151
2004-05	76.2%	442	70.0%	138	21.9%	51	8.1%	631
2005-06	68.8%	454	60.5%	206	27.5%	90	12.0%	750
2006-07	78.1%	446	67.6%	125	18.9%	89	13.5%	660
2007-08	80.3%	351	64.4%	86	15.8%	108	19.8%	545
2008-09	85.0%	351	75.8%	62	13.4%	50	10.8%	463
2009-10	84.3%	371	77.0%	69	14.3%	42	8.7%	482
2010-11	71.6%	551	59.8%	219	23.8%	151	16.4%	921
2011-12	70.0%	453	52.2%	194	22.4%	220	25.4%	867
2012-13	64.2%	989	56.3%	552	31.4%	216	12.3%	1,757
2013-14	67.2%	1,391	58.0%	680	28.4%	326	13.6%	2,397
TOTAL	**70.1%**	**8,007**	**57.5%**	**3,420**	**24.6%**	**2,488**	**17.9%**	**13,915**

TABLE 2C (2)
RESIDENTIAL TC SERVICES
PROGRAM OUTCOMES/EXIT DATA BY FISCAL YEAR*, BY INMATE
(OUTCOMES BASED ON 2-YEAR FOLLOW-UP AFTER INITIAL PROGRAM ENTRY)**

FISCAL YEAR	*** Success Rate	SUCCESSFUL		UNSUCCESSFUL		ADMINISTRATIVE		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
2006-07	77.9%	445	67.4%	126	19.1%	89	13.5%	660
2007-08	80.3%	351	64.4%	86	15.8%	108	19.8%	545
2008-09	85.0%	352	76.0%	62	13.4%	49	10.6%	463
2009-10	84.1%	370	76.8%	70	14.5%	42	8.7%	482
2010-11	71.4%	550	59.7%	220	23.9%	151	16.4%	921
2011-12	70.0%	453	52.2%	194	22.4%	220	25.4%	867
2012-13	64.2%	988	56.2%	552	31.4%	217	12.4%	1,757
2013-14	67.1%	1,389	57.9%	681	28.4%	327	13.6%	2,397
2014-15	63.5%	1,075	51.8%	617	29.7%	385	18.5%	2,077

* Fiscal year is determined by fiscal year of first enrollment.

** Unduplicated by inmates per fiscal year, using only first-time enrollments and a specified follow-up period, and using the last exit code during this period.

*** Success Rate = Successful Exits Divided By (Successful Exits + Unsuccessful Exits).

TABLE 2D
FY 2016-17 RESIDENTIAL TC SERVICES
PROGRAM OUTCOMES/EXIT DATA (EVENT-BASED*), BY FACILITY

FACILITY	*** Success Rate	SUCCESSFUL		UNSUCCESSFUL		ADMINISTRATIVE		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
CENTURY CI	60.7%	116	45.1%	75	29.2%	66	25.7.7%	257
EVERGLADES REENTRY								
FRANKLIN CI	44.7%	55	32.0%	68	39.5%	49	28.5%	172
JACKSON CI	51.6%	47	42.0%	44	39.3%	21	18.7%	112
JACKSONVILLE BDG	67.9%	159	65.2%	75	30.7%	10	4.1%	244
JEFFERSON CI	49.5%	53	30.3%	54	30.8%	68	38.9%	175
LOWELL ANNEX	73.5%	150	60.0%	54	21.6%	46	18.4%	250
LOWELL WC	84.2%	16	53.3%	3	10.0%	11	36.7%	30
MARION CI	56.8%	188	51.2%	143	39.0%	36	9.8%	367
NWFRC ANNEX	67.1%	106	46.5%	52	22.8%	70	30.7%	228
TOMOKA CRC-285	88.5%	92	82.9%	12	10.8%	7	6.3%	111
TOMOKA CRC-298	84.5%	71	78.9%	13	14.4%	6	6.7%	90
TOTAL FY 2016-17	64.0%	1,053	51.7%	593	29.1%	390	19.2%	2,036
TOTAL FY 2015-16	57.5%	1,025	42.2%	759	34.9%	388	17.9%	2172
TOTAL FY 2014-15	62.1%	1,053	49.6%	644	30.3%	426	20.1%	2123
TOTAL FY 2013-14	63.6%	1,240	50.9%	707	29.2%	470	19.9%	2,417
TOTAL FY 2012-13	65.9%	402	53.5%	208	27.6%	142	18.9%	752
TOTAL FY 2011-12	72.1%	608	53.6%	235	20.7%	292	25.7%	1,135
TOTAL FY 2010-11	64.0%	357	49.6%	201	27.9%	162	22.5%	720
TOTAL FY 2009-10	80.0%	359	68.9%	90	17.3%	72	13.8%	521

* Includes any exit events within the fiscal year for this program.

** Success Rate = Successful Exits Divided By (Successful Exits + Unsuccessful Exits).
"Successful" means "Completed".
"Unsuccessful" means "Not Completed" for some reason other than an administrative exit.

TABLE 2E

FY 2014-15[5] (2-Year Follow-Up)
RESIDENTIAL TC SERVICES
RECOMMITMENT DATA, BY LEVEL OF PARTICIPATION

	ALL PROGRAM EXITS* (N=2,100)		PROGRAM COMPLETERS** (N=1,229)		PROGRAM NON-COMPLETERS*** (N=871)	
	Recommitments		Recommitments		Recommitments	
CATEGORY OF RECOMMITMENT TYPE	**Number**	**Percent**	**Number**	**Percent**	**Number**	**Percent**
1. Admission to Prison, New Offense	216	10.3%	114	9.3%	102	11.7%
2. Return to Prison, Technical Violation	141	6.7%	75	6.1%	66	7.6%
3. Admission to Supervision, New Offense	88	4.2%	41	3.3%	47	5.4%
4. Return to Supervision, Technical Violation	5	0.2%	4	0.3%	1	0.1%
TOTAL RECOMMITMENTS	450	21.4%	234	19.0%	216	24.8%
REASON FOR ADMISSION OR RETURN						
5. Admission to Prison or Community Supervision, For New Offense (1 & 3 Combined)	304	14.5%	155	12.6%	149	17.1%
6. Return to Prison or Community Supervision, For Technical Violation (2 & 4 Combined)	146	6.9%	79	6.4%	67	7.7%
WHERE ADMITTED/RETURNED, FOR EITHER REASON						
7. Admission/Return to Prison, For New Offense or Technical Violation (1 & 2 Combined)	357	17.0%	189	15.4%	168	19.3%
8. Admission/Return to Community Supervision, for New Offense or Technical Violation (3 & 4 Combined)	93	4.4%	45	3.6%	48	5.5%

* ALL PROGRAM EXITS = Successful Exits + Unsuccessful Exits + Administrative Exits.
** PROGRAM COMPLETERS = Successful Exits.
*** PROGRAM NON-COMPLETERS = Unsuccessful Exits + Administrative Exits

[5] Based on year released from prison. Program completion occurred sometime during the incarceration period.

TABLE 2F

FY 2013-14[6] (3-Year Follow-Up)
RESIDENTIAL TC SERVICES
RECOMMITMENT DATA, BY LEVEL OF PARTICIPATION

	ALL PROGRAM EXITS* (N=1,673)		PROGRAM COMPLETERS** (N=942)		PROGRAM NON-COMPLETERS*** (N=731)	
	Recommitments		Recommitments		Recommitments	
CATEGORY OF RECOMMITMENT TYPE	**Number**	**Percent**	**Number**	**Percent**	**Number**	**Percent**
1. Admission to Prison, New Offense	302	18.1%	140	14.9%	162	22.2%
2. Return to Prison, Technical Violation	121	7.2%	63	6.7%	58	7.9%
3. Admission to Supervision, New Offense	95	5.7%	45	4.8%	50	6.8%
4. Return to Supervision, Technical Violation	3	0.2%	2	0.2%	1	0.1%
TOTAL RECOMMITMENTS	521	31.2%	250	26.6%	271	37.0%
REASON FOR ADMISSION OR RETURN						
5. Admission to Prison or Community Supervision, For New Offense (1 & 3 Combined)	397	23.8%	185	19.7%	212	29.0%
6. Return to Prison or Community Supervision, For Technical Violation (2 & 4 Combined)	124	7.4%	65	6.9%	59	8.0%
WHERE ADMITTED/RETURNED, FOR EITHER REASON						
7. Admission/Return to Prison, For New Offense or Technical Violation (1 & 2 Combined)	423	25.3%	203	21.6%	220	30.1%
8. Admission/Return to Community Supervision, for New Offense or Technical Violation (3 & 4 Combined)	98	5.9%	47	5.0%	51	6.9%

* ALL PROGRAM EXITS = Successful Exits + Unsuccessful Exits + Administrative Exits.
** PROGRAM COMPLETERS = Successful Exits.
*** PROGRAM NON-COMPLETERS = Unsuccessful Exits + Administrative Exits

[6] Based on year released from prison. Program completion occurred sometime during the incarceration period.

SUBSTANCE USE PROGRAM CENTER
(CONTINUUM OF SERVICES)
SUBSTANCE USE PROGRAM SERVICES

EXECUTIVE SUMMARY
SUBSTANCE USE PROGRAM CENTER
(CONTINUUM OF SERVICES)

Substance Use Program Center (Continuum of Services) offers a continuum of substance use services including prevention, outpatient, intensive outpatient, and aftercare services as well as education/vocational services. The focus is on teaching, developing, and practicing re-entry/transitional skills necessary for a successful drug-free re-entry into the community upon release from prison. Inmates residing in a program center will receive the appropriate level of substance use services in addition to groups focusing on criminal thinking, family development, anger management, domestic violence, victim awareness as well as other appropriate topics.

Profiles of Substance Use Program Center (Continuum of Services) Program Facilities
On June 30, 2017

Facility	Provider	Number of Program Slots
BRADENTON TRANSITION CENTER	BRIDGES OF AMERICA	120
COLUMBIA CI ANNEX	SMA BEHAVIORAL HEALTH SERVICES, INC.	118
HOLLYWOOD WORK RELEASE CENTER	COMMUNITY EDUCATION CENTERS	156
POMPANO TRANSITION CENTER	BRIDGES OF AMERICA	136
THE TRANSITION HOUSE	TRANSITION HOUSE	150
SHISA HOUSE EAST	SHISA, INC.	15
REALITY HOUSE (Work Release Component Only – Aftercare)	SMA BEHAVIORAL HEALTH SERVICES, INC.	28
TOTAL		**723**

*The 136 bed program at The Orlando Transition Center was converted to all paid employment on January 1, 2017

WORKLOAD

TABLE 3A: FY 2016-17 SUBSTANCE USE PROGRAM CENTER (CONTINUUM OF SERVICES) PROGRAM ENROLLMENT DATA

- In FY 2016-17, 1,365 different inmates had enrolled in the PROGRAM CENTER.

TABLE 3B (1): FY 2016-17 BRADENTON TRANSITION PROGRAM CENTER (CONTINUUM OF SERVICES) PROGRAM ENROLLMENT DATA

- In FY 2016-17, 3 different inmates received Prevention services, 164 inmates received Outpatient services and 172 inmates received Aftercare services, with a total of 339 inmates receiving these types of services.

TABLE 3B (2): FY 2016-17 TURNING POINT CRC (CONTINUUM OF SERVICES) PROGRAM ENROLLMENT DATA

- In FY 2016-17, 1 inmate received Prevention services, 139 inmates received Outpatient services and 41 inmates received Aftercare services, with a total of 181 inmates receiving these types of services.

TABLE 3B (3): FY 2016-17 COLUMBIA CI ANNEX (CONTINUUM OF SERVICES) PROGRAM ENROLLMENT DATA

- In FY 2016-17, 249 different inmates received Outpatient services, and 130 inmates received Aftercare services, with a total of 379 inmates receiving these types of services.

TABLE 3B (4): FY 2016-17 HOLLYWOOD WRC (CONTINUUM OF SERVICES) PROGRAM ENROLLMENT DATA

- In FY 2016-17, 145 inmates received Outpatient services and 232 inmates received Aftercare services, with a total of 377 inmates receiving these types of services.

TABLE 3B (5): FY 2016-17 ORLANDO BRIDGE (CONTINUUM OF SERVICES) PROGRAM ENROLLMENT DATA

- In FY 2016-17, 93 inmates received Outpatient services and 90 inmates received Aftercare services, with a total of 183 inmates receiving these types of services.

TABLE 3B (6): FY 2016-17 SHISA HOUSE EAST (CONTINUUM OF SERVICES) PROGRAM ENROLLMENT DATA

- In FY 2016-17, 10 inmates received Outpatient services and 21 inmates received Aftercare services, with a total of 31 inmates receiving these types of services.

TABLE 3B (7): FY 2016-17 TOMOKA CRC-285 (CONTINUUM OF SERVICES) PROGRAM ENROLLMENT DATA

- In FY 2016-17, 66 inmates received Aftercare services.

TABLE 3B (8): FY 2016-17 TTH OF KISSIMMEE (WORK RELEASE COMPONENT ONLY-AFTERCARE) PROGRAM ENROLLMENT DATA

- In FY FY 2016-17, 189 inmates received Outpatient services and 275 inmates received Aftercare services, with a total of 464 inmates receiving these types of services.

OUTCOMES

TABLE 3C (1): FY 2013-14 SUBSTANCE USE PROGRAM CENTER (CONTINUUM OF SERVICES) OUTCOMES, BY FISCAL YEAR, BY INMATE (3-YEAR FOLLOW-UP AFTER INITIAL PROGRAM ENTRY)*

- For FY 2013-14, the SUCCESS RATE was 74.5%.

TABLE 3C (2): FY 2014-15 SUBSTANCE USE PROGRAM CENTER (CONTINUUM OF SERVICES) OUTCOMES, BY FISCAL YEAR, BY INMATE (2-YEAR FOLLOW-UP AFTER INITIAL PROGRAM ENTRY)*

- For FY 2014-15, the SUCCESS RATE was 76.9%.

TABLE 3D: FY 2016-17 SUBSTANCE USE PROGRAM CENTER (CONTINUUM OF SERVICES) EXIT DATA (EVENT-BASED), BY FACILITY

- The SUCCESS RATE of the Program Center for Community Based for FY 2016-17 was 85.5%.
- There was a decrease in the Program Center success rate for Community Based from FY 2015-16 (87.8%) to FY 2016-17 (85.5%).

TABLE 3E: FY 2014-15 (2-YEAR FOLLOW-UP) PROGRAM CENTER RECOMMITMENT DATA, BY LEVEL OF PARTICIPATION

- For a 2-year follow-up on PROGRAM CENTER participants released in FY 2014-15, program completers were less likely to be recommitted to prison or community supervision than non-completers (12.2% vs. 20.0%).

TABLE 3F: FY 2013-14 (3-YEAR FOLLOW-UP) PROGRAM CENTER RECOMMITMENT DATA, BY LEVEL OF PARTICIPATION

- For a 3-year follow-up on PROGRAM CENTER participants released in FY 2013-14, program completers were less likely to be recommitted to prison or community supervision than non-completers (18.9% vs. 28.4%).

TABLE 3A

SUBSTANCE USE PROGRAM CENTER (CONTINUUM OF CARE) ENROLLMENT DATA, BY FISCAL YEAR

FISCAL YEAR	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30, 2017
2003-04	168	124	213	112
2004-05	384	351	434	321
2005-06	798	628	821	434
2006-07	1,059	803	1,066	544
2007-08	1,093	878	1,247	732
2008-09	1,381	1,100	1,512	755
2009-10	1,783	1,718	1,881	954
2010-11	1,972	1,524	2,022	1,003
2011-12	1,886	1,339	1,787	805
2012-13	2,033	1,371	1,768	815
2013-14	1,767	1,322	1,706	862
2014-15	1,957	1,369	1,748	862
2015-16	1,806	1,253	1,649	660
2016-17	1,408	1,034	1,365	571
TOTAL	19,495	14,814	19,219	9,430
AVERAGE	1,393	1,058	1,373	674

TABLE 3B (1)

FY 2016-17 SUBSTANCE USE PROGRAM CENTER
BRADENTON BRIDGE
(CONTINUUM OF SERVICES)
ENROLLMENT DATA

PROGRAM TYPE	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30, 2017
PREVENTION	3	0	3	3
OUTPATIENT	96	93	164	52
AFTERCARE	131	130	172	55
TOTAL	230	226	339	110

TABLE 3B (2)

FY 2016-17 SUBSTANCE USE PROGRAM CENTER
TURNING POINT CRC
(CONTINUUM OF SERVICES)
ENROLLMENT DATA

PROGRAM TYPE	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30, 2017
PREVENTION	1	1	1	1
OUTPATIENT	141	139	139	72
AFTERCARE	41	41	41	16
TOTAL	183	181	181	89

TABLE 3B (3)

FY 2016-17 SUBSTANCE USE PROGRAM CENTER
COLUMBIA ANNEX
(CONTINUUM OF SERVICES)
ENROLLMENT DATA

PROGRAM TYPE	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30, 2017
PREVENTION	0	0	0	0
OUTPATIENT	187	177	249	77
AFTERCARE	113	108	130	33
TOTAL	300	285	379	110

TABLE 3B (4)

FY 2016-17 SUBSTANCE USE PROGRAM CENTER
HOLLYWOOD CRC
(CONTINUUM OF SERVICES)
ENROLLMENT DATA

PROGRAM TYPE	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30, 2017
PREVENTION	0	0	0	0
OUTPATIENT	102	100	145	48
AFTERCARE	157	155	232	42
TOTAL	259	255	377	90

TABLE 3B (5)

FY 2016-17 SUBSTANCE USE PROGRAM CENTER
ORLANDO BRIDGE
(CONTINUUM OF SERVICES)
ENROLLMENT DATA

PROGRAM TYPE	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30, 2017
PREVENTION	0	0	0	0
OUTPATIENT	16	16	93	0
AFTERCARE	36	36	90	0
TOTAL	52	52	183	0

TABLE 3B (6)

FY 2016-17 SUBSTANCE USE PROGRAM CENTER
SHISA HOUSE EAST
(CONTINUUM OF SERVICES)
ENROLLMENT DATA

PROGRAM TYPE	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30, 2017
PREVENTION	0	0	0	0
OUTPATIENT	9	9	10	0
AFTERCARE	18	18	21	0
TOTAL	27	27	31	0

TABLE 3B (7)

FY 2016-17 SUBSTANCE USE PROGRAM CENTER
TOMOKA CRC - 285
(CONTINUUM OF SERVICES)
ENROLLMENT DATA

PROGRAM TYPE	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30, 2017
PREVENTION	0	0	0	0
OUTPATIENT	0	0	0	0
AFTERCARE	39	39	66	26
TOTAL	39	39	66	26

TABLE 3B (8)

FY 2016-17 SUBSTANCE USE PROGRAM CENTER
TTH OF KISSIMMEE
(WORK RELEASE COMPONENT ONLY –AFTERCARE)
ENROLLMENT DATA

PROGRAM TYPE	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30, 2017
PREVENTION	0	0	0	0
OUTPATIENT	115	113	189	68
AFTERCARE	203	201	275	78
TOTAL	318	314	464	146

TABLE 3C (1)
SUBSTANCE USE PROGRAM CENTER (CONTINUUM OF SERVICES)
OUTCOMES BY FISCAL YEAR*, BY INMATE
(OUTCOMES** BASED ON 3-YEAR FOLLOW-UP AFTER INITIAL PROGRAM ENTRY)

FISCAL YEAR	*** SUCCESS RATE	SUCCESSFUL		UNSUCCESSFUL		ADMINISTRATIVE		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
2003-04	86.5%	77	76.2%	12	11.9%	12	11.9%	101
2004-05	71.5%	204	64.8%	81	25.7%	30	9.5%	315
2005-06	70.5%	315	62.3%	132	26.1%	59	11.7%	506
2006-07	65.4%	382	60.2%	202	31.8%	51	8.0%	635
2007-08	67.9%	456	64.4%	216	30.5%	36	5.1%	708
2008-09	66.2%	473	60.6%	242	31.0%	66	8.4%	781
2009-10	69.3%	529	60.7%	234	26.9%	108	12.4%	871
2010-11	70.8%	559	64.3%	230	26.4%	81	9.3%	870
2011-12	68.1%	537	60.1%	252	28.2%	104	11.7%	893
2012-13	65.4%	507	53.0%	268	28.0%	181	18.9%	956
2013-14	74.5%	502	57.5%	172	19.7%	199	22.8%	873
TOTAL	**68.8%**	**4,541**	**62.1%**	**2,041**	**27.9%**	**728**	**10.0%**	**7310**

TABLE 3C (2)
SUBSTANCE USE PROGRAM CENTER (CONTINUUM OF SERVICES) OUTCOMES BY FISCAL YEAR*, BY INMATE
(OUTCOMES** BASED ON 2-YEAR FOLLOW-UP AFTER INITIAL PROGRAM ENTRY)

FISCAL YEAR	..... SUCCESS RATE	SUCCESSFUL		UNSUCCESSFUL		ADMINISTRATIVE		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
2006-07	65.1%	377	59.7%	202	32.0%	53	8.4%	632
2007-08	68.4%	456	64.6%	211	29.9%	39	5.5%	706
2008-09	67.5%	516	56.9%	249	27.4%	142	15.7%	907
2009-10	69.2%	526	60.5%	234	26.9%	109	12.5%	869
2010-11	71.0%	560	64.4%	229	26.3%	81	9.3%	870
2011-12	68.2%	538	60.2%	252	28.2%	103	11.5%	893
2012-13	65.5%	506	52.9%	267	27.9%	183	19.2%	956
2013-14	74.6%	503	57.6%	171	19.6%	199	22.8%	873
2014-15	76.9%	485	54.7%	146	16.5%	255	28.8%	886

* Fiscal year is determined by fiscal year of first enrollment.

** Unduplicated by inmates per fiscal year, using only first-time enrollments and a specified follow-up period, and using the last exit code during this period.

*** Success Rate = Successful Exits Divided By (Successful Exits + Unsuccessful Exits).

TABLE 3D

FY 2016-17 SUBSTANCE USE PROGRAM CENTER (CONTINUUM OF SERVICES) PROGRAM OUTCOMES/EXIT DATA (EVENT-BASED*), BY FACILITY

FACILITY	*** Success Rate	SUCCESSFUL		UNSUCCESSFUL		ADMINISTRATIVE		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
BRADENTON BRIDGE	90.0%	81	73.6%	9	8.2%	20	18.2%	110
BROWARD BRIDGE	100.0%	1	100.0%	0	0.0%	0	0.0%	1
***COLUMBIA ANNEX**	84.4%	114	69.9%	21	12.9%	28	17.2%	163
HOLLYWOOD WRC	81.2%	108	75.5%	25	17.5%	10	7.0%	143
ORLANDO BRIDGE	93.2%	96	65.3%	7	4.8%	44	29.9%	147
SHISA HOUSE EAST	100.0%	13	59.1%	0	0.0%	9	40.9%	22
TOMOKA CRC-285	85.7%	30	75.0%	5	12.5%	5	12.5%	40
TTH OF KISSIMMEE	89.3%	117	83.6%	14	10.0%	9	6.4%	140
TURNING POINT CRC	66.2%	45	57.7%	23	29.5%	10	12.8%	78
TOTAL Behind the Fence FY 2016-17	84.4%	114	69.9%	21	12.9%	28	17.2%	163
TOTAL Community Based FY 2016-17	85.5%	491	72.1%	83	12.2%	107	15.7%	681
TOTAL Behind the Fence FY 2015-16	81.7%	125	65.4%	28	14.7%	38	19.9%	191
TOTAL Community Based FY 2015-16	87.8%	671	73.3%	93	10.2%	151	16.5%	915
TOTAL Behind the Fence FY 2014-15	90.2%	119	62.0%	13	6.8%	60	31.3%	192
TOTAL Community-based FY 2014-15	83.8%	595	73.8%	115	14.3%	96	11.9%	806
TOTAL Behind the Fence FY 2013-14	78.3%	126	67.8%	35	18.8%	25	13.4	186
TOTAL Community-based FY 2013-14	80.4%	683	70.0%	167	17.1%	126	12.9%	976
TOTAL Behind the Fence FY 2012-13	74.7%	130	65.3%	44	22.1%	25	12.6%	199
TOTAL Community-based FY 2012-13	77.4%	601	69.3%	175	20.2%	91	10.5%	867
TOTAL Behind the Fence FY 2011-12	69.8%	118	56.5%	51	24.4%	40	19.1%	209
TOTAL Community-based FY 2011-12	84.7%	740	77.6%	134	14.0%	80	8.4%	954
TOTAL FY 2010-11	76.6%	838	65.7%	256	20.0%	182	14.3%	1,276
TOTAL FY 2009-10	76.1%	984	69.5%	309	21.8%	122	8.6%	1,415

* Includes any exit events within the Fiscal Year for this program.

** Success Rate = Successful Exits Divided by (Successful Exits + Unsuccessful Exits).
"Successful" means "Completed".
"Unsuccessful" means "Not Completed" for some reason other than an administrative exit.

*** The program at Columbia CI Annex is a "Behind the Fence" model provided to inmates who are recently released from Close Custody and are a more difficult population.

TABLE 3E

FY 2014-15 (2-YEAR FOLLOW-UP), PROGRAM CENTER RECOMMITMENT DATA, BY LEVEL OF PARTICIPATION

	ALL PROGRAM EXITS* (N=887)		PROGRAM COMPLETERS** (N=459)		PROGRAM NON-COMPLETERS*** (N=428)	
	Recommitments		Recommitments		Recommitments	
CATEGORY OF RECOMMITMENT TYPE	**Number**	**Percent**	**Number**	**Percent**	**Number**	**Percent**
1. Admission to Prison, New Offense	60	6.8%	28	6.1%	32	7.5%
2. Return to Prison, Technical Violation	68	7.7%	28	6.1%	40	9.3%
3. Admission to Supervision, New Offense	22	2.5%	10	2.2%	12	2.8%
4. Return to Supervision, Technical Violation	1	0.1%	1	0.2%	0	0.0%
TOTAL RECOMMITMENTS	151	17.1%	67	14.6%	84	19.6%
REASON FOR ADMISSION OR RETURN						
5. Admission to Prison or Community Supervision, For New Offense (1 & 3 Combined)	82	9.3%	38	8.3%	44	10.7%
6. Return to Prison or Community Supervision, For Technical Violation (2 & 4 Combined)	69	7.8%	29	6.3%	40	9.3%
WHERE ADMITTED/RETURNED, FOR EITHER REASON						
7. Admission/Return to Prison, For New Offense or Technical Violation (1 & 2 Combined)	128	14.5%	56	12.2%	72	16.8%
8. Admission/Return to Community Supervision, for New Offense or Technical Violation (3 & 4 Combined)	23	2.6%	11	2.4%	12	3.2%

* ALL PROGRAM EXITS = Successful Exits + Unsuccessful Exits + Administrative Exits.
** PROGRAM COMPLETERS = Successful Exits.
*** PROGRAM NON-COMPLETERS = Unsuccessful Exits + Administrative Exits.

TABLE 3F

FY 2013-14 (3-YEAR FOLLOW-UP), PROGRAM CENTER RECOMMITMENT DATA, BY LEVEL OF PARTICIPATION

	ALL PROGRAM EXITS* (N=922)		PROGRAM COMPLETERS** (N=545)		PROGRAM NON-COMPLETERS*** (N=377)	
	Recommitments		Recommitments		Recommitments	
CATEGORY OF RECOMMITMENT TYPE	**Number**	**Percent**	**Number**	**Percent**	**Number**	**Percent**
1. Admission to Prison, New Offense	90	9.8%	50	9.2%	40	10.6%
2. Return to Prison, Technical Violation	76	8.2%	35	6.4%	41	10.9%
3. Admission to Supervision, New Offense	44	4.8%	18	3.3%	26	6.9%
4. Return to Supervision, Technical Violation	0	0.0%	0	0.0%	0	0.0%
TOTAL RECOMMITMENTS	210	22.8%	103	18.9%	107	28.4%
REASON FOR ADMISSION OR RETURN						
5. Admission to Prison or Community Supervision, For New Offense (1 & 3 Combined)	134	14.6%	68	12.5%	66	17.5%
6. Return to Prison or Community Supervision, For Technical Violation (2 & 4 Combined)	76	8.2%	35	6.4%	41	10.9%
WHERE ADMITTED/RETURNED, FOR EITHER REASON						
7. Admission/Return to Prison, For New Offense or Technical Violation (1 & 2 Combined)	166	18.0%	85	15.6%	81	21.5%
8. Admission/Return to Community Supervision, for New Offense or Technical Violation (3 & 4 Combined)	44	4.8%	18	3.3%	26	6.9%

* ALL PROGRAM EXITS = Successful Exits + Unsuccessful Exits + Administrative Exits.
** PROGRAM COMPLETERS = Successful Exits.
*** PROGRAM NON-COMPLETERS = Unsuccessful Exits + Administrative Exits.

READINESS GROUP
SUBSTANCE USE PROGRAM SERVICES

TABLE 4A

FY 2016-17 READINESS GROUP
ENROLLMENT DATA, BY FISCAL YEAR

FISCAL YEAR	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30TH
2002-03	944	873	966	157
2003-04	1,670	1,559	1,701	311
2004-05	2,957	2,771	3,074	572
2005-06	3,473	3,213	3,718	553
2006-07	3,491	3,301	3,797	511
2007-08	2,471	2,345	2,828	341
2008-09	1,752	1,698	2,016	754
2009-10	1,699	1,654	1,997	338
2010-11	1,685	1,660	1,987	352
2011-12	1,928	1,871	2,194	314
2012-13	1,955	1,912	2,218	338
2013-14	1,876	1,825	2,149	322
2014-15	1,524	1,012	1,314	133
2015-16	1,024	991	1,113	123
2016-17	773	750	862	143
TOTAL	29,222	27,435	31,934	5262
AVERAGE	1,948	1,829	2,129	351

TABLE 4B

FY 2016-17 READINESS GROUP
ENROLLMENT DATA, BY FACILITY

FACILITY	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30, 2017
AVON PARK CI	192	179	192	4
BAKER CI	138	135	156	22
CENTURY CI	52	52	52	8
CROSS CITY EAST UNIT	81	79	79	14
FRANKLIN CI	0	0	5	0
GULF CI - ANNEX	49	49	54	13
JEFFERSON	19	19	19	13
LAKE CI	47	46	48	0
LOWELL ANNEX	10	10	11	6
MADISON CI	35	35	46	24
MAYO CI ANNEX	0	0	21	1
MAYO WORK CAMP	4	4	4	0
NWFRC MAIN UNI	29	29	32	0
SAGO PALM R C	19	19	22	1
SANTA ROSA WC	52	52	61	19
TAYLOR CI	46	44	62	18
TOTAL	773	752*	864*	143

*Total in these columns may not match the corresponding columns' total in TABLE 4A since an inmate may be enrolled in the same program at different facilities during the year.

INMATE ALUMNI GROUP
SUBSTANCE USE PROGRAM SERVICES

TABLE 5A

FY 2016-17 ALUMNI GROUP
ENROLLMENT DATA, BY FISCAL YEAR

FISCAL YEAR	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30TH
2002-03	862	836	1,348	465
2003-04	1,180	1,148	1,617	651
2004-05	2,136	2,107	2,879	1,147
2005-06	2,392	2,352	3,504	1,075
2006-07	2,123	2,098	3,146	1,042
2007-08	1,643	1,612	2,633	655
2008-09	1,102	1,086	1,717	686
2009-10	1,072	1,050	1,713	545
2010-11	1,093	1,080	1,584	504
2011-12	1,216	1,213	1,711	526
2012-13	1,109	1,098	1,623	522
2013-14	1,452	1,437	1,957	625
2014-15	1,524	1,514	2,184	661
2015-16	1,605	1,592	2,294	717
2016-17	1,710	1,688	2,404	827
TOTAL	22,219	21,911	32,314	10,648
AVERAGE	1,481	1,461	2,154	710

TABLE 5B

FY 2016-17 ALUMNI GROUP
ENROLLMENT DATA, BY FACILITY

	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30, 2017
AVON PARK CI	119	119	155	31
BAKER CI	109	106	132	43
BAKER RE-ENTRY CTR	51	50	50	37
CENTURY CI	69	69	87	18
CROSS CITY EAST U	86	85	85	11
EVERGLADES CI	107	107	208	106
FRANKLIN CI	36	35	47	7
GADSDEN REENTRY	19	19	19	14
GULF CI ANNEX	76	76	104	31
HERNANDO CI	73	71	162	80
JACKSON CI	32	32	37	12
JEFFERSON CI	39	39	62	23
LAKE CI	95	94	135	32
LOWELL ANNEX	53	53	79	24
MADISON CI	64	64	121	34
MARION CI	145	145	170	32
MAYO CI ANNEX	28	28	47	15
NWFRC ANNEX	70	70	103	32
NWFRC MAIN UNIT	54	53	73	28
OKEECHOBEE CI	0	0	31	11
ORLANDO BRIDGE	23	23	23	23
POLK CI	81	81	97	28
SAGO PALM REENTRY	134	129	192	93
SANTA ROSA WC	40	39	61	16
TAYLOR CI	78	78	97	35
TAYLOR WORK CAMP	2	2	2	0
TOMOKA CRC-290	30	29	35	11
TOTAL	1,713	1,696*	2,414*	827

* Total in this column may not match the corresponding column total in TABLE 5A since an inmate may be enrolled in the same programs at different facilities during the year.

POST-RELEASE TRANSITIONAL HOUSING PROGRAMS
SUBSTANCE USE PROGRAM SERVICES

EXECUTIVE SUMMARY
POST-RELEASE SUBSTANCE USE TRANSITIONAL HOUSING PROGRAMS

Post-Release Substance Use Transitional Housing Programs assist released inmates by providing substance use re-entry and relapse prevention services, transitional housing, and other support services. The program also provides housing, three meals a day, electricity, access to local telephone service, job placement assistance, and other transitional services. The target population for this program is recently released inmates with histories of substance use problems, particularly those who have completed a Department in-prison or community-based drug treatment program, and are in need of transitional housing and services upon their release from incarceration. Program participants do not have to be under Department supervision to participate. Enrollment in the program is strictly voluntary, however, all enrolled program participants are required to participate in program activities and abide by program rules. Program participants may not be discharged for failure to participate in post-release components of the program.

Profiles of Post-Release Substance Use Transitional Housing Programs
On June 30, 2017

Facility	Population	Number of Program Seats		
		Male	Female	Non-gender Specific
THE TRANSITION HOUSE	MALE / FEMALE	20	0	0
FRESH START MINISTRIES OF CENTRAL FLORIDA	MALE	8	0	0
GOOD NEWS FOSTER HOME	MALE	6	0	0
HARBOR HOUSE GROUP	MALE	3	0	0

(continued on next page)

EXECUTIVE SUMMARY

POST-RELEASE SUBSTANCE USE TRANSITIONAL HOUSING PROGRAMS (CONTINUED)

Profiles of Post-Release Substance Use Transitional Housing Programs *On June 30, 2017*				
Facility	**Population**	**Number of Program Seats**		
		Male	**Female**	**Non-gender Specific**
NOAH COMMUNITY OUTREACH, INC.	MALE / FEMALE	23	5	0
PRISONERS OF CHRIST	MALE	15	0	0
SALVATION ARMY (BRADENTON)	MALE	6	0	0
SALVATION ARMY (ST. PETERSBURG)	MALE / FEMALE	7	3	0
SALVATION ARMY (DAYTONA)	MALE	4	0	0
SANCTUARY MISSION	MALE / FEMALE	0	0	3
FLORIDA CROWN WORK FORCE/ON EAGLES	MALE / FEMALE	5	3	0
HARVEST TABERNACLE	MALE	5	0	0
JESUS AND YOU OUTREACH MINISTRIES	MALE	10	0	0
TOTAL		**112**	**11**	**3**

WORKLOAD

TABLE 6A: POST-RELEASE TRANSITIONAL HOUSING PROGRAM ENROLLMENT DATA BY FISCAL YEAR

- There were 146 offenders in the programs on June 30, 2017.
- Since FY 2002-03, 11,333 different offenders have received services.

TABLE 6B: FY 2016-17 POST-RELEASE TRANSITIONAL PROGRAM ENROLLMENT DATA BY FACILITY

- Five programs had 30 or more new enrollment events during FY 2016-17.
- In the FY 2016-17, the program had 450 different offenders enrolled in the program during the year.

OUTCOMES

TABLE 6C (1): POST-RELEASE TRANSITIONAL HOUSING PROGRAM OUTCOMES, BY FISCAL YEAR, BY INMATE (3-YEAR FOLLOW-UP AFTER INITIAL PROGRAM ENTRY)*

- This table shows outcomes based on a three year follow-up after the offender first entered a program of this type. For FY 2013-14, transitional housing programs had a 60.0% success rate (successful exits divided by successful and unsuccessful exits.)

TABLE 6C (2): POST-RELEASE TRANSITIONAL HOUSING PROGRAM OUTCOMES, BY FISCAL YEAR, BY INMATE (2-YEAR FOLLOW-UP AFTER INITIAL PROGRAM ENTRY)

- This table shows outcomes based on a two year follow-up after the offender first entered a program of this type. For FY 2014-15, post-release transitional housing programs had a 54.8% success rate (successful exits divided by successful and unsuccessful exits).

RECOMMITMENT

TABLE 6E: FY 2014-15 (2-YEAR FOLLOW-UP) POST-RELEASE TRANSITIONAL RECOMMITMENT DATA, BY LEVEL OF PARTICIPATION

- For a 2-year follow-up on post-release participants released in FY 2014-15, program completers were less likely to be recommitted to prison or community supervision than non-completers (16.5% vs. 30.1%).

TABLE 6F: FY 2013-14 (3-YEAR FOLLOW-UP) POST-RELEASE TRANSITIONAL RECOMMITMENT DATA, BY LEVEL OF PARTICIPATION

- For a 3-year follow-up on post-release participants released in FY 2013-14, program completers were less likely to be recommitted to prison or community supervision than non-completers (22.1% vs. 44.7%).

TABLE 6A

FY 2016-17 POST-RELEASE TRANSITIONAL PROGRAMS
TREATMENT PROGRAM ENROLLMENT DATA, BY FISCAL YEAR

FISCAL YEAR	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW OFFENDERS ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT OFFENDERS ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF OFFENDERS ENROLLED IN THE PROGRAM ON JUNE 30TH
2002-03	737	705	747	174
2003-04	658	624	785	150
2004-05	675	644	786	174
2005-06	820	775	870	213
2006-07	996	963	1,073	247
2007-08	877	854	1,021	164
2008-09	647	611	704	177
2009-10	641	619	705	197
2010-11	650	622	804	170
2011-12	624	589	723	217
2012-13	566	545	741	219
2013-14	522	494	685	190
2014-15	481	471	622	195
2015-16	381	371	565	204
2016-17	341	336	502	146
TOTAL	9,616	9,223	11,333	2,837
AVERAGE	641	615	756	189

TABLE 6B

FY 2016-17 POST-RELEASE TRANSITIONAL PROGRAMS TREATMENT PROGRAM ENROLLMENT DATA, BY FACILITY

FACILITY	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW OFFENDERS ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT OFFENDERS ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF OFFENDERS ENROLLED IN THE PROGRAM ON JUNE 30, 2017
FLORIDA CROWN WORK FORCE/ON EAGLES	21	21	24	6
FRESH START MINISTRIES OF CENTRAL FLORIDA	40	40	65	25
GOOD NEWS FOSTER HOME	13	13	15	3
HARBOR HOUSE GROUP	3	3	4	3
HARVEST TABERNACLE	10	10	28	13
JESUS & YOU OUTREACH	13	13	19	3
LAMB OF GOD MIN-POMPANO	4	4	7	1

(continued on next page)

TABLE 6B
(CONTINUED)

FY 2016-17 POST-RELEASE TRANSITIONAL PROGRAMS
TREATMENT PROGRAM ENROLLMENT DATA, BY FACILITY

FACILITY	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW OFFENDERS ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT OFFENDERS ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES OFFENDERS IN THE PROGRAM ON JUNE 30, 2017
NOAH COMMUNITY OUTREACH	55	54	79	28
PRISONERS OF CHRIST	34	34	43	12
SALVATION ARMY (ST. PETE)	30	29	36	9
SALVATION ARMY (BRADENTON)	22	22	26	6
SALVATION ARMY DAYTONA	20	20	27	8
SANCTUARY MISSION	10	10	13	4
THE TRANSITION HOUSE	40	40	64	19
TOTAL	315	313	450	140

* Total in this column may not match the corresponding column total in TABLE 6A since an inmate may be enrolled in the same programs at different facilities during the year.

TABLE 6C (1)
POST-RELEASE TRANSITIONAL PROGRAMS OUTCOMES
BY FISCAL YEAR*, BY PARTICIPANT
(OUTCOMES** BASED ON 3-YEAR FOLLOW-UP AFTER INITIAL PROGRAM ENTRY)

Fiscal Year	Success Rate***	Successful		Unsuccessful		Administrative		Total
		Number	Percent	Number	Percent	Number	Percent	
2006-07	53.8%	458	51.6%	393	44.3%	36	4.1%	**887**
2007-08	53.7%	404	50.8%	349	43.9%	42	5.3%	**795**
2008-09	60.0%	317	57.1%	211	38.0%	27	4.9%	**555**
2009-10	58.7%	314	55.6%	221	39.1%	30	5.3%	**565**
2010-11	59.9%	344	56.0%	230	37.5%	40	6.5%	**614**
2011-12	61.0%	317	57.3%	203	36.7%	33	6.0%	**553**
2012-13	61.9%	288	55.7%	177	34.2%	52	10.1%	**517**
2013-14	60.0%	258	56.1%	172	37.4%	30	6.5%	**460**
TOTAL	**58.0%**	**2700**	**54.6%**	**1956**	**39.5%**	**290**	**5.9%**	**4,946**

TABLE 6C (2)
POST-RELEASE TRANSITIONAL PROGRAMS OUTCOMES
BY FISCAL YEAR*, BY PARTICIPANT
(OUTCOMES** BASED ON 2-YEAR FOLLOW-UP AFTER INITIAL PROGRAM ENTRY)

Fiscal Year	Success Rate***	Successful		Unsuccessful		Administrative		Total
		Number	Percent	Number	Percent	Number	Percent	
2006-07	53.5%	456	51.4%	397	44.7%	35	3.9%	**888**
2007-08	54.1%	398	51.2%	338	43.5%	41	5.3%	**777**
2008-09	59.0%	317	56.4%	220	39.1%	25	4.4%	**562**
2009-10	58.9%	315	55.8%	220	38.9%	30	5.3%	**565**
2010-11	60.5%	317	56.9%	207	37.2%	33	5.9%	**557**
2011-12	61.3%	319	57.7%	201	36.3%	33	6.0%	**553**
2012-13	61.6%	286	55.4%	178	34.5%	52	10.1%	**516**
2013-14	60.1%	259	56.3%	172	37.4%	29	6.3%	**460**
2014-15	54.8%	218	51.1%	180	42.2%	29	6.8%	**427**
TOTAL	57.7%	2,885	54.4%	2113	39.8%	307	5.8%	**5,305**

* Fiscal year is determined by fiscal year of first enrollment.

** Unduplicated by inmates per fiscal year, using only first-time enrollments and a specified follow-up period, and using the last exit code during this period.

*** Success Rate = Successful Exits Divided By (Successful Exits + Unsuccessful Exits).

TABLE 6D

FY 2016-17 POST-RELEASE TRANSITIONAL PROGRAMS
PROGRAM OUTCOMES/EXIT DATA (EVENT-BASED*), BY FACILITY

FACILITY	*** Success Rate	SUCCESSFUL		UNSUCCESSFUL		ADMINISTRATIVE		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
FLORIDA CROWN WORKFORCE	57.9%	11	57.9%	8	42.1%	0	0.0%	19
FRESH START MINISTRIES	43.6%	17	41.5%	22	53.7%	2	4.8%	41
GOOD NEWS FOSTER HOME	53.8%	7	53.8%	6	46.2%	0	0.0%	13
HARBOR HOUSE GROUP	50.0%	1	50.0%	1	50.0%	0	0.0%	2
HARVEST TABERNACLE	78.6%	11	73.3%	3	20.0%	1	6.7%	15
JESUS & YOU OUTREACH	46.2%	6	37.5%	7	43.8%	3	18.8%	16
LAMB OF GOD MINIST-POMPANO	20.0%	1	16.7%	4	66.7%	1	16.7%	6
NOAH COMM OUTREACH	59.6%	31	58.5%	21	39.6%	1	1.9%	53
PRISONERS OF CHRIST	71.0%	22	71.0%	9	29.0%	0	0.0%	31
SALVATION ARMY BRADENTON-	35.%	6	30.0%	11	55.0%	3	15.0%	20
SALVATION ARMY ST. PETE	25.9%	7	25.0%	20	71.4%	1	3.6%	28
SALVATION ARMY - DAYTONA	56.3%	9	47.4%	7	36.8%	3	15.8%	19
SANCTUARY MISSION	44.4%	4	44.4%	5	55.6%	0	0.0%	9
THE TRANSITION HOUSE	73.8%	31	66.0%	11	23.4%	5	10.6%	47

TABLE 6D
(CONTINUED)

FY 2016-17 POST-RELEASE TRANSITIONAL PROGRAMS
PROGRAM OUTCOMES/EXIT DATA (EVENT-BASED*), BY FACILITY

TOTAL FY 2016-17	54.8%	164	51.4%	135	42.3%	20	6.3%	319
TOTAL FY 2015-16	63.2%	151	57.2%	88	33.3%	25	9.5%	264
TOTAL FY 2014-15	53.6%	225	50.2%	195	43.5%	28	6.2%	448
TOTAL FY 2013-14	61.1%	298	56.5%	190	36.1%	39	7.4%	527
TOTAL FY 2012-13	59.8%	300	54.3%	201	36.4%	51	9.3%	552
TOTAL FY 2011-12	60.50%	299	52.5%	195	34.2%	76	13.3%	570
TOTAL FY 2010-11	58.9%	371	54.8%	259	38.3%	47	6.9%	677
TOTAL FY 2009-10	56.6%	333	53.2%	255	40.7%	38	6.1%	626
TOTAL FY 2008-09	54.9%	315	50.6%	259	41.6%	48	7.7%	622

* Includes any exit events within the fiscal year for this program.
** Success Rate = Successful Exits Divided By (Successful Exits + Unsuccessful Exits).
"Successful" means "Completed".
"Unsuccessful" means "Not Completed" for some reason other than an administrative exit.

TABLE 6E

FY 2014-15 (2-YEAR FOLLOW-UP), POST-RELEASE TRANSITIONAL HOUSING RECOMMITMENT DATA, BY LEVEL OF PARTICIPATION

	ALL PROGRAM EXITS* (N=453)		PROGRAM COMPLETERS** (N=224)		PROGRAM NON-COMPLETERS*** (N=229)	
	Recommitments		Recommitments		Recommitments	
CATEGORY OF RECOMMITMENT TYPE	**Number**	**Percent**	**Number**	**Percent**	**Number**	**Percent**
1. Admission to Prison, New Offense	26	5.7%	6	2.7%	20	8.7%
2. Return to Prison, Technical Violation	53	11.7%	15	6.7%	38	16.6%
3. Admission to Supervision, New Offense	26	5.7%	15	6.7%	11	4.8%
4. 4. Return to Supervision, Technical Violation	1	0.2%	1	0.4%	0	0.0%
TOTAL RECOMMITMENTS	106	23.4%	37	16.5%	69	30.1%
REASON FOR ADMISSION OR RETURN						
5. Admission to Prison or Community Supervision, For New Offense (1 & 3 Combined)	52	11.5%	21	9.4%	31	13.5%
6. Return to Prison or Community Supervision, For Technical Violation (2 & 4 Combined)	54	11.9%	16	7.1%	38	16.6%
WHERE ADMITTED/RETURNED, FOR EITHER REASON						
7. Admission/Return to Prison, For New Offense or Technical Violation (1 & 2 Combined)	79	17.4%	21	9.4%	58	25.3%
8. Admission/Return to Community Supervision, For New Offense or Technical Violation (3 & 4 Combined)	27	6.0%	16	7.1%	11	4.8%

* ALL PROGRAM EXITS = Successful Exits + Unsuccessful Exits + Administrative Exits.
** PROGRAM COMPLETERS = Successful Exits.
*** PROGRAM NON-COMPLETERS = Unsuccessful Exits + Administrative Exits.

TABLE 6F

FY 2013-14 (3-YEAR FOLLOW-UP), POST-RELEASE TRANSITIONAL HOUSING RECOMMITMENT DATA, BY LEVEL OF PARTICIPATION

	ALL PROGRAM EXITS* (N=474)		PROGRAM COMPLETERS** (N=268)		PROGRAM NON-COMPLETERS*** (N=206)	
	Recommitments		Recommitments		Recommitments	
CATEGORY OF RECOMMITMENT TYPE	**Number**	**Percent**	**Number**	**Percent**	**Number**	**Percent**
1. Admission to Prison, New Offense	70	14.8%	22	8.2%	48	23.3%
2. Return to Prison, Technical Violation	58	12.2%	24	9.0%	34	16.5%
3. Admission to Supervision, New Offense	22	4.6%	12	4.5%	10	4.9%
4. Return to Supervision, Technical Violation	1	0.2%	1	0.4%	0	0.0%
7TOTAL RECOMMITMENTS	151	31.9%	59	22.1%	92	44.7%
REASON FOR ADMISSION OR RETURN						
5. Admission to Prison or Community Supervision, For New Offense (1 & 3 Combined)	92	19.4%	34	12.7%	58	28.2%
6. Return to Prison or Community Supervision, For Technical Violation (2 & 4 Combined)	59	12.4%	25	9.4%	34	16.5%
WHERE ADMITTED/RETURNED, FOR EITHER REASON						
7. Admission/Return to Prison, For New Offense or Technical Violation (1 & 2 Combined)	128	27.0%	46	17.2%	82	39.8%
8. Admission/Return to Community Supervision, for New Offense or Technical Violation (3 & 4 Combined)	23	4.9%	13	4.9%	10	4.9%

* ALL PROGRAM EXITS = Successful Exits + Unsuccessful Exits + Administrative Exits.
** PROGRAM COMPLETERS = Successful Exits.
*** PROGRAM NON-COMPLETERS = Unsuccessful Exits + Administrative Exits

DEPARTMENT OPERATED WORK RELEASE CENTERS WITH CONTRACTED SUBSTANCE USE/RE-ENTRY COUNSELORS

EXECUTIVE SUMMARY
DEPARTMENT OPERATED WORK RELEASE CENTERS WITH CONTRACTED COUNSELORS

Contracted counselors at Department Operated Work Release Centers offers a continuum of licensed services including intervention, outpatient and aftercare. Services are provided based on inmate's individualized needs. Outpatient services are a minimum of four months and Aftercare/alumni services are provided until the inmate is released. Intervention services are provided to inmates with less than 4 months to serve. The counselor to client ratio is 1:50.

Profiles of Counselors at Department Operated Work Release Centers Program Facilities
On June 30, 2017

FACILITY	PROVIDER	NUMBER OF PROGRAM SEATS
ATLANTIC WRC	BRIDGES OF AMERICA	50
FORT PIERCE WRC	BRIDGES OF AMERICA	50
KISSIMMEE WRC	UNLIMITED PATH	50
MIAMI NORTH WRC	WESTCARE	100
OPA LOCKA WRC	BRIDGES OF AMERICA	50
ORLANDO WRC	BRIDGES OF AMERICA	50
PANAMA CITY WRC	UNLIMITED PATH	50
PENSACOLA WRC	UNLIMITED PATH	50
PINELLAS WRC	UNLIMITED PATH	50

EXECUTIVE SUMMARY
DEPARTMENT OPERATED WORK RELEASE CENTERS WITH CONTRACTED COUNSELORS (CONTINUED)

ST. PETE WRC	UNLIMITED PATH	50
TALLAHASSEE WRC	UNLIMITED PATH	50
WEST PALM BEACH WRC	BRIDGES OF AMERICA	50
TOTAL		**650**

WORKLOAD

TABLE 7A: FY 2016-17 WR HOUSING PROGRAM ENROLLMENT DATA BY FISCAL YEAR

- There were 491 offenders in the programs on June 30, 2017.
- 1,801 different inmates received services during the year.

TABLE 7B: FY 2016-17 WR PROGRAM ENROLLMENT DATA BY FACILITY

- Eleven programs had 100 or more new enrollment events during FY 2016-17.

OUTCOMES

TABLE 7C: FY 2016-17 WR TREATMENT EXIT DATA (EVENT-BASED) BY FACILITY

- For the FY 2016-17 the overall success rate was 87.1%.

TABLE 7A

DEPARTMENT OPERATED WORK RELEASE CENTERS WITH CONTRACTED COUNSELORS ENROLLMENT DATA, BY FISCAL YEAR

FISCAL YEAR	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30TH
2011-12	854	819	819	677
2012-13	2,793	2,434	2,952	939
2013-14	2,253	1,989	2,721	594
2014-15	1,414	1,315*	1,799*	548
2015-16	1,424	1,327	1,804	561
2016-17	1,428	1,325	1,801	491

TABLE 7B

FY 2016-17 DEPARTMENT OPERATED WORK RELEASE CENTERS WITH CONTRACTED COUNSELORS ENROLLMENT DATA, BY FACILITY

FACILITY	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30, 2017
ATLANTIC CRC	100	81	105	31
FORT PIERCE CRC	104	94	129	38
KISSIMMEE CRC	115	112	159	49
MIAMI NORTH CRC	117	112	192	42
OPA LOCKA CRC	92	87	126	40
ORLANDO CRC	132	123	168	50
PANAMA CITY CRC	115	114	162	36
PENSACOLA CRC	118	106	148	40
PINELLAS CRC	102	82	108	33
ST. PETE CRC	132	132	153	42
TALLAHASSEE CRC	183	177	214	49
W. PALM BEACH CRC	118	108	143	41
TOTAL	1,428	1,328*	1,807*	491

*Total in these columns may not match the corresponding columns' total in TABLE 7A since an inmate may be enrolled in the same program at different facilities during the year

TABLE 7C

FY 2016-17 DEPARTMENT OPERATED WORK RELEASE CENTERS WITH CONTRACTED COUNSELORS PROGRAM OUTCOMES/EXIT DATA (EVENT-BASED*), BY FACILITY

FACILITY	*** Success Rate	SUCCESSFUL		UNSUCCESSFUL		ADMINISTRATIVE		TOTAL
		Number	Percent	Number	Percent	Number	Percent	
ATLANTIC CRC	94.0%	63	60.6%	4	3.8%	37	35.6%	104
FORT PIERCE CRC	86.2%	75	67.0%	12	10.7%	25	22.3%	112
KISSIMMEE CRC	90.7%	78	69.0%	8	7.1%	27	23.9%	113
MIAMI NORTH CRC	82.4%	98	59.8%	21	12.8%	45	27.4%	164
OPA LOCKA CRC	81.7%	67	69.1%	15	15.5%	15	15.4%	97
ORLANDO CRC	93.4%	99	75.6%	7	5.3%	25	19.1%	131
PANAMA CITY CRC	76.4%	68	53.1%	21	16.4%	39	30.5%	128
PENSACOLA CRC	100.0%	95	74.2%	0	0.0%	33	25.8%	128
PINELLAS CRC	94.9%	75	74.3%	4	3.9%	22	21.8%	101
ST. PETE CRC	87.7%	93	78.2%	13	10.9%	13	10.9%	119
TALLAHASSEE CRC	79.6%	117	65.7%	30	16.9%	31	17.4%	178
WEST PALM BEACH CRC	84.7%	83	69.8%	15	12.6%	21	17.6%	119
TOTAL FY 2016-17	87.1%	1,011	67.7%	150	10.0%	333	22.3%	1,494

** These programs began April 1, 2014.

RE-ENTRY CENTERS

EXECUTIVE SUMMARY
Re-Entry Centers

Re-Entry Centers offer a continuum of substance use services including prevention, outpatient, and aftercare services as well as education/vocational services. The focus is on teaching, developing, and practicing re-entry/transitional skills necessary for a successful drug-free re-entry into the community upon release from prison. Inmates residing in a program center will receive the appropriate level of substance use services in addition to groups focusing on criminal thinking, family development, anger management, domestic violence, victim awareness as well as other appropriate topics.

Profiles of Re-Entry Centers
Program Facilities
On June 30, 2017

FACILITY	PROVIDER	NUMBER OF PROGRAM SEATS
GADSDEN RE-ENTRY CENTER	UNLIMITED PATH, INC.	432
BAKER RE-ENTRY CENTER	UNLIMITED PATH, INC	432
EVERGLADES RE-ENTRY CENTER	COMMUNITY EDUCATION CENTERS	432
TOTAL		1,296

WORKLOAD

TABLE 8A: FY 2016-17 RE-ENTRY CENTER PROGRAM ENROLLMENT DATA BY FISCAL YEAR

- There were 387 offenders in the programs on June 30, 2017.
- 1,165 different inmates received services during the year.

TABLE 8B: FY 2014-15 RE-ENTRY CENTER PROGRAM ENROLLMENT DATA BY FACILITY

- In the FY 2016-17, the program had 1,165 different inmates enrolled in the program during the year.

OUTCOMES

TABLE 8C: FY 2014-15 RE-ENTRY CENTER TREATMENT EXIT DATA (EVENT-BASED) BY FACILITY

- For the FY 2014-15 the overall success rate for GADSDEN RE-ENTRY CENTER was 89.8%.

TABLE 8A

RE-ENTRY CENTERS
ENROLLMENT DATA, BY FISCAL YEAR

FISCAL YEAR	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30TH
2016-17	1075	859	1165	387

TABLE 8B

FY 2014-15 RE-ENTRY CENTERS
ENROLLMENT DATA, BY FACILITY

FACILITY	NUMBER OF NEW ENROLLMENT EVENTS IN THE PROGRAM DURING THE YEAR	NUMBER OF NEW INMATES ENROLLED IN THE PROGRAM DURING THE YEAR	NUMBER OF DIFFERENT INMATES ENROLLED IN PROGRAM DURING THE YEAR	NUMBER OF INMATES ENROLLED IN THE PROGRAM ON JUNE 30, 2017
BAKER RE-ENTRY	423	346	482	173
EVERGLADES RE-ENTRY	249	192	254	34
GADSDEN RE-ENTRY	403	321	429	180
TOTAL	**1075**	**859**	**1165**	**387**

*Total in these columns may not match the corresponding columns' total in TABLE 8A since an inmate may be enrolled in the same program at different facilities during the year

TABLE 8C

FY 2016-17 RE-ENTRY CENTERS - OUTPATIENT
PROGRAM OUTCOMES/EXIT DATA (EVENT-BASED*), BY FACILITY

FACILITY	*** Success Rate	SUCCESSFUL		UNSUCCESSFUL		ADMINISTRATIVE		TOTAL
		Number	**Percent**	**Number**	**Percent**	Number	Percent	
BAKER REENTRY	94.0%	358	72.5%	23	4.7%	113	22.8%	494
GADSDEN REENTRY	93.9%	295	68.9%	19	4.4%	114	26.7%	428

* Includes any exit events within the fiscal year for this program.

** Success Rate = Successful Exits Divided By (Successful Exits +Unsuccessful Exits).

*** Data for Everglades Re-Entry Center are not included in this table as the program changed significantly in the 4th quarter of FY16/17, resulting in a number of data changes.

2018 AGENCY LEGISLATIVE BILL ANALYSIS

BILL NUMBER:	SB 1222
BILL TITLE:	Inmate Reentry Program
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:	
SPONSOR:	

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

IDENTICAL BILLS	
BILL NUMBER:	
SPONSOR:	

Is this bill part of an agency package?
No.

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	January 18, 2018
LEAD AGENCY ANALYST:	Kerensa Lockwood
ADDITIONAL ANALYST(S):	Maggie Agerton, Lee Adams, Amy Datz, David Ensley, Sibyle Walker
LEGAL ANALYST:	Ryan Padgett
FISCAL ANALYST:	Greg Holcomb

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill requires the Department of Corrections (FDC or Department) to develop a reentry program for nonviolent, low-risk inmates with substance use, mental health, or co-occurring disorders. The reentry program must include in-prison treatment and community aftercare. Participants must be recommended by the sentencing court and appear in the sentencing orders. The Department is required to develop eligibility criteria for participation, consider court recommendations, and provide written notification of the inmate's admission to the sentencing court. The bill requires the Department to develop a post-release treatment plan before the inmate completes the in-prison treatment.

The bill stipulates that inmates who successfully complete the in-prison treatment portion of the program will be immediately transitioned to the community on drug-offender-mental health probation. The Department may still collect cost of supervision and requires the inmate to comply with all conditions of release. If available and willing, the Department will attempt to transfer cases to drug or mental health courts in the county of the releasee.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Department's reentry strategies provide a holistic approach including but not limited to educational programs, vocational training, and substance abuse/mental health treatment while maintaining a commitment to public safety.

Presently, inmates are assessed and placed into programs using the Correctional Integrated Needs Assessment System (CINAS). CINAS is based on the Risk-Needs-Responsivity Principle (RNR). The RNR principle refers to predicting which inmates have a higher probability of recidivating, and treating the criminogenic needs of those higher risk inmates with appropriate programming and services based on their level of need[i]. Criminogenic needs are those factors that are associated with recidivism that can be changed (e.g. lack of education, substance abuse, criminal thinking, lack of marketable job skills, etc.). Offenders are not higher risk because they have a particular risk factor, but, rather, because they have multiple risk factors. Accordingly, a range of services and interventions is provided that target the specific crime producing needs of offenders who are higher risk.

The Department's use of CINAS allows for development and implementation of programs that increase the likelihood of successful transition. The Department matches factors that influence an inmate's responsiveness to different type of services with programs that are proven to be effective within an inmate population. This involves selecting services that are matched to the offender's learning characteristics and then to the offender's stage of change readiness.[ii] By applying this principle, the Department avoids focusing resources on individuals who may not be equipped to handle specific behavior problems, and ensures the most appropriate treatment-setting possible is being assigned, based on an inmate's characteristics.

CINAS is designed to allow for a flow of information between the Department's Office of Community Corrections and Department's Office of Institutions. For instance, when an inmate is received at a Reception Center, the staff has access to detailed information about prior supervision history. Likewise, if an inmate is released to community supervision, Probation Officers will have access to an offender's incarceration history and relevant release information. This information will be used to better serve the offender and prepare them for successful transition back into the community.

CINAS is administered twice during an inmate's incarceration depending on sentence length – once when they are received at their initial parent institution and once again at 42 months from release. Updates are conducted every 6 months thereafter to evaluate the inmate's progress and ensure enrollment in needed programs.

The Florida Supreme Court in Gibson v FDC, 885 So.2d 376 (Fla. 2004), identified 6 statutory sentencing options in Florida: (1) a period of confinement (jail or prison); (2) a "true split sentence" consisting of a total period of confinement with a portion of the confinement period suspended and the defendant placed on probation for that suspended portion; (3) a "probationary split sentence" consisting of a period of confinement, none of which is suspended, followed by a period of probation; (4) a *Villery* sentence, consisting of a period of probation preceded by a period of confinement imposed as a special condition; and (5) straight probation; (6) a "reverse split sentence", a period of probation followed by a period of incarceration.

There are also existing statutes that allow courts to modify sentences to probation terms upon completion of in-prison programming. Both involve youthful offenders: s. 958.045, F.S., (completion of basic training program, "boot camp")

and ss. 958.04(2)(d), F.S., (completion of youthful offender program). Each of these options require a court order to bring to an end the prison term and initiate probation. The term of supervision and the conditions are specified by the court. In addition, the Department can extend the limits of an inmate's confinement to allow a sentence to continue being served outside of a prison setting (s. 945.091, F.S.).

Presently, the Department provides inmates with comprehensive health care services including mental health care and substance use treatment through separate contracts with different service providers.

2. EFFECT OF THE BILL:

The bill creates a reentry program specifically designed to focus on nonviolent offenders' substance use and/or mental health needs. The program would provide an individual with a period of incarceration and treatment followed by drug offender probation for the remaining 24 months of their court ordered sentence. The sentencing court will provide recommendations for offender participation in the program (lines 85-90). It is difficult to project how often the court will recommend offenders that are subsequently approved by the Department. The reentry program is split into two phases:

1. The nonviolent, low-risk offender begins the program while in prison and must have satisfactory performance in the treatment phase of the program before participation may begin in the second phase;
2. Upon satisfactory performance in the first phase, the offender's sentence is modified from the original sentence imposed to place the offender on drug offender-mental health probation subject to successful completion of the last 24 months of their sentence.

Currently, there are approximately 2,568 inmates that would likely meet the eligibility criteria providing the inmate is approved by the Department for the reentry program, based on those in need of substance use or mental health treatment, in minimum or community custody status, and criminal history criteria (lines 103-109 and 128-142).

The bill grants the Department discretion to decline to put an inmate in the program, "for good cause" (lines 149-151), but the bill also says the court "orders" participation as part of the sentence (line 88). The bill also refers to a court "recommendation" for the program (line 99). Once the inmate completes the program, he/she must be "immediately transitioned" to community supervision (line 180). No additional court order is necessary to be transitioned to community supervision. These separate statements need to be reconciled for the sake of clarity. For the Department to release an inmate from a sentence, there needs to be an order issued at some point in the process, not just a recommendation. The order can be a part of the initial sentence, or it can be issued after program completion, but the court's intent needs to be clear.

The bill contains a confusing statement in regard to credit for time under supervision satisfying an 85% minimum service date required by s.944.275(4)(b)3. Section 948.06(3) provides, "No part of the time that the defendant is on probation or in community control shall be considered as any part of the time that he or she shall be sentenced to serve." The bill, on the other hand, at lines 212-214, states, "Time spent on probation as part of the reentry program shall be considered in-custody time in calculating the 85 percent requirement of s. 944.275." By making time on supervision count as "in-custody time" toward the 85% date, which is a date calculated in relation to a prison sentence, this provision blurs the lines between supervision time and prison time, contrary to current law.

If time on supervision counts toward the 85% minimum time to serve in prison, a violator can make a plausible claim that the probation time also counts against a sentence imposed following revocation of supervision. This could significantly diminish the penalty associated with a violation since the prison term imposed could be partially served while in the community under supervision. The Department will follow the established law and decline to make apply time under supervision against any prison term imposed for a violation, but this given the language in the bill this will likely be litigated.

Another phrase in the bill also confuses prison time and probation time. The bill speaks of probation "*during* the last 2 years of the sentence" (lines 89-90). This suggests that the sentence continues during probation (i.e., prison as a condition of probation). If supervision occurs "during the sentence", it would logically end on the tentative release date (TRD) when the sentence ends. The TRD is the release date with gain time factored in. But that date may not allow for service of the intended 2 years of supervision. Thus, the interaction between gain time earned in prison and the supervision term date needs to be clarified. Additionally, clarification as to whether gain time will be earned on supervision is also likely required.

Overall, there would be an increase in work load for the Department's Bureau of Admission and Release, classification officers, institutional release officers, and probation officers. The impact would depend on the number of inmates reviewed for participation, and the number of program participants granted sentence modification by the courts. At this time, the Department is unable to determine the potential need for additional substance use and

mental health counselors due to the variables requiring judiciary recommendation and the availability of in-prison substance use slots and mental health program services. Additionally, the bill may increase the amount of court ordered referrals to Department funded community based residential and outpatient programs. The Department has limited funding for community based treatment programs and the waiting lists for these programs may increase depending on the number of inmates whose sentence is modified with conditions of supervision that include program participation.

Lines 85-96: The bill outlines that "an eligible, nonviolent, low-risk inmate, who poses a minimal foreseeable risk to the public and for whom the reentry program has been ordered as part of his or her sentence, may be transitioned into the community during the last 2 years of the sentence. The reentry program consists of at least 90 days of participation in an in-prison treatment program for substance use, mental health, or co-occurring disorders, followed by a community-based aftercare treatment program. In-prison treatment may be operated in secure areas within or adjacent to an adult institution, a community residential facility, or a work release center." There is no defined or stated size for this reentry program. The bill does not state that it will be held at a specific number of facilities nor are there a specific number of slots mandated.

Presently, the Department provides inmates with comprehensive health care services including mental health care and substance use treatment through separate contracts with different service providers. While the Department does have mental health, mental health aftercare, and substance use treatment services separately, there is not currently an integrated program for co-occurring disorders. Evidence-based practices for a co-occurring treatment programs include *integrated* services – one clinical chart, one treatment plan that addresses both mental health and substance use needs and one professional specializing in both area working with the client. Presently, the Department does not have a program like this and implementing one would require additional resources in addition to new procurement and/or modification of health care contracts.

Lines 90-93: The bill sets forth a minimum time limit necessary to complete the program, 90 days, but does not otherwise define successful completion. Currently, the Department's intensive substance use treatment ranges from 120 to 180 days' dependent upon the individual inmates needs and progress in the program.

Lines 104-109: The type of inmate targeted for placement into this program is in conflict with the type of inmate targeted for current program placements. As stated in the present situation, the Department currently targets inmates who are moderate to high risk of reoffending for programming. Inmates that meet the criteria for this reentry program fall outside the targeted moderate to high risk inmates currently prioritized for programming.

Line 89-90 & Line 180-182: These lines seem to contradict one another. The first reference of the bill states that the person ***may*** transition to the community for the last 2 years of sentence. The second reference states that the inmate ***shall*** immediately transition into the community for the last 24 months of their sentence.

Line 88, Line 133-134, & Line 98-100: These lines also seem to contradict one another. The first and second references state the inmate ***must be court-ordered*** to the reentry program to be eligible. The third reference states the sentencing ***court must recommend*** participation in the program.

Lines 178-182: The bill states that "following completion of the in-prison treatment program, the inmate shall be immediately transitioned into the community on drug offender-mental health probation for the last 24 months of his or her sentence." This stipulation will increase the number of offenders on drug offender-mental health probation. Pursuant to s. 948.001(5) and (6), F.S., drug offender-mental health probation caseloads should be restricted to a maximum of 50 per cases per officer in order to ensure an adequate level of staffing and supervision. At this time, the Department is unable to determine the potential impact for additional drug offender-mental health probation officers due to the variables requiring judiciary recommendation, order modification, and the availability of in-prison program treatment slots. However, there will likely be a need for additional mental health probation officer.

In regards to individuals with mental health issues, the Department has Health Service Bulletin 15.05.21 Mental Health Re-Entry Aftercare Planning Services, in which, the Department arranges for continuity of post-release care for inmates who are receiving psychiatric care for the disabling symptoms of a mental disorder. Additionally the Department ensures that inmates with milder forms of mental disorder are counseled according to clinical need in preparation for their reentry into the community after release from prison. This process begins approximately 150 days prior to an inmate's release when a Department Institution Re-Entry Specialist is assigned. The specialist initiates a series of activities on behalf of the inmates and with the inmate's written consent, which is intended to facilitate the continuity of necessary mental health care and adequate adjustment when the inmate is released to the community.

Line 205-206: “As appropriate or unless waived by the department.” May be needed to address ambiguity. As written, it says the inmate will pay cost of supervision and then in the following lines for the other costs, it says if financially able.

Line 212-214: “Time spent on probation as part of the reentry program shall be considered in-custody time in calculating the 85 percent requirement of s. 944.275, F.S.” Clarification may be needed as the rest of the bill requires the inmate to be on community supervision for 24 months. If the inmate is receiving gain time, it may result in some kind of credit on the FDC term which could result in serving less than 24 months

Line 217-219: Clarification may be needed on what kind of special training. The in-prison part of the program is not inherently different from our current substance use and mental health treatment programs.

Line 223-225: This requirement would involve a business case plan to ensure that the contracted services would result in substantial savings. A definition may be needed on what substantial savings means.

Line 236-240: The Department would likely not be able to report on recidivism and recommitment of program participants until October 2020, given the length of time it would take a participant to complete the in-prison and community-based components of the program.

There does not appear to be a separation of powers issue with this bill. The bill requires that if an inmate is to participate in the Program, the sentencing court must grant approval at the time of the initial sentencing. However, FDC’s final decision to allow the inmate to serve the last two years of his sentence on probation in accordance with that recommendation would be better protected if court were also required to enter an order modifying the sentence prior to the inmate’s actual release from prison.

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:	Yes, lines 243-244 states that the Department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.
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:	Unknown
Opponents and summary of position:	Unknown

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

If yes, provide a description:	Line 238-242: The Department is required to submit an annual report of the results collected to the Governor, the President of the Senate, and the Speaker of the House of Representatives.
Date Due:	October 1, 2019, and on each October 1 thereafter.
Bill Section Number(s):	Line 238-242

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:	N/A
Expenditures:	Additional resources will be needed to develop and implement an integrated co-occurring program. The added resources are currently indeterminate until a needs assessments can be done (i.e. which inmates will be admitted and what level of service they will require). Lines 217-219 reference the need for special training and there will likely be a need to increase contracted services funding Finally, the Department currently provides inmates with comprehensive medical services, mental health care and substance use treatment through separate contracts with different service providers. Additional procurements and/or modifications to existing contracts may be required.
Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	

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

Revenues:	Indeterminate.
Expenditures:	Indeterminate.
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.	There may be technology impact to include programming changes to create the new reentry program. There will also need to be updates to current programs and possible impact to the admissions and release calculator. Cost Estimate Estimated Hours: 300 Estimated Cost Per Hour: $85.00 Estimated Total Cost: $25,500

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

[i] Taxman, F.S. & M Thannner (2006) Risk, Need, and Responsivity (RNR): It all depends. *Crime & Delinquency* 52:1

[ii] Joplin, L., Bogue, B., Campbell, V., Carey, M., Clawson, E., Faust, D., Florio, K., Wasson, B., and W. Woodward. (2004) Using an Integrated Model to Implement Evidence-based Practices in Corrections. International Community Corrections Association and American Correctional Association.

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 1334
INTRODUCER:	Senator Brandes
SUBJECT:	Criminal Justice
DATE:	March 15, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cox	Jones	CJ	**Pre-meeting**
2.			JU	
3.			AP	

I. Summary:

SB 1334 makes changes to a number of provisions related to the criminal justice system, including:

- Authorizing counties to establish a supervised bond program, which allows eligible defendants to be released on active electronic monitoring, continuous alcohol monitoring, or both, subsequent to the administration of a risk assessment instrument (RAI) by the county's chief correctional officer (sheriff) and acceptance into the program;
- Authorizing each judicial circuit to enter an administrative order, in concurrence with specified entities, to administer a RAI in preparation for first appearance or within 72 hours after arrest for use in pretrial release determinations;
- Increasing the threshold amounts of various theft offenses;
- Limiting the reclassification of specified theft offenses to adult convictions that have occurred a certain number of times within specified time frames;
- Requiring that the value of a theft be based on the fair market value of the property taken;
- Requiring the Office of Program Policy Analysis and Government Accountability to review the threshold amounts periodically and report its findings to the Governor, President of the Senate, and Speaker of the House of Representatives;
- Reducing the range of specified drug-free zones (DFZ) from 1,000 feet to 250 feet;
- Limiting the enhancement of a drug offense based on DFZs to the sale or manufacture of a controlled substance in any DFZ;
- Creating a new drug trafficking offense called "trafficking in pharmaceuticals," prohibiting the unlawful possession, sale, etc., of 120 or more dosage units containing a controlled substance described in s. 893.135, F.S.;
- Requiring the prosecution of a specified controlled substance in a dosage unit form of 120 or more to be prosecuted under the new offense of trafficking of pharmaceuticals;
- Authorizing a court to depart from the imposition of a mandatory minimum sentence in drug trafficking cases if certain circumstances are met;

- Providing immunity from arrest, charge, prosecution, or penalty for certain alcohol- or drug-related offenses to specified persons who seek medical assistance for an individual, including himself or herself, experiencing, or believed to be experiencing, an overdose;
- Authorizing the Department of Corrections (DOC) to consider an inmate to participate in a supervised community release program up to 90 days before the inmate's tentative release date as an extension of the inmate's confinement;
- Defines the term "conditional medical release";
- Creates a new conditional medical release designation entitled "inmate with a debilitating illness;" and
- Modifies the current designation of "terminally ill inmate" to apply to inmates whose death is expected within 12 months, rather than imminent.

The bill will likely result in a "negative significant" prison bed impact (i.e., a decrease of more than 25 prison beds) as a result of a number of provisions. See Section V. Fiscal Impact Statement.

Unless otherwise stated, the bill is effective October 1, 2019. The provisions related to alcohol- or drug-related overdose immunity and the mandatory minimum sentence departure provisions are effective July 1, 2019.

II. Present Situation:

Refer to Section III. Effect of Proposed Changes for discussion of the relevant portions of current law.

III. Effect of Proposed Changes:

Bond Programs (Sections 8 and 9)

Pretrial Release Subsequent to an Arrest

The Florida Constitution provides that every person charged with a crime is entitled to pretrial release with reasonable conditions.[1] There are three types of pretrial release for a person who is awaiting trial: the posting of a bail or surety bond, pretrial release conditions, or the release on his or her own recognizance.[2]

Bail and Surety Bond

The purpose of a bail determination in criminal proceedings is to ensure the appearance of a defendant at subsequent proceedings and to protect the community against unreasonable danger from the defendant.[3] Bail is a common monetary condition of pretrial release, governed by ch. 903, F.S. [4] For the defendant to be released from jail, a court may require bail by a defendant

[1] Article I, s. 14, FLA CONST. This right does not apply to persons charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great. *Id.*
[2] *See* art. I, s. 14., FLA CONST.; *See also* ss. 903.046 and 907.041. F.S.
[3] Section 903.046(1), F.S.
[4] "Bail," BLACK'S LAW DICTIONARY 606 (3d Pocket ed. 2006). The purpose of a bail bond is to guarantee the defendant's presence in court to face criminal charges.

to provide security, such as cash or a bond to ensure that he or she will return for trial and any other required court appearances.[5]

As an alternative to posting the entire bail amount, a defendant may provide a criminal surety bail bond[6] executed by a bail bond agent. Generally, the defendant or another person on the defendant's behalf, pays the bail bond agent a nonrefundable fee equal to 10 percent of the bond amount set by the court. If the defendant does not appear in court, the bail bond agent is responsible for paying the entire amount of the bond.[7]

Pretrial Release Conditions

A judge can release a defendant with any combination of the following pretrial release conditions:

- Release on the defendant's own recognizance;[8]
- Execute an unsecured appearance bond in an amount specified by the judge;
- Comply with any court-imposed restrictions on travel, association, or place of abode during the period of release;
- Be placed in the custody of a designated person or organization agreeing to supervise the defendant;
- Have a designate execute a bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof; or
- Comply with any other condition deemed reasonably necessary to assure required appearance, including a condition requiring the defendant to return to custody after specified hours.[9]

A judge also can release a defendant to a pretrial release program. Generally, judges allow a defendant to be released to a pretrial release program without posting a bond; however, a judge can require a defendant to post a bond and participate in the program.[10] Specifically, s. 907.041, F.S., provides a presumption in favor of release on nonmonetary conditions for any person who is granted pretrial release unless such person is charged with a dangerous crime.[11] These

[5] *Universal Bail Bonds v. State*, 929 So.2d 697, 699 (Fla. 3d DCA 2006).
[6] Sections 903.011 and 903.105, F.S.
[7] Office of Program Policy Analysis & Gov't Accountability, *County Pretrial Release Programs: Calendar Year 2017,* Report No. 18-06, at 2., November 2018, available at http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1806rpt.pdf (last visited March 12, 2019)(hereinafter cited as "OPPAGA Pretrial Report").
[8] A defendant released on his or her own recognizance (ROR) is released without a monetary requirement and without any conditions of release or supervision of any type. ROR is defined to mean the pretrial release of an arrested person who promises, usually in writing, but without supplying a surety of posting bond, to appear for trial at a later date. BLACK'S LAW DICTIONARY 606 (3d Pocket ed. 2006).
[9] Rule 3.131(b)(1), Fla. R. Crim. Pro.
[10] *Id.* If a monetary bail is required, the judge must determine a separate amount for each charge or offense. Rule 3.131(b)(2), Fla. R. Crim. Pro.
[11] *See* s. 907.041, F.S., for a list of enumerated felonies that are included in the definition of a dangerous crime.

programs supervise defendants with various methods, including electronic monitoring (EM)[12] or phone contact.[13]

A Court's Determination of Pretrial Release

The judge must consider all available relevant factors during the first appearance hearing to determine what form of release is necessary to assure the defendant's appearance and the community's safety, including factors such as:

- The nature and circumstances of the offense charged.
- The weight of the evidence against the defendant.
- The defendant's family ties, length of residence in the community, employment history, financial resources, and mental condition.
- The defendant's past and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at court proceedings.
- The nature and probability of danger to the community if the defendant is released.[14]

Section 903.047, F.S., provides additional conditions that a defendant must comply with upon release from custody pending trial, including:

- Refraining from criminal activity of any kind;
- Refraining from contact of any type with the victim, if so ordered by the court; and
- Complying with all conditions of pretrial release.

Standard Bond Schedule

Florida does not have a statewide bond schedule, but each circuit has developed a standard bond schedule. Courts create uniform bail bond schedules to ensure that alleged offenders are provided equal treatment when charged with similar crimes. The amounts generally apply to all felonies, misdemeanors, and county or municipal ordinance violations as the presumptive bond to be set unless ordered differently by a judge.[15] Even though a county may have an established standard bond schedule, a judge has the discretion to impose a bond that is above or below such schedule if he or she deems it is necessary based upon the circumstances of the case.[16]

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[12] An EM is a tamper-resistant device worn on the body that monitors the location of a person at all times of the day. The monitoring agency is notified for various violations of the terms of supervision, such as if the person travels to a location he or she is not authorized to be or if the device is removed by the person. EM systems can be either "passive" or "active" and are typically operated through ratio frequency or global positioning system (GPS) monitoring. Office of Juvenile Justice and Delinquency Prevention, *Home Confinement and Electronic Monitoring*, October, 2014, available at https://www.ojjdp.gov/mpg/litreviews/Home_Confinement_EM.pdf (last visited March 12, 2019).

[13] *See* OPPAGA Pretrial Report, at 9.

[14] Section 903.046(2), F.S. *See also* Rule 3.131(b)(3), Fla. R. Crim. Pro.

[15] Some common ways to address the bond schedules are to either have a standard based on the degree of the offense (for example a $5,000 bond for all second degree felonies, as seen in the Tenth Judicial Circuit) or a specific amount agreed upon for a specific offense, as seen in the Sixth Judicial Circuit. *See* Tenth Judicial Circuit, In and For Hardee, Highlands, and Polk Counties, *Administrative Order No. 2-49.8, IN RE: Uniform Bond Schedule*, available at http://www.jud10.flcourts.org/sites/default/files/adminOrders/2-49.8.pdf; Sixth Judicial Circuit, In and For Pasco and Pinellas Counties, *Administrative Order NO. 2009-021 PA-CIR, RE: Uniform Bond Schedule – Pasco County*, available at http://www.jud6.org/LegalCommunity/LegalPractice/AOSAndRules/aos/aos2009/2009-021.htm (all sites last visited March 12, 2019).

[16] *Mehaffie v. Rutherford*, 143 So.3d 432, 434 (Fla. 1st DCA 2014).

Violation of Pretrial Release Conditions

A defendant who does not comply with the terms of the pretrial release can have his or her bond forfeited if certain factors are proven.[17] Under s. 903.0471, F.S., the court may revoke, on its own motion, pretrial release and order pretrial detention if the court finds probable cause to believe that the defendant committed a new crime while on pretrial release.[18]

Supervised Bond Programs in Florida

There is a movement towards bail reform in the United States, with some circuits, including Pinellas County in Florida, implementing a new model for releasing defendants while awaiting trial. The new programs typically require the administration of a risk assessment instrument (RAI), which is then utilized to determine the release conditions for the defendant.

Pinellas County created a supervised bond program (Bond Program) which has been operating since 2014.[19] Sheriff Gualtieri, the chief correctional officer for Pinellas County, testified in the Senate Criminal Justice Committee on January 8, 2018, that this program was created in an effort to reduce the jail population in Pinellas County and avoid the need to build a larger facility.[20] Sheriff Gualtieri reported that while the bond amounts imposed by the court were proper to ensure public safety and compliance the judges could not lower the bail while still ensuring public safety and compliance without more oversight. As a result, a number of defendants remained in custody for months unable to meet the bail amount imposed.[21]

Upon agreement from the judiciary and in partnership with the bail bond industry, the Pinellas County Sheriff's Office established the Bond Program that requires active EM, continuous alcohol monitoring,[22] or both.[23]

The Pinellas County Sheriff's Office averages approximately 200 people per day on active supervision through the Bond Program.[24] Sheriff Gualtieri reported that of all the defendants that have been released on the Bond program, 99.5 percent have appeared for court hearings as required and 94.9 percent did not commit a new crime while in the program.[25] Of the total cases supervised on the Bond Program, 45 percent were felonies, 30 percent were misdemeanors, and 25 percent were for the offense of driving under the influence (both felonies and

[17] *See* s. 903.26, F.S.
[18] This discretion is provided regardless of the conditions for granting pretrial release provided for in s. 907.041, F.S.
[19] Presentation by Sheriff Bob Gualtieri, Pinellas County Sheriff's Office, in the Senate Criminal Justice Committee, January 8, 2018 (hereinafter cited as "Committee Presentation"); *See also* Sheriff Bob Gualtieri, PowerPoint Presentation, *ROR and Supervised Bond Presentation* (on file with the Criminal Justice Committee)(hereinafter cited as "Supervised Bond PowerPoint").
[20] Sheriff Gualtieri testified that the Pinellas County jail was crowded in 2014 with approximately 70 percent of the inmates being pretrial detainees. Supervised Bond PowerPoint, p. 3.
[21] Supervised Bond PowerPoint, p. 2-4.
[22] Continuous Alcohol Monitoring systems are tamper-resistant automated alcohol-monitoring devices that use transdermal testing to measure the amount of alcohol in a person's body, known as transdermal alcohol content (TAC). When alcohol is consumed, ethanol migrates through the skin and is excreted through perspiration. *See* National Institute of Justice, *Secure Continuous Remote Alcohol Monitoring (SCRAM) Technology Evaluability Assessment*, available at https://www.ncjrs.gov/pdffiles1/nij/secure-continuous-remote-alcohol.pdf (last visited March 12, 2019).
[23] Supervised Bond PowerPoint, p. 4-5.
[24] Supervised Bond PowerPoint, p. 7.
[25] *Id*. at p. 9.

misdemeanors).[26] Sheriff Gualtieri reported that these programs have resulted in a savings of $38.9 million annually.[27]

Evidence-Based Risk Assessment Tools

RAIs measure a defendant's criminal risk factors and specific needs that, if addressed, will reduce the likelihood of future criminal activity.[28] RAIs consist of a set of questions that guide face-to-face interviews with a defendant, intended to evaluate behaviors and attitudes that research shows are related to criminals reoffending. The questioner typically supplements the interview with an official records check. The RAI then calculates an overall score that classifies a defendant as being at high, moderate, or low risk for reoffending.[29]

Research has identified both static and dynamic risk factors that are related to criminal behavior. Static risk factors[30] do not change, while dynamic risk factors[31] either can change on their own or change through an intervention. The Risk-Needs-Responsivity (RNR) model has become the dominant paradigm in risk and needs assessment.[32] The RNR principle refers to predicting which inmates have a higher probability of recidivating, and treating the criminogenic needs of those higher risk inmates with appropriate programming and services based on their level of need. In general, research suggests that the most commonly used assessment instruments can, with a moderate level of accuracy, predict who is at risk for violent recidivism. It also suggests that no single instrument is superior to any other when it comes to predictive validity.[33]

Use of Risk Assessment Instruments by the Department of Corrections

The DOC has created a RAI, known as Spectrum, which is administered to an inmate at reception through motivational interviewing techniques.[34] Spectrum, as well as its predecessor, the Corrections Integrated Needs Assessment System, is based on the RNR model and contains

[26] *Id*. at p. 10.
[27] *Id*. at p. 16. This savings takes into account the cost it would require to house an additional 900 inmates per day with the per diem rate in effect at the time of the presentation and the cost to run the program.
[28] Congressional Research Service, *Risk and Needs Assessment in the Federal Prison System*, Nathan James, p. 3 (July 10, 2018), available at https://fas.org/sgp/crs/misc/R44087.pdf (last visited March 12, 2019)(hereinafter cited at CRS Report).
[29] *Id*. 2-4.
[30] Some examples of static factors considered include age at first arrest, gender, past problems with substance or alcohol abuse, prior mental health problems, or a past history of violating terms of supervision. CRS Report, Summary Page.
[31] Dynamic risk factors, also called "criminogenic needs," can be affected through interventions and include factors such as current age, education level, or marital status; being currently employed or in substance or alcohol abuse treatment; and having a stable residence. "Criminogenic" is commonly understood to mean factors that can contribute to criminal behavior. *Id*.
[32] The risk principle states that high-risk offenders need to be placed in programs that provide more intensive treatment and services while low-risk offenders should receive minimal or even no intervention. The need principle states that effective treatment should focus on addressing needs that contribute to criminal behavior. The responsivity principle states that rehabilitative programming should be delivered in a style and mode that is consistent with the ability and learning style of the offender. *Id*.
[33] *Id*.
[34] DOC, Spectrum Video, available at https://www.youtube.com/watch?v=F1sQsOE6BgM (last visited March 12, 2019) (hereinafter cited as "Spectrum Video"); DOC, *Program Information: Compass 100, Spectrum, Academic & Workforce Education/GED* (on file with the Senate Criminal Justice Committee)(hereinafter cited as "DOC Program Information").

responsivity elements.[35] Spectrum has been independently verified through the School of Criminology at the Florida State University.[36]

Spectrum hosts an array of assessments and screenings across multiple disciplines including mental health, substance abuse, and academic and workforce education.[37] Spectrum calculates an individual's overall risk of returning to prison upon release and identifies those needs within seven criminogenic domains[38] and three core program areas.[39]

Effect of the Bill

Supervised Bond Program (Section 8)

The bill creates s. 907.042, F.S., authorizing each county to create a Bond Program. The terms of each county's Bond Program must be developed with the concurrence of the chief judge of the circuit, the sheriff, the state attorney (SA), and the public defender (PD). However, a county that has already established and implemented a Bond Program on or before October 1, 2019, may continue to operate without such concurrence if the program complies with the specified program and RAI requirements discussed below.

A Bond Program established pursuant to this bill must, at a minimum:

- Require the sheriff to administer the Bond Program.
- Use the results of a validated pretrial RAI that has been administered to the defendant for the purposes of pretrial release or supervision determinations.
- Assess the defendant's behavioral characteristics and needs that increase the likelihood of criminal activity and that are able to be addressed through the placement of services.
- Coordinate necessary services and supervision through the Bond Program to reduce the likelihood of criminal activity and to increase the likelihood of compliance with pretrial release conditions.
- Require the appropriate court to make a final determination regarding whether a defendant will be placed into the Bond Program. If such a determination is made, the court must also:
    - Determine the conditions of the individualized supervision plan with which the defendant must comply, including, but not limited to, the requirement that the defendant must:
        - Be placed on active EM or active continuous alcohol monitoring, or both, dependent upon the level of risk indicated by the RAI; and
        - Communicate weekly, via telephone or in-person contact, as determined by the court, with the Sheriff's office.

[35] Email from Jared Torres, DOC, Director of Legislative Affairs (January 25, 2018)(on file with Senate Criminal Justice Committee).
[36] Letter from Dr. William D. Bales and Jennifer M. Brown, to Former Secretary Julie Jones, January 19, 2018 (on file with the Senate Criminal Justice Committee). Dr. Bales provides that Spectrum "produces a level of predictive accuracy that is above the conventional threshold of acceptability and is consistent with risk assessment systems used by other correctional systems throughout the United States."
[37] DOC Program Information.
[38] The criminogenic domains include social awareness (antisocial personality); criminal associates; substance abuse history; family and marital relationships; wellness; criminal thinking or attitude; and employment and education history. Spectrum Video.
[39] The three core program areas include GED, Career & Technical skills (vocation), and substance use treatment and is part of the needs portion of the RNR model as they address criminogenic risk factors. *Supra* n. 35

  - Review the bond of a defendant who is being accepted into the Bond Program to determine if a reduction of the court-ordered bond, up to and including its entirety, is appropriate.
- Establish procedures for reassessing or terminating defendants from the Bond Program who do not comply with the terms of the individualized supervision plan.

Each county that establishes a Bond Program must use a RAI that is validated by the DOC. A RAI that is used for other pretrial release determinations in accordance with s. 907.0421, F.S., discussed below, and that has previously been validated by the DOC does not need to be validated for use in the Bond Program. Additionally, the bill provides that a Bond Program may continue to operate while the DOC validates the RAI used by such program if the Bond Program is in operation on October 1, 2019.

The bill requires each county that establishes a Bond Program under the bill, or that has an existing Bond Program that operates in compliance with the bill, to provide an annual report to the OPPAGA. The bill requires the reports beginning in 2020 and then by October 1 of each year thereafter. The reports must include:
- The results of the administration of the RAI;
- The programming used for defendants who received the assessment and were accepted into the Bond program;
- The success rate of the program; and
- Any savings realized by the county as a result of such defendants being released from custody pending trial.

The bill also requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to compile the results of such county reports and include this data in an independent section of its annual pretrial release report developed and submitted to the President of the Senate and the Speaker of the House of Representatives in accordance with s. 907.044, F.S.

Lastly, the bill provides legislative findings in support of the need for the creation of Bond Programs throughout the state, including the finding that:
- Using evidence-based methods to identify defendants who can successfully comply with specified pretrial release conditions provides a more consistent and accurate assessment of a defendant's risk of noncompliance.
- Both the community and a low-risk defendant are better served when he or she is provided the opportunity to maintain employment and familial responsibilities in the community under a pretrial release plan that ensures the best chance of complying with all pretrial conditions.
- Providing pretrial release to certain defendants who may not otherwise be eligible for pretrial release on unsupervised nonmonetary conditions and who do not have the ability to satisfy the bond imposed by the court is beneficial.
- The creation of Bond Programs will reduce the likelihood that defendants will remain unnecessarily in custody pending trial.

The bill provides the necessary rulemaking authority to the DOC to implement the bill.

This section of the bill is effective October 1, 2019.

Risk Assessment Instruments in Pretrial Decisions (Section 9)

The bill also creates s. 907.0421, F.S., authorizing the chief judge of each judicial circuit, with the concurrence of the sheriff, the SA, and the PD, to administer a RAI in preparation for first appearance or within 72 hours after arrest for use in pretrial release determinations. To utilize the provisions of the bill, the circuit must enter an administrative order to authorize the use of RAIs.

The bill further provides that the RAI must be objective, standardized, and based on analysis of empirical data and risk factors relevant to failure of pretrial release conditions. The bill further provides that the risk factors considered must be those that:

- Evaluate the likelihood of failure to appear in court and the likelihood of rearrest during the pretrial release period; and
- Have been validated through data based on the pretrial population.

For circuits that enter into an administrative order in accordance with s. 907.0421, F.S., the bill requires that the RAI results be used as supplemental factors for the court to consider when determining the appropriateness of first appearance pretrial release. Further, the RAI results must be used to determine the conditions of release which are appropriate based on predicted level of risk and failure of pretrial release conditions. The bill requires the court to impose the least restrictive conditions necessary to reasonably ensure that the defendant will be present at subsequent hearings.

The bill retains the court's sole discretion to impose any pretrial conditions.

The bill requires that the DOC independently validate any RAI used by a circuit in pretrial release determinations. A circuit may begin to use the specified RAI in pretrial release determinations immediately after validation and implementation of training all local staff who will administer the RAI to defendants.

As is required of circuits that establish the above mentioned Bond Program, the bill requires each circuit that establishes an administrative order for the use of a RAI in first appearance pretrial release determinations, beginning in 2020 and every October 1 thereafter, to provide an annual report to the OPPAGA which details:

- The RAI used;
- The results of the administration of the RAI, including the results of defendants who were detained in custody awaiting trial and those who were released from custody awaiting trial;
- The frequency that released defendants failed to appear at one or more subsequent court hearings; and
- The level of risk determined in the RAI associated with a defendant that failed to appear for any court hearings.

The OPPAGA must compile the results of such reports and include the data in an independent section of its annual report developed and submitted to the President of the Senate and the Speaker of the House of Representatives in accordance with s. 907.044, F.S.

The bill also provides findings to support the use of RAIs in considering pretrial release decisions, including the finding that:

- There is a need to use evidence-based methods to identify defendants who can successfully comply with specified pretrial release conditions.
- The use of actuarial instruments that classify offenders according to the likelihood of failure to appear at subsequent hearings or to engage in criminal conduct while awaiting trial provides a more consistent and accurate assessment of a defendant's risk of noncompliance while on pretrial release pending trial.
- Research indicates that using RAIs ensures successful compliance with pretrial release conditions imposed on a defendant and reduces the likelihood of a defendant remaining unnecessarily in custody pending trial.

The bill provides the necessary rulemaking authority to the DOC to implement the bill.

This section of the bill is effective October 1, 2019.

Theft (Sections 2, 3, 14-37, and 64)

There are approximately 3,000 people currently incarcerated in the DOC for felony theft convictions and just over 24,000 people on state community supervision for a felony theft crime in Florida.[40] Since 2000, 37 states have increased the threshold dollar amounts for felony theft crimes.[41] Such increases ensure that associated "criminal sentences don't become more severe over time simply because of natural increases in the prices of consumer goods."[42]

The majority of states (30 states) and the District of Columbia set a $1,000-or-greater property value threshold for felony grand theft. Fifteen states have thresholds between $500 and $950, and five states, including Florida, have thresholds below $500. Between 2003 and 2015, nine states, including Alabama, Louisiana, Mississippi, and Texas, raised their felony thresholds twice.[43]

Property Theft

Section 812.014, F.S., provides that a person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.[44]

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[40] Email from Scotti Vaughan, Department of Corrections, Deputy Legislative Affairs Director, February 6, 2019 (on file with Senate Criminal Justice Committee).
[41] Pew Charitable Trusts, *The Effects of Changing State Theft Penalties*, (February 2016), available at http://www.pewtrusts.org/~/media/assets/2016/02/the_effects_of_changing_state_theft_penalties.pdf?la=en; *See also* Alison Lawrence, *Making Sense of Sentencing: State Systems and Policies*, National Conference of State Legislatures, (June 2015), available at http://www.ncsl.org/documents/cj/sentencing.pdf (all sites last visited March 12, 2019).
[42] John Gramlich and Katie Zafft, *Updating State Theft Laws Can Bring Less Incarceration – and Less*, Stateline, Pew Charitable Trusts, (March 1, 2016), available at http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2016/03/31/updating-state-theft-laws-can-bring-less-incarceration-and-less-crime (last visited March 12, 2019).
[43] *Id.*
[44] Section 812.014(1), F.S.

Second degree petit theft, a second degree misdemeanor, is theft of property valued at less than $100.[45] First degree petit theft, a first degree misdemeanor, is theft of property valued at $100 or more but less than $300.[46]

Third degree grand theft, a third degree felony,[47] is theft of:
- Property valued at $300 or more, but less than $20,000.
- Specified property including, but not limited to:
  - A will, codicil, or testamentary instrument;
  - A firearm;
  - Any fire extinguisher;
  - Any stop sign; or
  - Property taken from a designated, posted construction site;[48] and
- Property from a dwelling or its unenclosed curtilage if the property is valued at $100 or more, but less than $300.[49]

The last time the Legislature increased the minimum threshold property value for third degree grand theft was in 1986.[50] The third degree grand theft provisions related to property taken from a dwelling or its unenclosed curtilage were added in 1996. The petit theft provisions were also amended, including the thresholds, in 1996.[51]

Retail Theft

Section 812.015(1)(d), F.S., defines retail theft as:
- The taking possession of or carrying away of merchandise, property, money, or negotiable documents;
- Altering or removing a label, universal product code, or price tag;
- Transferring merchandise from one container to another; or
- Removing a shopping cart, with intent to deprive the merchant of possession, use, benefit, or full retail value.

[45] Section 812.014(3)(a), F.S. A second degree misdemeanor is punishable by up to 60 days in jail and a fine of up to $500. Sections 775.082 and 775.083, F.S.
[46] Section 812.014(2)(e), F.S. A first degree misdemeanor is punishable by up to one year in jail and a fine of up to $1,000. Sections 775.082 and 775.083, F.S.
[47] A third degree felony is punishable by up to 5 years' incarceration and a fine of up to $5,000. Sections 775.082 and 775.083, F.S.
[48] Section 812.014(2)(c), F.S.
[49] Section 812.014(2)(d), F.S.
[50] Chapter 86-161, s. 1, L.O.F. In July 1986, according to the Consumer Price Index Inflation Calculator of the U.S. Department of Labor's Bureau of Labor Statistics, $300 dollars had the same buying power as $692.54 dollars did in February 2019. In October 1996, $300 dollars had the same buying power as $479.04 dollars did in February 2019. Consumer Price Index Inflation Calculator of the U.S. Department of Labor's Bureau of Labor Statistics, available at https://www.bls.gov/data/inflation_calculator.htm (last visited March 11, 2019).
[51] Chapter 96-388, s. 49, L.O.F.

Retail theft is a third degree felony if the theft involves property valued at $300 or more and the person:

- Individually, or in concert with one or more other persons, coordinates the activities of one or more individuals in committing the offense;
- Commits theft from more than one location within a 48-hour period;[52]
- Acts in concert with one or more other individuals within one or more establishments to distract the merchant, merchant's employee, or law enforcement officer in order to carry out the offense, or acts in other ways to coordinate efforts to carry out the offense; or
- Commits the offense through the purchase of merchandise in a package or box that contains merchandise other than, or in addition to, the merchandise purported to be contained in the package or box.[53]

Retail theft is a second degree felony[54] if the person has previously been convicted of third degree felony retail theft or individually, or in concert with one or more other persons, coordinates the activities of one or more persons in committing the offense of retail theft where the stolen property has a value in excess of $3,000.[55] The statute also requires a fine of not less than $50 and no more than $1,000 for a second or subsequent conviction for petit theft from a merchant, farmer, or transit agency.[56]

The threshold for a third degree felony retail theft was created by the Legislature in 2001.[57]

Reclassification of Theft Offenses

Certain theft offenses are reclassified to the next higher degree offense if the person committing the offense has previous theft convictions. A petit theft offense is reclassified to a third degree felony, if the person has two previous convictions of any theft.[58] A third degree felony retail theft offense is reclassified to a second degree felony if the person has a previous retail theft in violation of s. 812.015(8), F.S.[59]

There are no time limits between theft convictions related to theft crime level and penalty enhancements.

Juveniles who are adjudicated delinquent for theft offenses are considered to have been "convicted" of theft and are treated the same as adults for purposes of these penalty enhancements.[60]

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[52] In the first two instances, the amount of each individual theft is aggregated to determine the value of the property stolen. Section 812.015(8)(a) and (b), F.S.
[53] Section 812.015(8), F.S.
[54] 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.
[55] Section 812.015(9), F.S.
[56] Section 812.015(2), F.S.
[57] Chapter 01-115, s. 3, L.O.F. In July 2001, $300 dollars had the same buying power as $426.03 dollars did in February 2019. *Supra* n. 50.
[58] Section 812.014(3)(c), F.S.
[59] Section 812.015(9)(a), F.S.
[60] *T.S.W. v. State*, 489 So. 2d 1146 (Fla. 2d DCA 1986); *R.D.D. v. State*, 493 So. 2d 534 (Fla. 5th DCA 1986).

Effect of the Bill

Property Theft (Section 2)

The bill amends s. 812.014(2)(c), F.S., increasing the minimum threshold amounts for a third degree felony grand theft from $300 to $1,500. For property taken from a dwelling or enclosed curtilage, the theft threshold amounts are modified from $100 or more, but less than $300, to $1,500 or more, but less than $5,000. The first degree misdemeanor petit theft threshold amount is modified from $100 or more, but less than $300, to $500 or more, but less than $1,500.

The bill also deletes a will, codicil, or other testamentary document and a fire extinguisher from the list of property that constitute a third degree grand theft, regardless of the value of the property taken.[61]

Lastly, the bill modifies the enhancement statute providing that a first degree petit theft becomes a third degree felony only if:

- The offender has previously been convicted two or more times *as an adult* for any theft; and
- The most recent subsequent petit theft offense occurred within three years of the expiration of the offender's sentence for the most recent theft conviction.

Retail Theft (Section 3)

The bill amends s. 812.015, F.S., to increase the property value of third degree felony retail theft from $300 or more, to $1,500 or more. The bill enhances retail theft to a second degree felony only if:

- The offender has previously been convicted of retail theft *as an adult*; and
- The subsequent retail theft offense occurred within three years of the expiration of the offender's sentence for the most recent retail theft conviction.

Value and Periodic Threshold Adjustment (Sections 2 and 3)

The bill amends ss. 812.014 and 812.015, F.S., providing that the determination of the value of property taken in violation of these sections must be based on the fair market value of the property at the time the taking occurred.

The bill also amends ss. 812.014 and 812.015, F.S., requiring the OPPAGA to do a study of the theft thresholds every fifth year and make recommendations regarding whether changes to the theft thresholds are appropriate. The OPPAGA is required to provide a report of the findings to the Governor, President of the Senate, and Speaker of the House of Representatives.

The bill amends s. 921.0022, F.S., to conform the Criminal Punishment Code offense severity ranking chart to changes made by the bill. The bill reenacts a number of sections to incorporate changes made by the act.

These sections of the bill are effective October 1, 2019.

[61] These offenses will now be classified by the property value rather than automatically qualifying as a third degree grand theft.

Drug Offenses (Sections 4-6, 13, 14, 38-50, and 64-66)

Punishment of Prohibited Drug Acts

Drug Possession - General

Section 893.13, F.S., in part, punishes unlawful possession, sale, purchase, manufacture, and delivery of a controlled substance.[62] 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.[63]

Drug Offenses in a Drug Free Zone

Florida law enhances the penalty for certain controlled substances offenses when those offenses are committed within 1,000 feet of certain places or facilities.[64] These protected areas are sometimes referred to as "drug-free zones" (DFZ).[65] The DFZ provisions do not require either intent to commit a drug offense in a DFZ[66] or knowledge that the offense is being committed within a DFZ.[67] Florida's current DFZs are created in, on, or within 1,000 feet of:

- The real property comprising a child care facility[68] between the hours of 6 a.m. and midnight, if the owner or operator of the facility posts a sign according to specifications set forth in s. 893.13, F.S.;[69]
- The real property comprising a public or private elementary, middle, or secondary school between the hours of 6 a.m. and midnight;[70]
- The real property comprising a state, county, or municipal park;[71]
- The real property comprising a community center;[72]
- The real property comprising a publicly owned recreational facility;[73]

[62] *See* s. 893.03(1)-(5), F.S., classifies controlled substances into five categories, 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 the schedule classification of a substance are the "potential for abuse" of the substance and whether there is a currently accepted medical use for the substance in the United States.
[63] *See e.g.*, s. 893.13(1)(a) and (b), F.S.
[64] Section 893.13(1), F.S.
[65] The DFZ provisions discussed in this analysis differ from similarly-named provisions enacted by local ordinance that punish with trespassing penalties those who engage in drug activity in designated zones.
[66] *Spry v. State*, 912 So. 2d 384, 386 (Fla. 2d DCA 2005).
[67] *Dickerson v. State*, 783 So. 2d 1144, 1148 (Fla. 5th DCA 2001), *review denied*, 819 So. 2d 134 (Fla. 2002).
[68] Section 402.302(2), F.S., provides that a "child care facility" includes any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. "Child care facility" does not include: public schools and nonpublic schools and their integral programs, except as provided in s. 402.3025, F.S.; summer camps having children in full-time residence; summer day camps; bible schools normally conducted during vacation periods; and operators of transient establishments, as defined in ch. 509, F.S., which provide child care services solely for the guests of their establishment or resort, provided that all child care personnel of the establishment are screened according to the level 2 screening requirements of ch. 435, F.S. *Id*.
[69] Section 893.13(1)(c), F.S.
[70] *Id*.
[71] *Id.* There is not a time restriction with this provision.
[72] *Id.* "Community center" means a facility operated by a nonprofit community-based organization for the provision of recreational, social, or educational services to the public. *Id.* There is not a time restriction with this provision.
[73] *Id*. There is not a time restriction with this provision.

- The real property comprising a public or private college, university, or other postsecondary educational institution;[74]
- A physical place of worship at which a church or religious organization regularly conducts religious services;[75]
- A convenience business in operation between the hours of 11 p.m. and 5 a.m.;[76]
- The real property comprising a public housing facility; [77] and
- The real property comprising an assisted living facility.[78]

Section 893.13(1)(a), F.S., punishes the sale, manufacture, or delivery, or possession with intent to sell, manufacture, or deliver, a controlled substance as a first degree misdemeanor, third degree felony, or second degree felony, depending upon the type of controlled substance involved in the drug activity.[79] However, when this drug activity is committed in, on, or within 1,000 feet[80] of certain places and facilities, the degree of the offense is increased by one degree and the penalty is enhanced.

Drug Trafficking

Drug trafficking, which is punished in s. 893.135, F.S., consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state (importation), or knowingly being in actual or constructive possession of, certain controlled substances in a statutorily-specified quantity. Drug trafficking offenses are first degree felonies[81] 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.[82] 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

[74] Section 893.13(1)(d), F.S. There is not a time restriction with this provision.
[75] Section 893.13(1)(e), F.S.
[76] *Id.* Section 812.171, F.S., defines a "convenience business" as any place of business that is primarily engaged in the retail sale of groceries, or both groceries and gasoline, and that is open for business at any time between the hours of 11 p.m. and 5 a.m. The term "convenience business" does not include: a business that is solely or primarily a restaurant; a business that always has at least five employees on the premises after 11 p.m. and before 5 a.m.; and a business that has at least 10,000 square feet of retail floor space.
[77] Section 893.13(1)(f), F.S. "Real property comprising a public housing facility" means real property, as defined in s. 421.03(12), F.S., of a public corporation created as a housing authority pursuant to part I of ch. 421, F.S. *Id.* There is not a time restriction with this provision.
[78] Section 893.13(1)(h), F.S. There is not a time restriction with this provision. Section 429.02(5), F.S., defines an "assisted living facility" as any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.
[79] For example, s. 893.13(1)(a)1., F.S., provides that selling cocaine is a second degree felony, but s. 893.13(1)(a)2., F.S., provides that selling cannabis is a third degree felony. Penalties are generally greatest for drug activity (like drug sales) that involve Schedule 1 and 2 controlled substances.
[80] Distance is measured "as the crow flies, not as the car drives." *Howard v. State*, 591 So. 2d 1067, 1068 (Fla. 4th DCA 1991). For example, with the K-12 school DFZ, distance is measured in a straight line from the boundary of the school's real property.
[81] 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.
[82] *See* s. 893.135, F.S.

of imprisonment and a mandatory fine of $50,000.[83] 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 of imprisonment and a mandatory fine of $100,000.[84]

Drug Trafficking Exception

Pharmaceutical drugs are approved by the Food and Drug Administration for many medical uses. Some of these drugs contain a controlled substance described in s. 893.135, F.S. However, s. 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).[85]

In the case that a pharmaceutical drug described above is unlawfully possessed, sold, etc., in dosage units (pills, tablets, etc.), the dosage units must be weighed to determine if it meets the threshold gram weight for charging drug trafficking. A pharmaceutical drug is considered a mixture when the dosage unit contains a controlled substance described in s. 893.135, F.S., and other ingredients that are not a controlled substance and the weight for purposes of determining the threshold amount is the total weight of the pill, including both controlled and non-controlled substance ingredients.[86]

Criminal Punishment Code

The Criminal Punishment Code[87] (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (levels 1-10).[88] 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 and points may also be added or multiplied for other enumerated factors. The lowest permissible sentence is when the total sentence points are equal to or less than 44 points is any nonstate prison sanction, unless the court determines that a prison sentence is appropriate. If the total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by a specified formula.[89] Absent mitigation,[90] the permissible sentencing range under

[83] Section 893.135(1)(b)1.a., F.S.
[84] Section 893.135(1)(b)1.b., F.S.
[85] *See* s. 893.135(1), F.S.; *See also O'Hara v. State*, 964 So.2d 839, 841 (Fla. 2d. DCA 2007).
[86] 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."
[87] 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.
[88] 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.
[89] Section 921.0024, F.S., provides the formula is the total sentence points minus 28 times 0.75.
[90] 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.

the Code is generally the lowest permissible sentence up to and including the maximum penalty provided under s. 775.082, F.S.[91]

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 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."[92] 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.

Effect of the Bill

Drug Free Zones (Section 4)

The bill reduces the DFZ around parks, community centers, publicly owned recreational facilities, colleges and universities, public housing facilities, and convenience businesses from 1,000 feet to 250 feet. The bill does not reduce the distance for DFZs around K-12 schools, child care facilities, places of worship, or assisted living facilities.

The bill also provides that only the sale or manufacture of a controlled substance in a DFZ is subject to an enhanced penalty under s. 893.13, F.S. Currently, controlled substance acts applicable to DFZ violations include controlled substance sales, manufacture, delivery, and possession with intent to sell, manufacture, or deliver.

The bill also amends s. 921.0024, F.S., amending the descriptions of DFZ violations ranked in the chart to reflect the changes made by the bill, but does not change the ranking level.

Trafficking in Pharmaceuticals (Section 5)

The bill creates a new drug trafficking offense entitled "trafficking in pharmaceuticals," which prohibits a person from knowingly selling, purchasing, delivering, or bringing into this state, or knowingly being in actual or constructive possession of, 120 or more dosage units containing a controlled substance described in s. 893.135, F.S.

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;

[91] 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.
[92] Fla. R. Crim. P. 3.704(d)(26).

- 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.

A person who unlawfully possesses, sells, etc., 120 or more *dosage units* in violation of this new offense must be prosecuted under the new provision rather than any other drug trafficking offense. The bill does not affect prosecution of any current drug trafficking offense provided the controlled substance is not contained in a dosage unit.

If there are fewer than 120 dosage units involved in the trafficking, the person may not be charged under any drug trafficking provision, but can be charged under s. 893.13, F.S.[93]

Some drug offenders could receive a mandatory minimum term and/or mandatory fine under the bill that is substantially less than he or she could receive under current law. [94] Another difference between the new trafficking offense and current trafficking offense results from the lack of an escalation in the severity level ranking chart based on the dosage unit tiers and the fact that the bill does not rank the new offense.[95] 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 the maximum of 30 years.[96]

Mandatory Minimum Drug Trafficking Departure (Sections 6 and 13)

The bill also amends s. 893.135, F.S., authorizing a court to impose a sentence other than the mandatory minimum term of imprisonment and mandatory fine for a violation of drug trafficking if the court finds on the record that the person did not:

- Engage in a continuing criminal enterprise as defined in s. 893.20(1), F.S.
- Use or threaten violence or use a weapon during the commission of the crime.
- Cause a death or serious bodily injury.

The bill also amends s. 893.03, F.S., conforming a cross-reference to changes made by the bill, and reenacts a number of provisions to incorporate changes made by the act.

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[93] *See* s. 893.13, F.S. Penalties in s. 893.13, F.S., generally do not involve a mandatory minimum term of imprisonment.
[94] 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. For example, the OPPAGA determined that 215 oxycodone pills, each weighing 0.13 grams, equals 28 grams. Under current law, trafficking in 28 grams of these pills would require a 15-year mandatory minimum term, but under the bill, 215 dosage units (pills) would require a 3-year mandatory term. 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. *See also Opinions Are Mixed About Sentencing Laws for Painkiller Trafficking*, Report No. 12-02 (January 2012), at p. 5 (Exhibit 6), OPPAGA, available at http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1202rpt.pdf (last visited on March 12, 2019).
[95] Section 921.0023(3), F.S., provides that a first degree felony that is not ranked in the chart defaults to a level 7 ranking.
[96] Section 775.082, F.S.

This provision, including the cross-reference made to s. 893.03, F.S., is effective July 1, 2019.

Alcohol and Drug Overdoses (Sections 1 and 7)

The Legislature enacted Florida's "911 Good Samaritan Act" (Act) in 2012 to encourage people to seek medical assistance for persons having a drug overdose.[97] The Act 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.[98] Similar immunity is provided for a person who experiences a drug-related overdose and is in need of medical assistance.[99] Most other states have similar immunity laws, but 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.[100]

Data on Drug-Overdose Deaths in Florida

A recent report by the Florida Medical Examiners Commission (FMEC) cited statistics that 206,168 deaths occurred in Florida during 2017.[101] 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 12,439 cases.[102]

Some of the general statewide trends[103] noted by the FMEC in its report when comparing statewide trends for 2017 to 2016 include:

- Total drug-related deaths increased by 4.0 percent (529 more);
- 6,932 individuals (4.0 percent more) died with one or more prescription drug in their system;[104]
- 3,684 individuals (4.0 percent more) died with at least one prescription drug in their system that was identified as the cause of death;[105]
- The seven most frequent drugs found in decedents were ethyl alcohol (5,258), benzodiazepines (5,064, including 1,889 alprazolam), cocaine (3,129), cannabinoids (2,367), fentanyl (2,088), morphine (1,992), and fentanyl analogs (1,685);[106] and

[97] Ch. 2012-36, L.O.F.
[98] Section 893.21(1), F.S.
[99] Section 893.21(2), F.S.
[100] *See* National Conference of State Legislatures, *Drug Overdose Immunity and Good Samaritan Laws*, available at http://www.ncsl.org/research/civil-and-criminal-justice/drug-overdose-immunity-good-samaritan-laws.aspx (last visited on March 14, 2019).
[101] Florida Medical Examiners Commission, FDLE, *Drugs Identified in Deceased Persons by Florida Medical Examiners – 2017 Annual Report*, November 2018, p. i, available at http://www.fdle.state.fl.us/MEC/Publications-and-Forms/Documents/Drugs-in-Deceased-Persons/2017-Annual-Drug-Report.aspx (last visited on March 13, 2019).
[102] *Id.*
[103] *Id.* at p. ii.
[104] 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.*
[105] These drugs may have been mixed with other prescription drugs, illicit drugs, and/or alcohol. *Id.*
[106] 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.*

- The drugs that caused the most deaths were cocaine (2,012), fentanyl (1,743), fentanyl analogs (1,588), benzodiazepines (1,374, including 791 alprazolam deaths), morphine (1,285), ethyl alcohol (975), and heroin (944).[107]

Effect of the Bill

Alcohol Overdose Immunity (Section 1)

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

- Grants immunity from *arrest*, charge, prosecution, or penalty for:
  - Certain alcohol-related offenses[108] 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[109] 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.

This section of the bill is effective July 1, 2019.

Drug Overdose Immunity (Section 7)

The bill also 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,[110] various controlled substance offenses,[111] drug trafficking, or various drug paraphernalia offenses[112] 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, 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

[107] Fentanyl analogs (94 percent), heroin (89 percent), fentanyl (84 percent), morphine (65 percent), and cocaine (64 percent) were listed as causing death in more than 50 percent of the deaths in which these drugs were found. *Id.*
[108] Sections 562.11, F.S. (selling alcohol to a person under 21 years of age) and 562.111, F.S. (underage possession of alcohol).
[109] Section 562.111, F.S.
[110] Section 782.04(1)(a)3., F.S.
[111] Section 893.13, F.S.
[112] Section 893.147, F.S.

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

This section of the bill is effective July 1, 2019.

Extension on Confinement (Sections 10 and 51-53)

A sentence imposed by the sentencing judge reflects the length of actual time to be served, lessened only by the application of gain-time, and may not be reduced in an amount that results in the defendant serving less than 85 percent of his or her term of imprisonment.[113]

However, there are a limited number of instances where an inmate who is in the custody of the DOC may continue serving his or her sentence outside the physical walls of a prison. When a reasonable belief exists that an inmate will adhere to conditions placed upon him or her, s. 945.091, F.S., authorizes the DOC to allow an inmate to leave the confines of a physical facility unaccompanied for a specified period of time to:

- Visit a:
  - Dying relative or attend a funeral of a relative;
  - Specified location to arrange for employment or for a residence for use upon release;
  - Specified place to aide in the successful transition back into the community;
  - Specifically designated location for any other compelling reason;[114]
- Work at paid employment;[115]
- Participate in an educational or training program;[116]
- Voluntarily serve a public or nonprofit agency or faith-based service group in the community;[117] or
- Participate in a residential or nonresidential rehabilitative program.[118]

[113] Section 944.275, F.S., provides for various types of incentive and meritorious gain-time.
[114] Section 945.091(1)(a), F.S. An inmate released from the custody of a facility under this subsection must return to the same or another facility as designated by the DOC.
[115] This provision is commonly referred to as "Work Release." Section 945.091(1)(b), F.S., further provides that this form of release occurs while the inmate continues as an inmate of the institution or facility in which the inmate is confined. The only time in which the inmate is released unaccompanied is during the hours of his or her employment, education, training, or service and traveling to and from such approved activity. An inmate is permitted to travel to and from the place of employment, education, or training by walking, bicycling, or using public transportation or transportation that is provided by a family member or employer.
[116] Section 945.091(1)(b), F.S.
[117] *Id*.
[118] Section 945.091(1)(c), F.S. The treatment program must be operated by a public or private nonprofit agency, including faith-based service groups, with which the DOC has contracted for the treatment of such inmate. The provisions of ss. 216.311 and 287.057, F.S., must apply to all contracts considered under this provision. The DOC must ensure each agency provides appropriate supervision of inmates participating in such program.

The DOC must perform an investigation to determine whether the inmate is suitable for consideration of extension of his or her confinement prior to being approved for one of the provisions described above.[119]

Prior to July 1, 1996, a fourth provision, known as the Supervised Community Release Program, existed that allowed inmates to be released on an extension of confinement to participate in a rehabilitative community reentry program on conditional release.[120] This release was for a period of no more than 90 days prior to the termination of his or her confinement. The inmate was released and placed on community supervision, but was not considered to be in the custody or care of the DOC or in confinement. If the inmate did not demonstrate sufficient progress with the reentry program, the DOC was able to terminate the inmate's participation and return the inmate to the prior institution or a new facility as designated by the DOC.[121]

Gain-time

Gain-time awards, which result in deductions to the court-ordered sentences of specified eligible inmates, are used to encourage satisfactory prisoner behavior or to provide incentives for prisoners to participate in productive activities while incarcerated.[122] An inmate is not eligible to earn or receive gain-time in an amount that results in his or her release prior to serving a minimum of 85 percent of the sentence imposed.[123] The only forms of gain-time that can currently[124] be earned are incentive gain-time,[125] meritorious gain-time,[126] and educational achievement gain-time.[127]

The procedure for applying gain-time awards to an inmate's sentence is dependent upon the calculation of a "maximum sentence expiration date" and a "tentative release date." The tentative release date may not be later than the maximum sentence expiration date.[128] The maximum sentence expiration date represents the date when the sentence or combined sentences imposed

[119] Section 945.091(1), F.S.
[120] Section 945.091(1)(d), F.S. (1995). This paragraph was repealed in ch. 96-312, L.O.F.
[121] *Id*.
[122] Section 944.275(1), F.S. Section 944.275(4)(f), F.S., further provides that an inmate serving a life sentence is not able to earn gain-time. Additionally, an inmate serving the portion of his or her sentence that is included in an imposed mandatory minimum sentence or whose tentative release date is the same date as he or she achieves service of 85 percent of the sentence is not eligible to earn gain-time. Section 944.275(4)(e), F.S., also prohibits an inmate committed to the DOC for specified sexual offenses committed on or after October 1, 2014, from earning incentive gain-time.
[123] Section 944.275(4)(f), F.S.
[124] Basic gain-time, which automatically reduced an inmate's sentence by a designated amount each month, was eliminated for offenses committed on or after January 1, 1994. Chapter 93-406, L.O.F.
[125] Section 944.275(4)(b), F.S, provides incentive gain-time is a total of up to ten days per month that may be awarded to inmates for institutional adjustment, performing work in a diligent manner, and actively participating in training and programs. The amount an inmate can earn is stable throughout the term of imprisonment and is based upon the date an offense was committed.
[126] Section 944.275(4)(c), F.S., provides that meritorious gain-time is awarded to an inmate who commits an outstanding deed or whose performance warrants additional credit, such as saving a life or assisting in recapturing an escaped inmate. The award may range from one day to 60 days and the statute does not prohibit an inmate from earning meritorious gain-time on multiple occasions if warranted.
[127] Section 944.275(4)(d), F.S., provides that educational gain-time is a one-time award of 60 days that is granted to an inmate who receives a General Education Development (GED) diploma or a certificate for completion of a vocational program.
[128] Section 944.275(3)(c), F.S.

on a prisoner will expire. To calculate the maximum sentence expiration date, the DOC reduces the total time to be served by any time lawfully credited.[129]

The tentative release is the date projected for the prisoner's release from custody after gain-time is granted or forfeited in accordance with s. 944.275, F.S.[130] Gain-time is applied when granted or restored to make the tentative release date proportionately earlier; and forfeitures of gain-time, when ordered, are applied to make the tentative release date proportionately later.[131]

Community Control

Section 948.001(3), F.S., defines "community control" to mean a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads.[132] The community control program is rigidly structured and designed to accommodate offenders who, in the absence of such a program, will be committed to the custody of the DOC or a county jail.[133]

Arrest Authority

Section 901.15, F.S., provides that a law enforcement officer may arrest a person without a warrant under specified circumstances, including, but not limited to, when:

- The person has committed a felony or misdemeanor or violated a municipal or county ordinance in the presence of the officer.
- A felony has been committed and the officer reasonably believes that the person committed it.
- The officer reasonably believes that a felony has been or is being committed and that the person to be arrested has committed or is committing it.
- A warrant for the arrest has been issued and is held by another peace officer for execution.
- A violation of ch. 316, F.S. (state uniform traffic control), has been committed in the presence of the officer.
- There is probable cause to believe that the person has violated s. 790.233, F.S. (possession of firearms by a convicted felon), s. 741.31, F.S. (possession of prohibited ammunition), a protective injunction order, or a specified foreign protection order.
- There is probable cause to believe that the person has committed an act of domestic violence or dating violence.

Additionally, a probation officer is authorized to issue an arrest warrant or arrest an offender in limited circumstances. Section 944.405(1), F.S., authorizes the DOC to issue an arrest warrant

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[129] Section 944.275(2)(a), F.S.
[130] Section 944.275(3)(a), F.S.
[131] *Id*. *See also* s. 944.275(4)(b), F.S.
[132] Section 948.10(2), F.S., provides that caseloads must be no more than 30 cases per officer.
[133] Section 948.10(1), F.S. *See also* DOC, *Succeeding on Community Control*, available at http://www.dc.state.fl.us/cc/ccforms/Succeeding-on-Community-Control.pdf (last visited on March 12, 2019). A Community Control Offender Schedule and Daily Activity Log must be submitted weekly with a proposed schedule for the week and the controllee's officer reviews such schedule and either approves or denies the schedule. Additionally, a person is required to provide an hourly accounting of his or her whereabouts for the previous week to verify any deviations from the pre-approved schedule.

for a person who has "absconded from a rehabilitative community reentry program before the offender has satisfied his or her sentence or combined sentences."

Section 948.06(1), F.S., also authorizes probation officers or law enforcement officers to arrest probationers and community controlees without a written warrant based on a reasonable belief the offender has violated terms of supervision in a material respect.

Effect of the Bill

The bill amends s. 945.091, F.S., to allow an inmate to participate in a supervised community release program (Program) as an extension of the inmate's confinement, similar to the former Supervised Community Release Program discussed above. The Program release term may begin 90 days before the inmate's provisional or tentative release date and must include active EM and community control as defined in s. 948.001, F.S. The bill requires the DOC to administer a RAI to determine an inmate's eligibility for this program. The bill provides that participation in and conditions of the Program will be as proscribed in department rule.

The DOC is authorized to terminate the inmate's participation in the program if he or she fails to comply with any of the terms of the Program as proscribed by rule. If an inmate is terminated from the supervision, he or she must be recommitted to the same institution or another institution designated by the DOC.

The bill allows a law enforcement officer or probation officer to arrest an inmate without a warrant in accordance with s. 948.06(1), F.S., if there are reasonable grounds to believe the inmate violated the terms of the Program. A law enforcement officer that arrests an inmate for a violation of the conditions of the Program is required to report the inmate's alleged violations to the supervising probation office or the DOC's emergency action center for disposition of disciplinary charges as proscribed in the DOC rules.

The bill provides that an inmate released on the Program in accordance with this provision is eligible to earn and lose gain-time as proscribed in law and rule, which includes the prohibition on an inmate earning or receiving gain-time in an amount that results in his or her release prior to serving a minimum of 85 percent of the sentence imposed.[134] However, the bill provides the inmate is not counted as part of the inmate population and the approved community-based housing in which the inmate lives is not counted in capacity figures for the prison system.

The bill reenacts ss. 944.516, 945.092, and 946.503, F.S., incorporating changes made by the act.

This section of the bill is effective October 1, 2019.

Conditional Medical Release (Sections 11, 12, 54-63, and 65-66)

An inmate may be released from imprisonment prior to serving 85 percent of his or her sentence if released on conditional medical release (CMR).[135] CMR, which was created by the Florida

[134] *See* s. 944.275(4)(f), F.S.
[135] Section 947.149, F.S.

Legislature in 1992,[136] is a discretionary release of inmates who are "terminally ill" or "permanently incapacitated" and who are not a danger to themselves or others.[137] The Florida Commission on Offender Review (FCOR) reviews eligible inmates for release under the CMR program.[138]

Eligible inmates include inmates designated by the DOC as a:

- "Permanently incapacitated inmate," which is an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to herself or himself or others; or
- "Terminally ill inmate," which is an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate terminally ill to the extent that there can be no recovery and death is imminent, so that the inmate does not constitute a danger to herself or himself or others.[139]

The release of an inmate on CMR is for the remainder of the inmate's sentence and requires periodic medical evaluations at intervals determined by the FCOR at the time of release.[140] Supervision can be revoked and the offender returned to prison if the FCOR determines:

- That a violation of any condition of the release has occurred; or
- His or her medical or physical condition improves to the point that the offender no longer meets the CMR criteria.[141]

Section 947.141, F.S., provides a hearing process for determining whether a CMR releasee must be recommitted to the DOC for a violation of release conditions or a change in medical status.

The FCOR has approved and released 62 inmates for CMR in the last three fiscal years, including 21 in FY 2017-18, 14 in FY 2016-17, and 27 in FY 2015-16.[142] The DOC has recommended 124 inmates for release in the past three fiscal years, including 39 in FY 2017-18, 34 in FY 2016-17, and 51 in FY 2015-16.[143]

Effect of the Bill

The bill amends s. 947.149, F.S., creating a new CMR designation entitled "inmate with a debilitating illness." The designation "inmate with a debilitating illness" applies to an inmate who is determined to be suffering from a significant terminal or nonterminal condition, disease, or syndrome that has rendered the inmate so physically or cognitively impaired, debilitated, or

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[136] Chapter 92-310, L.O.F.
[137] Florida Commission on Offender Review, *Release Types, Post Release*, available at https://www.fcor.state.fl.us/postrelease.shtml#conditionalMedicalRelease (last visited March 12, 2019).
[138] Section 947.149(3), F.S.
[139] Section 947.149(1), F.S. Section 947.149(2), F.S., further provides that inmates sentenced to death are ineligible for CMR
[140] Section 947.149(4), F.S.
[141] Section 947.149(5), F.S.
[142] Email from Alexander Yarger, Legislative Affairs Director, Florida Commission on Offender Review, RE: Conditional Medical Release Data (attachment on file with the Senate Committee on Criminal Justice)(December 15, 2017). *See also* FCOR Annual Report FY 2017-18, p. 8, available at https://www.fcor.state.fl.us/docs/reports/Annual%20Report%202018%20WEB.pdf (last visited March 12, 2019).
[143] *Id*.

incapacitated as to create a reasonable probability that the inmate does not constitute a danger to herself or himself or others.

Additionally, the current designation of "terminally ill inmate" is amended to apply to inmates whose death is expected within 12 months, rather than imminent. The current designation of permanently incapacitated inmate is not altered.

The bill also amends s. 947.005, F.S., defining a new term, "conditional medical release," to mean the release from a state correctional institution or facility as provided in this chapter for a medical or physical condition pursuant to s. 947.149, F.S.

The bill reenacts a number of sections incorporating changes made by these provisions of the act.

This section of 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.

B. Private Sector Impact:

Drug and Alcohol Related Overdose Immunity (Sections 1 and 7)

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.

Extension on Confinement (Section 10)

The bill authorizes the DOC to release a specified inmate into the community on supervised release up to 90 days before the end of his or her sentence. This will provide private companies the opportunity to hire an inmate earlier than without the act.

C. Government Sector Impact:

The Office of Economic and Demographic Research (EDR) has provided a preliminary estimate for the fiscal impact of this bill and estimates it will have a negative significant impact (i.e., a decrease of more than 25 prison beds).[144]

Bond Programs (Sections 8 and 9)

The bill requires the DOC to validate the RAI used in both of the programs created in the bill. The DOC reports in its analysis of SB 534, which has identical provisions to this bill, that there is no direct impact on it.[145] Additionally, the OPPAGA reports that the bill does not have an impact.[146]

A county may implement a Bond Program, which allows an eligible defendant to be released on active supervision and some form of bond or ROR while awaiting trial. As a result, the county's costs to supervise the participants may be decreased from the full daily county jail per diem to the much lower per diem rates for active EM or continuous alcohol monitoring technologies, or both.

Theft (Sections 2 and 3)

Property Theft (Section 2)

The EDR provides that this portion of the bill relating to specified property theft offenses will likely have a negative significant prison bed impact.[147]

[144] The EDR, *SB 1334 – Criminal Justice, Preliminary Estimate*, p. 6 (on file with the Senate Criminal Justice Committee)(hereinafter cited as "SB 1334 Preliminary Estimate").
[145] The DOC, *SB 534 Agency Analysis*, January 31, 2019 (on file with the Senate Committee on Criminal Justice).
[146] The OPPAGA, *SB 534 Agency Analysis*, February 11, 2019 (on file with the Senate Committee on Criminal Justice).
[147] SB 1334 Preliminary Estimate, p. 2-3.

Retail Theft (Section 3)

The EDR provides that this provision of the bill relating to specified retail theft offenses will likely have a negative significant prison bed impact.[148]

Drug Offenses

DFZs (Section 4)

The EDR provides that this provision of the bill relating to modifying the distances for specified DFZs will likely have a negative significant impact.[149]

Trafficking in Pharmaceuticals (Section 5)

The EDR provides that this provision of the bill relating to the new trafficking offense will likely have a negative indeterminate prison bed impact (i.e., an unquantifiable decrease of prison beds).[150]

Mandatory Minimum Departure (Section 6)

The EDR provides that this provision of the bill relating to departure from drug trafficking mandatory minimum sentences will likely have a negative significant prison bed impact.[151]

Alcohol and Drug Related Overdose Immunity (Sections 1 and 7)

The EDR provides that these provisions of the bill related to alcohol- or drug-related overdose immunity will likely have a negative indeterminate prison bed impact.[152]

Extension on Confinement (Section 10)

The EDR provides that this provision of the bill relating to the supervised community release will likely have a negative indeterminate prison bed impact.[153]

The DOC further reports that the fiscal impact of the bill will vary based on the number of released inmates placed on active EM, the rate at which such inmates pay the EM costs, and the type of facility[154] from which Program participants are released. The current per diem rate for inmates placed on EM who are assigned to community release centers is $3.90 per day for contracted facilities and $5.29 for facilities operated by the DOC. The variable per diem rate is $20.04, which is associated with the individual

[148] SB 1334 Preliminary Estimate, p. 3.
[149] SB 1334 Preliminary Estimate, p. 3-4.
[150] SB 1334 Preliminary Estimate, p. 4-5.
[151] SB 1334 Preliminary Estimate, p. 5.
[152] SB 1334 Preliminary Estimate, p. 1-2.
[153] SB 1334 Preliminary Estimate, p. 5-6.
[154] The DOC, SB 338 Agency Analysis, p. 4, January 31, 2019 (on file with the Senate Criminal Justice Committee) (hereinafter cited as "The DOC SB 338 Analysis"). There are different per diems for each type of facility, including community release facilities, major institutions, and work camps, based upon the level of security and services provided at the facility.

inmate care costs such as medical, food, inmate clothing, and personal care items. The DOC reports that the average per diem for community supervision in FY 2017-18 was $5.47. Therefore, the DOC will likely pay the EM per diem rate, rather than the variable per diem rate, for the inmates released to this Program on EM.[155] The EM per diem rate would be paid for the designated number of days with which the inmate was out in the community instead of housed in an institution, which could result in a cost savings to the DOC.[156]

The DOC requests the creation of one full-time equivalent position, entitled "Correctional Programs Consultant," to oversee, provide guidance, and coordinate the statewide implementation and administration of the Program.[157] The DOC projects the funding for the position to be $69,949 recurring General Revenue funds and $4,429 nonrecurring General Revenue funds.[158] Finally, the DOC states that there could be a need for additional correctional probation officer positions depending upon the number of participants in the program.[159]

Conditional Medical Release (Sections 11 and 12)

The EDR provides that this provision of the bill relating to conditional medical release will likely have a negative significant prison bed impact.[160]

VI. Technical Deficiencies:

None.

VII. Related Issues:

Most of the changes proposed by the overdose immunity provisions are laws of at least one other state,[161] and the inclusion of arrests in s. 893.21, F.S., was a recommendation of Florida's Statewide Drug Policy Advisory Council in 2016.[162] However, it appears that there are no other states that provide overdose 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,[163] or for a law comparable to s. 893.135, F.S.,

[155] *Id*.
[156] *Id*.
[157] The DOC SB 338 Analysis, p. 4.
[158] *Id*., p. 6.
[159] *Id*., p. 4.
[160] SB 1334 Preliminary Estimate, p. 6.
[161] 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.
[162] *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 March 14, 2019).
[163] *See e.g.* 720 Ill. Comp. Stat. Ann. 570/414, which states its overdose immunity law is not intended to prevent arrest or prosecution for drug-induced homicide.

which punishes drug trafficking.[164] Overdose immunity laws generally provide such immunity for certain controlled substance possession and paraphernalia offenses.[165]

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 in accordance the bill.

Additionally, the bill is silent on law enforcement's protection from a cause of action resulting from an arrest related to an alcohol or drug overdose that is made in good faith.[166]

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 812.014, 812.015, 893.13, 893.135, 893.21, 945.091, 947.005, 947.149, 893.03, and 921.0022.

This bill creates the following sections of the Florida Statutes: 562.112, 907.042, and 907.0421.

This bill reenacts the following sections of the Florida Statutes: 95.18, 316.1935, 373.6055, 397.4073, 400.9935, 409.910, 414.095, 489.126, 538.09, 538.23, 550.6305, 627.743, 634.319, 634.421, 636.238, 642.038, 705.102, 718.111, 772.12, 775.084, 775.087, 782.04, 784.07, 790.235, 794.0115, 810.02, 812.014, 812.015, 812.0155, 812.14, 893.13, 893.135, 893.1351, 893.138, 900.05, 903.133, 907.041, 921.0024, 932.701, 943.051, 944.516, 944.605, 944.70, 945.092, 946.503, 947.13, 947.141, 985.11, and 985.557.

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.

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

[165] *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 February 11, 2019).

[166] The FDLE, *SB 1334 Agency Analysis*, March 11, 2019, p. 4 (on file with Senate Criminal Justice Committee).

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LEGISLATIVE ACTION

Senate . House

. . . . . .

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

Senate Amendment

Delete lines 783 - 865
and insert:
classify defendants according to the likelihood of failure to appear at subsequent hearings or to engage in criminal conduct while awaiting trial provides a more consistent and accurate assessment of a defendant's risk of noncompliance while on pretrial release pending trial. The Legislature also finds that research indicates that using accurate risk and needs assessment

instruments ensures successful compliance with pretrial release conditions imposed on a defendant and reduces the likelihood of a defendant remaining unnecessarily in custody pending trial.

(2) The chief judge of each judicial circuit, with the concurrence of the county's chief correctional officer, the state attorney, and the public defender, may enter an administrative order to administer a risk assessment instrument in preparation for first appearance or may enter such an order within 72 hours after arrest so that the instrument may be used in pretrial release determinations. The risk assessment instrument must be objective, standardized, and based on analysis of empirical data and risk factors relevant to failure to meet pretrial release conditions which evaluates the likelihood of failure to appear in court and the likelihood of rearrest during the pretrial release period and which is validated on the pretrial population.

(3)(a) The risk assessment instrument results must be used as supplemental factors for the court to consider when determining the appropriateness of first appearance pretrial release and, if applicable, the conditions of release which are appropriate based on predicted level of risk and the risk of failure to meet pretrial release conditions. Based on the risk assessment instrument results, the court shall impose the least restrictive conditions necessary to reasonably ensure that the defendant will be present at subsequent hearings.

(b) A court that uses the results from a risk assessment instrument in first appearance pretrial release determinations retains sole discretion to impose any pretrial conditions it deems necessary to ensure the defendant's appearance at

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subsequent hearings.

(4) A circuit that intends to use a risk assessment instrument in pretrial release determinations must have the instrument independently validated by the Department of Corrections. A circuit may begin to use the instrument in pretrial release determinations immediately after its validation and the completion of training of all local staff who will administer the risk assessment instrument.

(5)(a) Each circuit that establishes an administrative order for the use of risk assessment instruments in first appearance pretrial release determinations shall provide an annual report to the Office of Program Policy Analysis and Government Accountability (OPPAGA) which details:

1. The risk assessment instrument used;

2. The results of the administration of the risk assessment instrument, including the results of defendants who were detained in custody awaiting trial and those who were released from custody awaiting trial;

3. The frequency with which released defendants failed to appear at one or more subsequent court hearings; and

4. The level of risk determined in the risk assessment instrument associated with a defendant who failed to appear for any court hearing.

(b) Beginning October 1, 2020, and by each October 1 thereafter, the annual report from each circuit must be submitted to OPPAGA, which shall compile the results of such reports for inclusion in an independent section of its annual report developed and submitted to the President of the Senate and the Speaker of the House of Representatives in accordance

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with s. 907.044.

(6) The department may adopt rules to administer this section.

Section 10. Paragraph (d) is added to subsection (1) of section 945.091, Florida Statutes, to read:

945.091 Extension of the limits of confinement; restitution by employed inmates.—

(1) The department may adopt rules permitting the extension of the limits of the place of confinement of an inmate as to whom there is reasonable cause to believe that the inmate will honor his or her trust by authorizing the inmate, under prescribed conditions and following investigation and approval by the secretary, or the secretary's designee, who shall maintain a written record of such action, to leave the confines of that place unaccompanied by a custodial agent for a prescribed period of time to:

(d) Participate in supervised community release as prescribed by the department by rule. The inmate's participation may begin 180 days before his or her provisional or tentative

By Senator Brandes

24-00737B-19 20191334__

A bill to be entitled

An act relating to criminal justice; 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, or prosecution of or imposition of penalties on, under specified provisions, 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 the imposition of penalties for certain offenses from being grounds for suppression of evidence in other criminal prosecutions; amending s. 812.014, F.S.; increasing threshold amounts for certain theft offenses; revising the list of items the theft of which constitutes theft of the third degree; providing that the value of taken property is based on fair market value at the time of the taking; requiring the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study of the threshold amounts every 5 years; providing the scope of the study; requiring OPPAGA to include options, if appropriate; requiring OPPAGA to consult with the Office of Economic and Demographic Research and other interested entities; requiring OPPAGA to submit a report to the Governor

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and the Legislature by a specified date at certain intervals; amending s. 812.015, F.S.; defining the term "value"; increasing threshold amounts for a certain theft offense; revising the circumstances under which an offense of retail theft constitutes a felony of the second degree; requiring OPPAGA to conduct a study of the threshold amounts every 5 years; providing the scope of the study; requiring OPPAGA to include options, if appropriate; requiring OPPAGA to consult with the Office of Economic and Demographic Research and other interested entities; requiring OPPAGA to submit a report to the Governor and the Legislature by a specified date at certain intervals; amending s. 893.13, F.S.; providing that only offenses involving the sale or manufacturing of a controlled substance are subject to enhanced penalties when committed within a drug-free zone; reducing the distance applicable to certain controlled substance offenses committed within certain drug-free zones; 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; providing criminal penalties; creating the offense of "trafficking in pharmaceuticals"; amending s. 893.135, F.S.; authorizing a court to impose a sentence other than a mandatory minimum term of imprisonment and mandatory fine for a person convicted of trafficking

if the court makes certain findings on the record; 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 believed to be experiencing, a drug-related overdose; prohibiting the protection from arrest, charge, prosecution, or the imposition of penalties for certain offenses from being grounds for suppression of evidence in other criminal prosecutions; creating s. 907.042, F.S.; providing legislative findings; authorizing each county to establish a supervised bond program with the concurrence of the chief judge of the judicial circuit, the county's chief correctional officer, the state attorney, and the public defender; providing an exception for a county that has already established and implemented a supervised bond program that uses a risk assessment instrument; providing minimum program requirements; requiring each county that establishes a supervised bond program to have the

risk assessment instrument validated by the Department of Corrections; requiring each county that establishes a supervised bond program to submit an annual report by a certain date to OPPAGA; requiring OPPAGA to compile such reports and include such information in a specified report sent to the Legislature; authorizing the department to adopt rules; creating s. 907.0421, F.S.; providing legislative findings; authorizing the chief judge of each circuit, with the concurrence of the county's chief correctional officer, the state attorney, and the public defender, to enter an administrative order for the use of a risk assessment instrument in pretrial release determinations; requiring the risk assessment instrument results to be used as supplemental factors for the court's evaluation of appropriate pretrial release conditions; requiring the court to impose the least restrictive conditions necessary to reasonably ensure the defendant's appearance at subsequent hearings; providing that a court retains sole discretion to determine the appropriateness of pretrial release and any necessary pretrial release conditions; requiring a circuit that uses a risk assessment instrument to have the instrument validated by the department; authorizing the circuit to implement the risk assessment instrument immediately after validation and completion of training of all local staff who will administer the risk assessment instrument; requiring each circuit that enters an administrative order to

use risk assessment instruments in pretrial release determinations to submit an annual report by a certain date to OPPAGA; requiring OPPAGA to compile the reports and include such information in a specified report sent to the Legislature; authorizing the department to adopt rules; amending s. 945.091, F.S.; authorizing the department to extend the limits of the place of confinement to allow an inmate to participate in supervised community release, subject to certain requirements, as prescribed by the department by rule; requiring the department to administer a risk assessment instrument to determine an inmate's appropriateness for release on electronic monitoring; authorizing the department to terminate an inmate's participation under certain circumstances; authorizing a law enforcement or probation officer to arrest such an inmate without a warrant in accordance with specified authority; requiring a law enforcement officer to report alleged violations to a supervising probation office or to the department's emergency action center for disposition of disciplinary charges as prescribed by the department by rule; providing that participating inmates remain eligible to earn or lose gain-time, but not in an amount that results in an inmate being released prior to serving a certain percent of the sentence imposed; prohibiting such inmates from being counted in the population of the prison system and their approved community-based housing location from being counted in the capacity

figures for the prison system; amending s. 947.005, F.S.; defining the term "conditional medical release"; amending s. 947.149, F.S.; defining the term "inmate with a debilitating illness"; redefining the term "terminally ill inmate"; expanding eligibility for conditional medical release to include inmates with debilitating illnesses; amending s. 893.03, F.S.; conforming a cross-reference; amending s. 921.0022, F.S.; conforming provisions to changes made by the act; conforming a cross-reference; reenacting ss. 95.18(10), 400.9935(3), 409.910(17)(g), 489.126(4), 550.6305(10), 627.743(2), 634.319(2), 634.421(2), 636.238(3), 642.038(2), 705.102(4), 718.111(1)(d), 812.015(2), 812.0155(1) and (2), 812.14(4), (7), and (8), 893.138(3), 932.701(2)(a), 943.051(3)(b), 985.11(1)(b), and 985.557(1)(a) and (2)(c), F.S., relating to adverse possession without color of title; clinic responsibilities; responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable; moneys received by contractors; intertrack wagering; payment of third-party claims; diversion or appropriation of certain funds received by sales representatives; diversion or appropriation of certain funds received by sales representatives; penalties for certain violations; diversion or appropriation of certain funds received by sales representatives; reporting lost or abandoned property; condominium associations; retail and farm theft; suspension of driver license following an adjudication

of guilt for theft; trespass and larceny with relation to utility fixtures and theft of utility services; local administrative action to abate drug-related, prostitution-related, or stolen-property-related public nuisances and criminal gang activity; the definition of the term "contraband article"; fingerprinting of certain minors; fingerprinting and photographing of certain children; and discretionary and mandatory criteria for the direct filing of an information, respectively, to incorporate the amendment made to s. 812.014, F.S., in references thereto; reenacting s. 538.09(5), F.S., relating to the registration of a secondhand dealer, to incorporate the amendment made to s. 812.015, F.S., in a reference thereto; reenacting ss. 538.23(2) and 812.0155(2), F.S., relating to secondary metals recycler violations and penalties and suspension of driver license following an adjudication of guilt for theft, respectively, to incorporate the amendments made to ss. 812.014 and 812.015, F.S., in references thereto; reenacting ss. 397.4073(6), 414.095(1), 772.12(2), 775.087(2)(a) and (3)(a), 782.04(1)(a), (3), and (4), 810.02(3), 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 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 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; reenacting ss. 944.516(2), 945.092, and 946.503(2), F.S., relating to money or other property received for personal use or benefit of inmate, deposit, disposition of unclaimed trust funds; limits on work-release and minimum security custody for persons who have committed the crime of escape; and definitions to be used with respect to correctional work programs, respectively, to incorporate the amendment made to s. 945.091, F.S., in references thereto; reenacting ss. 316.1935(6), 775.084(4)(k), 784.07(3), 790.235(1), 794.0115(7), 893.135(1)(b), (c), and (g) and (3), 944.605(7)(b), 944.70(1)(b), 947.13(1)(h), and 947.141(1), (2), and (7), F.S., all relating to eligibility for conditional medical release under s. 947.149, F.S., to incorporate the amendment made to s. 947.149, F.S., in references thereto; reenacting s. 373.6055(3)(c), relating to criminal history checks of certain water management district employees and others, to incorporate the

amendments made to ss. 812.014 and 893.135, in references thereto; reenacting ss. 775.087(2)(a) and (b) and (3)(a) and (b) and 921.0024(1)(b) and (2), relating to felony reclassification of aggravated battery with possession or use of a weapon and the Criminal Punishment Code worksheet key computations, respectively, to incorporate the amendments made to ss. 893.135 and 947.149, F.S., in references thereto; providing effective dates.

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

Section 1. Effective July 1, 2019, section 562.112, Florida Statutes, is created to read:

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

(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 that person seeking medical assistance. The person who seeks such assistance shall remain at the scene until emergency medical services personnel arrive and must cooperate with them and with 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 that person seeking medical assistance.

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

Section 2. Paragraphs (c), (d), and (e) of subsection (2) and subsection (3) of section 812.014, Florida Statutes, are amended, and subsections (7) and (8) are added to that section, 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 $1,500 ~~$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.~~

4.~~5.~~ A firearm.

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

6.~~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.~~

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

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

9.~~11.~~ Any stop sign.

10.~~12.~~ Anhydrous ammonia.

11.~~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.

(d) 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 valued at $1,500 ~~$100~~ or more, but less than $5,000 ~~$300~~, and is taken from a dwelling as defined in s. 810.011(2) or from the unenclosed curtilage of a dwelling pursuant to s. 810.09(1).

(e) Except as provided in paragraph (d), if the property stolen is valued at $500 ~~$100~~ or more, but less than $1,500 ~~$300~~, the offender commits petit theft of the first degree, punishable as a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(3)(a) Theft of any property not specified in subsection (2) is petit theft of the second degree and a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and as provided in subsection (5), as applicable.

(b) A person who commits petit theft and who has previously been convicted of any theft commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) A person who commits petit theft in the first degree and who has previously been convicted two or more times as an adult of any theft commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083 if the third

or subsequent petit theft offense occurred within 3 years after the expiration of his or her sentence for the most recent theft conviction.

(d)1. Every judgment of guilty or not guilty of a petit theft shall be in writing, signed by the judge, and recorded by the clerk of the circuit court. The judge shall cause to be affixed to every such written judgment of guilty of petit theft, in open court and in the presence of such judge, the fingerprints of the defendant against whom such judgment is rendered. Such fingerprints shall be affixed beneath the judge's signature to such judgment. Beneath such fingerprints shall be appended a certificate to the following effect:

"I hereby certify that the above and foregoing fingerprints on this judgment are the fingerprints of the defendant, ..., and that they were placed thereon by said defendant in my presence, in open court, this the .... day of ...., ...(year)...."

Such certificate shall be signed by the judge, whose signature thereto shall be followed by the word "Judge."

2. Any such written judgment of guilty of a petit theft, or a certified copy thereof, is admissible in evidence in the courts of this state as prima facie evidence that the fingerprints appearing thereon and certified by the judge are the fingerprints of the defendant against whom such judgment of guilty of a petit theft was rendered.

(7) For purposes of determining the value of property taken in violation of this section, the value must be based on the

fair market value of the property at the time the taking occurred.

(8) The Office of Program Policy Analysis and Government Accountability (OPPAGA) shall, every 5 years, perform a study of the appropriateness of the threshold amounts included in this section. The study's scope must include, but need not be limited to, the crime trends related to theft offenses, the theft threshold amounts of other states in effect at the time of the study, the fiscal impact of any modifications to Florida's threshold amounts, and any economic factors, such as inflation. The report must include options for amending the threshold amounts if the study finds that the amounts are inconsistent with current trends. In conducting the study, OPPAGA shall consult with the Office of Economic and Demographic Research in addition to other interested entities. OPPAGA shall submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives by September 1 of every 5th year.

Section 3. Subsections (8) and (9) of section 812.015, Florida Statutes, are amended, and paragraph (n) of subsection (1) and subsection (10) are added to that section, to read:

812.015 Retail and farm theft; transit fare evasion; mandatory fine; alternative punishment; detention and arrest; exemption from liability for false arrest; resisting arrest; penalties.—

(1) As used in this section:

(n) "Value" means the fair market value of the property taken in violation of this section at the time the taking occurred.

(8) Except as provided in subsection (9), a person who

commits retail theft commits 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 valued at $1,500 ~~$300~~ or more, and the person:

(a) Individually, or in concert with one or more other persons, coordinates the activities of one or more individuals in committing the offense, in which case the amount of each individual theft is aggregated to determine the value of the property stolen;

(b) Commits theft from more than one location within a 48-hour period, in which case the amount of each individual theft is aggregated to determine the value of the property stolen;

(c) Acts in concert with one or more other individuals within one or more establishments to distract the merchant, merchant's employee, or law enforcement officer in order to carry out the offense, or acts in other ways to coordinate efforts to carry out the offense; or

(d) Commits the offense through the purchase of merchandise in a package or box that contains merchandise other than, or in addition to, the merchandise purported to be contained in the package or box.

(9) A person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the person:

(a) Violates subsection (8) as an adult and has previously been convicted of a violation of subsection (8) within 3 years after the expiration of his or her sentence for the conviction; or

(b) Individually, or in concert with one or more other

persons, coordinates the activities of one or more persons in committing the offense of retail theft where the stolen property has a value in excess of $3,000.

(10) The Office of Program Policy Analysis and Government Accountability (OPPAGA) shall, every 5 years, perform a study of the appropriateness of the threshold amounts included in this section. The study's scope must include, but need not be limited to, the crime trends related to theft offenses, the theft threshold amounts of other states in effect at the time of the study, the fiscal impact of any modifications to Florida's threshold amounts, and any economic factors, such as inflation. The report must include options for amending the threshold amounts if the study finds that the amounts are inconsistent with current trends. In conducting the study, OPPAGA shall consult with the Office of Economic and Demographic Research in addition to other interested entities. OPPAGA shall submit a report to the Governor, President of the Senate, and Speaker of the House of Representatives by September 1 of every 5th year.

Section 4. Paragraphs (c) through (f) and (h) of subsection (1) of section 893.13, Florida Statutes, are amended to read:

893.13 Prohibited acts; penalties.—

(1)

(c) Except as authorized by this chapter, a person may not sell or~~,~~ manufacture~~, or deliver, or possess with intent to sell, manufacture, or deliver,~~ a controlled substance in, on, or within 1,000 feet of the real property comprising a child care facility as defined in s. 402.302 or a public or private elementary, middle, or secondary school between the hours of 6 a.m. and 12 midnight, or at any time in, on, or within 250 ~~1,000~~

feet of real property comprising a state, county, or municipal park, a community center, or a publicly owned recreational facility. As used in this paragraph, the term "community center" means a facility operated by a nonprofit community-based organization for the provision of recreational, social, or educational services to the public. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The defendant must be sentenced to a minimum term of imprisonment of 3 calendar years unless the offense was committed within 1,000 feet of the real property comprising a child care facility as defined in s. 402.302.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold or~~,~~ manufactured, ~~or delivered,~~ must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

This paragraph does not apply to a child care facility unless the owner or operator of the facility posts a sign that is not less than 2 square feet in size with a word legend identifying the facility as a licensed child care facility and that is

posted on the property of the child care facility in a conspicuous place where the sign is reasonably visible to the public.

(d) Except as authorized by this chapter, a person may not sell or~~,~~ manufacture~~, or deliver, or possess with intent to sell, manufacture, or deliver,~~ a controlled substance in, on, or within 250 ~~1,000~~ feet of the real property comprising a public or private college, university, or other postsecondary educational institution. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold or~~,~~ manufactured, ~~or delivered,~~ must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(e) Except as authorized by this chapter, a person may not sell or~~,~~ manufacture~~, or deliver, or possess with intent to sell, manufacture, or deliver,~~ a controlled substance not authorized by law in, on, or within 1,000 feet of a physical place for worship at which a church or religious organization regularly conducts religious services or within 250 ~~1,000~~ feet

of a convenience business as defined in s. 812.171. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold or~~,~~ manufactured, ~~or delivered,~~ must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(f) Except as authorized by this chapter, a person may not sell or~~,~~ manufacture~~, or deliver, or possess with intent to sell, manufacture, or deliver,~~ a controlled substance in, on, or within 250 ~~1,000~~ feet of the real property comprising a public housing facility at any time. As used in this section, the term "real property comprising a public housing facility" means real property, as defined in s. 421.03(12), of a public corporation created as a housing authority pursuant to part I of chapter 421. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s.

893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold or~~,~~ manufactured, ~~or delivered,~~ must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(h) Except as authorized by this chapter, a person may not sell or~~,~~ manufacture~~, or deliver, or possess with intent to sell, manufacture, or deliver,~~ a controlled substance in, on, or within 1,000 feet of the real property comprising an assisted living facility, as that term is used in chapter 429. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold or~~,~~ manufactured, ~~or delivered,~~ must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

Section 5. 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, each having a clear manufacturer marking, 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 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 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 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 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 ordered to pay a fine of up to $250,000.

Section 6. Effective July 1, 2019, present subsections (6) and (7) of section 893.135, Florida Statutes, are redesignated as subsections (7) and (8), respectively, and a new subsection (6) is added to that section, to read:

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

(6) Notwithstanding any other provision of this section, a court may impose a sentence for a violation of this section other than the mandatory minimum term of imprisonment and mandatory fine if the court finds on the record that all of the following circumstances exist:

(a) The person did not engage in a continuing criminal enterprise as defined in s. 893.20(1).

(b) The person did not use or threaten violence or use a weapon during the commission of the crime.

(c) The person did not cause a death or serious bodily injury.

Section 7. Effective July 1, 2019, section 893.21, Florida Statutes, is amended to read:

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

(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 that person 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 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 that person seeking medical assistance.

(4)~~(3)~~ Protection under ~~in~~ this section from arrest, charge, prosecution, or penalties 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 8. Section 907.042, Florida Statutes, is created to read:

907.042 Supervised bond program.—

(1) LEGISLATIVE FINDINGS.—The Legislature finds that there is a need to use evidence-based methods to identify defendants who can successfully comply with specified pretrial release conditions. The Legislature finds that the use of actuarial instruments that evaluate criminogenic-based needs and classify defendants according to levels of risk provides a more consistent and accurate assessment of a defendant's risk of noncompliance while on pretrial release pending trial. The Legislature also finds that both the community and the defendant are better served when a defendant who poses a low risk to society is provided the opportunity to fulfill employment and familial responsibilities in the community under a structured pretrial release plan that provides the defendant the best chance of maintaining compliance with all pretrial conditions, rather than keeping him or her in custody. The Legislature finds that there is a benefit to establishing a supervised bond program in each county for the purpose of providing pretrial release to certain defendants who may not otherwise be eligible for pretrial release on unsupervised nonmonetary conditions and who do not have the ability to satisfy the bond imposed by the court. The Legislature finds that the creation of such a program will reduce the likelihood of defendants remaining unnecessarily in custody pending trial.

(2) CREATION.—A supervised bond program may be established in each county, with the terms of each program to be developed with concurrence of the chief judge of the judicial circuit, the county's chief correctional officer, the state attorney, and the public defender. A county that, on or before October 1, 2019, has an established supervised bond program that uses a validated risk assessment instrument for similar pretrial or supervision determinations may continue to operate the program if the program meets the requirements of subsections (3), (4), and (5).

(3) PROGRAM REQUIREMENTS.—At a minimum, a supervised bond program must:

(a) Be administered by the county's chief correctional officer.

(b) Use the results of a validated pretrial risk assessment instrument that has been administered to a defendant for the purposes of pretrial release or supervision determinations.

(c) Assess a defendant's behavioral characteristics and needs that increase the likelihood of criminal activity and that may be addressed through the provision of services.

(d) Coordinate necessary services and supervision to reduce the likelihood of criminal activity and to increase the likelihood of compliance with pretrial release conditions.

(e) Require the appropriate court to make a final determination regarding whether a defendant will be placed into the supervised bond program. If such a determination is made, the court must also:

1. Determine the conditions of the individualized supervision plan with which the defendant must comply as a part of the supervised bond program, including, but not limited to,

the requirements that the defendant must:

a. Be placed on active electronic monitoring or active continuous alcohol monitoring, or both, dependent upon the level of risk indicated by the risk assessment instrument; and

b. Communicate weekly, via telephone or in-person contact, as determined by the court, with the office of the county's chief correctional officer.

2. Review the bond of a defendant who is being accepted into the supervised bond program to determine if a reduction of the amount of court-ordered bond, up to and including its entirety, is appropriate.

(f) Establish procedures for reassessing or terminating from the supervised bond program defendants who do not comply with the terms of the individualized supervision plan imposed through the program.

(4) VALIDATION.—Each county that establishes a supervised bond program in accordance with this section must use a risk assessment instrument that is validated by the Department of Corrections. A risk assessment instrument that is used for other pretrial release determinations in accordance with s. 907.0421 and that previously has been validated by the department does not need to be validated for use in the supervised bond program. An established supervised bond program that is in operation on October 1, 2019, which uses a risk assessment instrument may continue to operate while the department validates that instrument.

(5) REPORTING.—

(a) Each county that establishes a supervised bond program in accordance with this section, or that has an established

supervised bond program that meets the requirements of subsection (3), shall provide an annual report to the Office of Program Policy Analysis and Government Accountability (OPPAGA) which details:

1. The results of the administration of the risk assessment instrument;

2. The supportive services provided to defendants who were assessed and accepted into the supervised bond program;

3. The success rate of the program; and

4. Any savings realized by the county as a result of such defendants being released from custody pending trial.

(b) Beginning October 1, 2020, and by each October 1 thereafter, the annual report from the county must be submitted to OPPAGA, which shall compile the results of such reports for inclusion in an independent section of its annual report developed and submitted to the President of the Senate and the Speaker of the House of Representatives in accordance with s. 907.044.

(6) RULEMAKING.—The department may adopt rules to administer this section.

Section 9. Section 907.0421, Florida Statutes, is created to read:

907.0421 Use of risk assessment instruments in pretrial release determinations.—

(1) The Legislature finds that there is a need to use evidence-based methods to identify defendants who can successfully comply with specified pretrial release conditions. The Legislature finds that the use of actuarial instruments that classify offenders according to the likelihood of failure to

appear at subsequent hearings or to engage in criminal conduct while awaiting trial provides a more consistent and accurate assessment of a defendant's risk of noncompliance while on pretrial release pending trial. The Legislature also finds that research indicates that using accurate risk and needs assessment instruments ensures successful compliance with pretrial release conditions imposed on a defendant and reduces the likelihood of a defendant remaining unnecessarily in custody pending trial.

(2) The chief judge of each judicial circuit, with the concurrence of the county's chief correctional officer, the state attorney, and the public defender, may enter an administrative order to administer a risk assessment instrument in preparation for first appearance or may enter such an order within 72 hours after arrest so that the instrument may be used in pretrial release determinations. The risk assessment instrument must be objective, standardized, and based on analysis of empirical data and risk factors relevant to failure to meet pretrial release conditions which evaluates the likelihood of failure to appear in court and the likelihood of rearrest during the pretrial release period and which is validated on the pretrial population.

(3)(a) The risk assessment instrument results must be used as supplemental factors for the court to consider when determining the appropriateness of first appearance pretrial release and, if applicable, the conditions of release which are appropriate based on predicted level of risk and the risk of failure to meet pretrial release conditions. Based on the risk assessment instrument results, the court shall impose the least restrictive conditions necessary to reasonably ensure that the

defendant will be present at subsequent hearings.

(b) A court that uses the results from a risk assessment instrument in first appearance pretrial release determinations retains sole discretion to impose any pretrial conditions it deems necessary to ensure the defendant's appearance at subsequent hearings.

(4) A circuit that intends to use a risk assessment instrument in pretrial release determinations must have the instrument independently validated by the Department of Corrections. A circuit may begin to use the instrument in pretrial release determinations immediately after its validation and the completion of training of all local staff who will administer the risk assessment instrument.

(5)(a) Each circuit that establishes an administrative order for the use of risk assessment instruments in first appearance pretrial release determinations shall provide an annual report to the Office of Program Policy Analysis and Government Accountability (OPPAGA) which details:

1. The risk assessment instrument used;

2. The results of the administration of the risk assessment instrument, including the results of defendants who were detained in custody awaiting trial and those who were released from custody awaiting trial;

3. The frequency with which released defendants failed to appear at one or more subsequent court hearings; and

4. The level of risk determined in the risk assessment instrument associated with a defendant who failed to appear for any court hearing.

(b) Beginning October 1, 2020, and by each October 1

thereafter, the annual report from each circuit must be submitted to OPPAGA, which shall compile the results of such reports for inclusion in an independent section of its annual report developed and submitted to the President of the Senate and the Speaker of the House of Representatives in accordance with s. 907.044.

(6) The department may adopt rules to administer this section.

Section 10. Paragraph (d) is added to subsection (1) of section 945.091, Florida Statutes, to read:

945.091 Extension of the limits of confinement; restitution by employed inmates.—

(1) The department may adopt rules permitting the extension of the limits of the place of confinement of an inmate as to whom there is reasonable cause to believe that the inmate will honor his or her trust by authorizing the inmate, under prescribed conditions and following investigation and approval by the secretary, or the secretary's designee, who shall maintain a written record of such action, to leave the confines of that place unaccompanied by a custodial agent for a prescribed period of time to:

(d) Participate in supervised community release as prescribed by the department by rule. The inmate's participation may begin 90 days before his or her provisional or tentative release date. Such supervised community release must include active electronic monitoring and community control as defined in s. 948.001. The department must administer a risk assessment instrument to appropriately determine an inmate's ability to be released pursuant to this paragraph.

1. If a participating inmate fails to comply with the conditions prescribed by department rule for supervised community release, the department may terminate the inmate's supervised community release and return him or her to the same or another institution designated by the department. A law enforcement officer or a probation officer may arrest the inmate without a warrant in accordance with s. 948.06 if there are reasonable grounds to believe he or she has violated the terms and conditions of supervised community release. The law enforcement officer must report the inmate's alleged violations to the supervising probation office or to the department's emergency action center for disposition of disciplinary charges as prescribed by department rule.

2. An inmate participating in supervised community release under this paragraph remains eligible to earn or lose gain-time in accordance with s. 944.275 and department rule, but may not receive gain-time or other sentence credit in an amount that would cause his or her sentence to expire, end, or terminate, or that would result in his or her release, before serving a minimum of 85 percent of the sentence imposed. The inmate may not be counted in the population of the prison system, and the inmate's approved community-based housing location may not be counted in the capacity figures for the prison system.

Section 11. Present subsections (4) through (15) of section 947.005, Florida Statutes, are redesignated as subsections (5) through (16), respectively, and a new subsection (4) is added to that section, to read:

947.005 Definitions.—As used in this chapter, unless the context clearly indicates otherwise:

(4) "Conditional medical release" means the release from a state correctional institution or facility under this chapter for medical or mental health treatment pursuant to s. 947.149.

Section 12. Subsection (1) of section 947.149, Florida Statutes, is amended to read:

947.149 Conditional medical release.—

(1) The commission shall, in conjunction with the department, establish the conditional medical release program. An inmate is eligible for consideration for release under the conditional medical release program when the inmate, because of an existing medical or physical condition, is determined by the department to be within one of the following designations:

(a) "Inmate with a debilitating illness," which means an inmate who is determined to be suffering from a significant terminal or nonterminal condition, disease, or syndrome that has rendered the inmate so physically or cognitively impaired, debilitated, or incapacitated as to create a reasonable probability that the inmate does not constitute a danger to herself or himself or others.

(b) ~~(a)~~ "Permanently incapacitated inmate," which means an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to herself or himself or others.

(c) ~~(b)~~ "Terminally ill inmate," which means an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate terminally ill to the extent that there can be no recovery and

death is expected within 12 months ~~is imminent~~, so that the inmate does not constitute a danger to herself or himself or others.

Section 13. Effective July 1, 2019, paragraph (c) of subsection (3) of section 893.03, Florida Statutes, is amended to read:

893.03 Standards and schedules.—The substances enumerated in this section are controlled by this chapter. The controlled substances listed or to be listed in Schedules I, II, III, IV, and V are included by whatever official, common, usual, chemical, trade name, or class designated. The provisions of this section shall not be construed to include within any of the schedules contained in this section any excluded drugs listed within the purview of 21 C.F.R. s. 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt Anabolic Steroid Products."

(3) SCHEDULE III.—A substance in Schedule III has a potential for abuse less than the substances contained in Schedules I and II and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to moderate or low physical dependence or high psychological dependence or, in the case of anabolic steroids, may lead to physical damage. The following substances are controlled in Schedule III:

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the

following controlled substances or any salts thereof:

1. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

2. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances.

3. Not more than 300 milligrams of hydrocodone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

4. Not more than 300 milligrams of hydrocodone per 100 milliliters or not more than 15 milligrams per dosage unit, with recognized therapeutic amounts of one or more active ingredients that are not controlled substances.

5. Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances.

6. Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

7. Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances.

For purposes of charging a person with a violation of s. 893.135 involving any controlled substance described in subparagraph 3. or subparagraph 4., the controlled substance is a Schedule III controlled substance pursuant to this paragraph but the weight of the controlled substance per milliliters or per dosage unit is not relevant to the charging of a violation of s. 893.135. The weight of the controlled substance shall be determined pursuant to s. 893.135(7) ~~s. 893.135(6)~~.

Section 14. Paragraphs (a) through (g) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(a) LEVEL 1

Florida Statute	Felony Degree	Description
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b)	3rd	Failure to remit sales taxes, amount greater than $300 but less than $20,000.

316.1935(1)	3rd	Fleeing or attempting to elude law enforcement officer.
319.30(5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
322.212 (1)(a)-(c)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated identification.
322.212(4)	3rd	Supply or aid in supplying unauthorized driver license or identification card.
322.212(5)(a)	3rd	False application for driver license or identification card.

414.39(3)(a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than $200.
443.071(1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.
509.151(1)	3rd	Defraud an innkeeper, food or lodging value greater than $300.
517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.
562.27(1)	3rd	Possess still or still apparatus.
713.69	3rd	Tenant removes property upon which lien has accrued, value more than $50.
812.014(3)(c)	3rd	Petit theft (3rd or subsequent adult conviction within specified period);

		theft of any property not specified in subsection (2).
812.081(2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
815.04(5)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
817.569(2)	3rd	Use of public record or public records information or providing false information to facilitate commission of a felony.
826.01	3rd	Bigamy.
828.122(3)	3rd	Fighting or baiting animals.
831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.

831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
832.041(1)	3rd	Stopping payment with intent to defraud $150 or more.
832.05(2)(b) & (4)(c)	3rd	Knowing, making, issuing worthless checks $150 or more or obtaining property in return for worthless check $150 or more.
838.15(2)	3rd	Commercial bribe receiving.
838.16	3rd	Commercial bribery.
843.18	3rd	Fleeing by boat to elude a law enforcement officer.
847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
849.01	3rd	Keeping gambling house.
849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
849.23	3rd	Gambling-related machines; "common offender" as to property rights.
849.25(2)	3rd	Engaging in bookmaking.
860.08	3rd	Interfere with a railroad signal.
860.13(1)(a)	3rd	Operate aircraft while under the influence.
893.13(2)(a)2.	3rd	Purchase of cannabis.
893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.

(b) LEVEL 2

Florida Statute	Felony Degree	Description
379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(6)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
590.28(1)	3rd	Intentional burning of lands.

784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
806.13(1)(b)3.	3rd	Criminal mischief; damage $1,000 or more to public communication or any other public service.
810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; $1,500 ~~$300~~ or more but

		less than $5,000.
812.014(2)(d)	3rd	Grand theft, 3rd degree; $1,500 ~~$100~~ or more but less than $5,000 ~~$300~~, taken from unenclosed curtilage of dwelling.
812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
817.234(1)(a)2.	3rd	False statement in support of insurance claim.
817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over $300.
817.52(3)	3rd	Failure to redeliver hired vehicle.
817.54	3rd	With intent to defraud, obtain mortgage note,

		etc., by false representation.
817.60(5)	3rd	Dealing in credit cards of another.
817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
817.61	3rd	Fraudulent use of credit cards over $100 or more within 6 months.
826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.
831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.

831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
843.08	3rd	False personation.
893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs other than cannabis.
893.147(2)	3rd	Manufacture or delivery

		of drug paraphernalia.

(c) LEVEL 3

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any

		certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland

		Protection Trust Fund.
379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.
379.2431 (1)(e)7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring

		licensure, without a license.
400.9935(4)(e)	3rd	Filing a false license application or other required information or failing to report information.
440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than $20,000.

626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
812.0145(2)(c)	3rd	Theft from person 65 years

		of age or older; $300 or more but less than $10,000.
815.04(5)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
817.234 (8)(b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
817.234(11)(a)	3rd	Insurance fraud; property value less than $20,000.
817.236	3rd	Filing a false motor vehicle insurance application.
817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.

817.413(2)	3rd	Sale of used goods as new.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	3rd	Injure, disable, or kill police dog or horse.
860.15(3)	3rd	Overcharging for repairs and parts.
870.01(2)	3rd	Riot; inciting or encouraging.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1.,

		(2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell or~~,~~ manufacture~~, or deliver~~ s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 250 ~~1,000~~ feet of university.
893.13(1)(f)2.	2nd	Sell or~~,~~ manufacture~~, or deliver~~ s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 250 ~~1,000~~ feet of public housing facility.
893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled substances.

893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance

		through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.

944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).

(d) LEVEL 4

Florida Statute	Felony Degree	Description
316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
499.0051(1)	3rd	Failure to maintain or deliver transaction

		history, transaction information, or transaction statements.
499.0051(5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
517.07(1)	3rd	Failure to register securities.
517.12(1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
784.075	3rd	Battery on detention or commitment facility staff.

784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
784.081(3)	3rd	Battery on specified official or employee.
784.082(3)	3rd	Battery by detained person on visitor or other detainee.
784.083(3)	3rd	Battery on code inspector.
784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed

		guardian.
787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
787.07	3rd	Human smuggling.
790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
790.115(2)(c)	3rd	Possessing firearm on

		school property.
800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
810.06	3rd	Burglary; possession of tools.
810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
812.014(2)(c)3.	3rd	Grand theft, 3rd degree $10,000 or more but less than $20,000.

812.014 (2)(c)4.-8. ~~812.014 (2)(c)4.-10.~~	3rd	Grand theft, 3rd degree, a ~~will,~~ firearm, motor vehicle, livestock, etc.
812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen $300 or more.
817.505(4)(a)	3rd	Patient brokering.
817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
817.568(2)(a)	3rd	Fraudulent use of personal identification information.
817.625(2)(a)	3rd	Fraudulent use of scanning device, skimming device, or reencoder.
817.625(2)(c)	3rd	Possess, sell, or deliver skimming device.

828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
837.02(1)	3rd	Perjury in official proceedings.
837.021(1)	3rd	Make contradictory statements in official proceedings.
838.022	3rd	Official misconduct.
839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.
843.021	3rd	Possession of a concealed handcuff key by a person in custody.

843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)5. drugs).
914.14(2)	3rd	Witnesses accepting

		bribes.
914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
918.12	3rd	Tampering with jurors.
934.215	3rd	Use of two-way communications device to facilitate commission of a crime.

(e) LEVEL 5

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.

316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving

		away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.
379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
379.407(5)(b)3.	3rd	Possession of 100 or more undersized spiny lobsters.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
440.10(1)(g)	2nd	Failure to obtain

		workers' compensation coverage.
440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected $20,000 or more but less than $100,000.
626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
790.01(2)	3rd	Carrying a concealed firearm.

790.162	2nd	Threat to throw or discharge destructive device.
790.163(1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18

		years of age or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.0145(2)(b)	2nd	Theft from person 65 years of age or older; $10,000 or more but less than $50,000.
812.015(8)	3rd	Retail theft; property stolen is valued at $1,500 ~~$300~~ or more and one or more specified acts.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.
812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.
817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to

		$50,000.
817.234(11)(b)	2nd	Insurance fraud; property value $20,000 or more but less than $100,000.
817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, $5,000 or more or use of personal identification information of 10 or more persons.
817.611(2)(a)	2nd	Traffic in or possess 5

		to 14 counterfeit credit cards or related documents.
817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.
825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.

828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
843.01	3rd	Resist officer with violence to person; resist arrest with violence.
847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
847.0138	3rd	Transmission of material

(2) & (3)		harmful to minors to a minor by electronic device or equipment.
874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs).
893.13(1)(c)2.	2nd	Sell or~~,~~ manufacture~~, or deliver~~ cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10.,

		(3), or (4) drugs) within 1,000 feet of a child care facility or~~,~~ school, or within 250 feet of a state, county, or municipal park or publicly owned recreational facility or community center.
893.13(1)(d)1.	1st	Sell or~~,~~ manufacture~~, or deliver~~ cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs) within 250 ~~1,000~~ feet of college or university.
893.13(1)(e)2.	2nd	Sell or~~,~~ manufacture~~, or deliver~~ cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) within 1,000 feet of property used

		for religious services or within 250 feet of a specified business site.
893.13(1)(f)1.	1st	Sell or~~,~~ manufacture~~, or deliver~~ cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)5. drugs) within 250 ~~1,000~~ feet of public housing facility.
893.13(4)(b)	2nd	Use or hire of minor; deliver to minor other controlled substance.
893.1351(1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

(f) LEVEL 6

Florida Statute	Felony Degree	Description
316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
400.9935(4)(c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
499.0051(2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
499.0051(3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
499.0051(4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
775.0875(1)	3rd	Taking firearm from law enforcement officer.
784.021(1)(a)	3rd	Aggravated assault;

		deadly weapon without intent to kill.
784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
784.041	3rd	Felony battery; domestic battery by strangulation.
784.048(3)	3rd	Aggravated stalking; credible threat.
784.048(5)	3rd	Aggravated stalking of person under 16.
784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
784.081(2)	2nd	Aggravated assault on

		specified official or employee.
784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
784.083(2)	2nd	Aggravated assault on code inspector.
787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
790.164(1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to

		state property, or use of firearms in violent manner.
790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
794.05(1)	2nd	Unlawful sexual activity with specified minor.
800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
806.031(2)	2nd	Arson resulting in great

		bodily harm to firefighter or any other person.
810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
810.145(8)(b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
812.014(2)(b)1.	2nd	Property stolen $20,000 or more, but less than $100,000, grand theft in 2nd degree.
812.014(6)	2nd	Theft; property stolen $3,000 or more; coordination of others.
812.015(9)(a)	2nd	Retail theft; property stolen $1,500 ~~$300~~ or more; second or subsequent adult conviction within specified period.
812.015(9)(b)	2nd	Retail theft; property

		stolen $3,000 or more; coordination of others.
812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
817.505(4)(b)	2nd	Patient brokering; 10 or more patients.
825.102(1)	3rd	Abuse of an elderly person or disabled adult.
825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
825.103(3)(c)	3rd	Exploiting an elderly

		person or disabled adult and property is valued at less than $10,000.
827.03(2)(c)	3rd	Abuse of a child.
827.03(2)(d)	3rd	Neglect of a child.
827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
836.05	2nd	Threats; extortion.
836.10	2nd	Written threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.
843.12	3rd	Aids or assists person to escape.
847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.

847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
944.40	2nd	Escapes.
944.46	3rd	Harboring, concealing,

		aiding escaped prisoners.
944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.

(g) LEVEL 7

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

		speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; $10,000 or less.
409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than $10,000, but less than $50,000.
456.065(2)	3rd	Practicing a health care profession without a license.

456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.

465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(7)	3rd	Practicing medical physics without a license.
484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
484.053	3rd	Dispensing hearing aids without a license.
494.0018(2)	1st	Conviction of any

		violation of chapter 494 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by a money services business.
560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.
775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other

registration violations.

775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).

782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.048(7)	3rd	Aggravated stalking; violation of court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.074(1)(a)	1st	Aggravated battery on

		sexually violent predators facility staff.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
784.083(1)	1st	Aggravated battery on code inspector.
787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.

790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a

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

		years of age or older but younger than 16 years of age; offender 18 years of age or older.
800.04(5)(e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.

810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
812.014(2)(a)1.	1st	Property stolen, valued at $100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than $50,000, grand theft in 2nd degree.
812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
812.0145(2)(a)	1st	Theft from person 65 years of age or older; $50,000 or more.

812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
817.034(4)(a)1.	1st	Communications fraud, value greater than $50,000.
817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
817.234(11)(c)	1st	Insurance fraud; property value $100,000 or more.

817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
817.611(2)(b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.103(3)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $10,000 or more, but less than $50,000.

827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
838.015	2nd	Bribery.
838.016	2nd	Unlawful compensation or reward for official behavior.
838.021(3)(a)	2nd	Unlawful harm to a public servant.
838.22	2nd	Bid tampering.
843.0855(2)	3rd	Impersonation of a public officer or employee.

843.0855(3)	3rd	Unlawful simulation of legal process.
843.0855(4)	3rd	Intimidation of a public officer or employee.
847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
872.06	2nd	Abuse of a dead human body.
874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related

		activity.
893.13(1)(c)1.	1st	Sell or~~,~~ manufacture~~, or deliver~~ cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.) within 1,000 feet of a child care facility or~~,~~ school, or within 250 feet of a state, county, or municipal park or publicly owned recreational facility or community center.
893.13(1)(e)1.	1st	Sell or~~,~~ manufacture~~, or deliver~~ cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5., within 1,000 feet of property used for religious services or within 250 feet of a specified business site.
893.13(4)(a)	1st	Use or hire of minor;

		deliver to minor other controlled substance.
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(c)2.a.	1st	Trafficking in hydrocodone, 14 grams or more, less than 28 grams.
893.135 (1)(c)2.b.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
893.135 (1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
893.135	1st	Trafficking in oxycodone, 14 grams or more, less

(1)(c)3.b.		than 25 grams.
893.135 (1)(c)4.b.(I)	1st	Trafficking in fentanyl, 4 grams or more, less than 14 grams.
893.135 (1)(d)1.a.	1st	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, 14 grams or more, less than 28 grams.
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135	1st	Trafficking in 1,4-

(1)(j)1.a.		Butanediol, 1 kilogram or more, less than 5 kilograms.
893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
893.135 (1)(m)2.a.	1st	Trafficking in synthetic cannabinoids, 280 grams or more, less than 500 grams.
893.135 (1)(m)2.b.	1st	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.
893.135 (1)(n)2.a.	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.
893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
896.101(5)(a)	3rd	Money laundering,

		financial transactions exceeding $300 but less than $20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.
943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
943.0435(13)	3rd	Failure to report or providing false information about a sexual

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

		registration information.
985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

Section 15. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in a reference thereto, subsection (10) of section 95.18, Florida Statutes, is reenacted to read:

95.18 Real property actions; adverse possession without color of title.—

(10) A person who occupies or attempts to occupy a residential structure solely by claim of adverse possession under this section and offers the property for lease to another commits theft under s. 812.014.

Section 16. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in a reference thereto, subsection (3) of section 400.9935, Florida Statutes, is reenacted to read:

400.9935 Clinic responsibilities.—

(3) A charge or reimbursement claim made by or on behalf of a clinic that is required to be licensed under this part but that is not so licensed, or that is otherwise operating in violation of this part, regardless of whether a service is rendered or whether the charge or reimbursement claim is paid, is an unlawful charge and is noncompensable and unenforceable. A person who knowingly makes or causes to be made an unlawful charge commits theft within the meaning of and punishable as provided in s. 812.014.

Section 17. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in a reference thereto, paragraph (g) of subsection (17) of section 409.910, Florida Statutes, is reenacted to read:

409.910 Responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.—

(17)

(g) The agency may investigate and request appropriate officers or agencies of the state to investigate suspected criminal violations or fraudulent activity related to third-party benefits, including, without limitation, ss. 414.39 and 812.014. Such requests may be directed, without limitation, to the Medicaid Fraud Control Unit of the Office of the Attorney General or to any state attorney. Pursuant to s. 409.913, the Attorney General has primary responsibility to investigate and

control Medicaid fraud.

Section 18. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in a reference thereto, subsection (4) of section 489.126, Florida Statutes, is reenacted to read:

489.126 Moneys received by contractors.—

(4) Any person who violates any provision of this section is guilty of theft and shall be prosecuted and punished under s. 812.014.

Section 19. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in a reference thereto, subsection (10) of section 550.6305, Florida Statutes, is reenacted to read:

550.6305 Intertrack wagering; guest track payments; accounting rules.—

(10) All races or games conducted at a permitholder's facility, all broadcasts of such races or games, and all broadcast rights relating thereto are owned by the permitholder at whose facility such races or games are conducted and constitute the permitholder's property as defined in s. 812.012(4). Transmission, reception of a transmission, exhibition, use, or other appropriation of such races or games, broadcasts of such races or games, or broadcast rights relating thereto without the written consent of the permitholder constitutes a theft of such property under s. 812.014; and in addition to the penal sanctions contained in s. 812.014, the permitholder has the right to avail itself of the civil remedies specified in ss. 772.104, 772.11, and 812.035 in addition to any other remedies available under applicable state or federal law.

Section 20. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in a reference thereto, subsection (2) of section 627.743, Florida Statutes, is reenacted to read:

627.743 Payment of third-party claims.—

(2) When making any payment on a third party claim for damage to an automobile for a partial loss, the insurer shall have printed on the loss estimate, if prepared by the insurer, the following: "Failure to use the insurance proceeds in accordance with the security agreement, if any, could be a violation of s. 812.014, Florida Statutes. If you have any questions, contact your lending institution." However, this subsection does not apply if the insurer does not prepare the loss estimate.

Section 21. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in a reference thereto, subsection (2) of section 634.319, Florida Statutes, is reenacted to read:

634.319 Reporting and accounting for funds.—

(2) Any sales representative who, not being entitled thereto, diverts or appropriates such funds or any portion thereof to her or his own use is, upon conviction, guilty of theft, punishable as provided in s. 812.014.

Section 22. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in a reference thereto, subsection (2) of section 634.421, Florida Statutes, is reenacted to read:

634.421 Reporting and accounting for funds.—

(2) Any sales representative who, not being entitled

thereto, diverts or appropriates funds or any portion thereof to her or his own use commits theft as provided in s. 812.014.

Section 23. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in a reference thereto, subsection (3) of section 636.238, Florida Statutes, is reenacted to read:

636.238 Penalties for violation of this part.—

(3) A person who collects fees for purported membership in a discount plan but purposefully fails to provide the promised benefits commits a theft, punishable as provided in s. 812.014.

Section 24. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in a reference thereto, subsection (2) of section 642.038, Florida Statutes, is reenacted to read:

642.038 Reporting and accounting for funds.—

(2) Any sales representative who, not being entitled thereto, diverts or appropriates such funds or any portion thereof to his or her own use commits theft as provided in s. 812.014.

Section 25. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in a reference thereto, subsection (4) of section 705.102, Florida Statutes, is reenacted to read:

705.102 Reporting lost or abandoned property.—

(4) Any person who unlawfully appropriates such lost or abandoned property to his or her own use or refuses to deliver such property when required commits theft as defined in s. 812.014, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 26. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in a reference thereto, paragraph (d) of subsection (1) of section 718.111, Florida Statutes, is reenacted to read:

718.111 The association.—

(1) CORPORATE ENTITY.—

(d) As required by s. 617.0830, an officer, director, or agent shall discharge his or her duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the interests of the association. An officer, director, or agent shall be liable for monetary damages as provided in s. 617.0834 if such officer, director, or agent breached or failed to perform his or her duties and the breach of, or failure to perform, his or her duties constitutes a violation of criminal law as provided in s. 617.0834; constitutes a transaction from which the officer or director derived an improper personal benefit, either directly or indirectly; or constitutes recklessness or an act or omission that was in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. Forgery of a ballot envelope or voting certificate used in a condominium association election is punishable as provided in s. 831.01, the theft or embezzlement of funds of a condominium association is punishable as provided in s. 812.014, and the destruction of or the refusal to allow inspection or copying of an official record of a condominium association that is accessible to unit owners within the time periods required by general law in furtherance of any crime is punishable as

tampering with physical evidence as provided in s. 918.13 or as obstruction of justice as provided in chapter 843. An officer or director charged by information or indictment with a crime referenced in this paragraph must be removed from office, and the vacancy shall be filled as provided in s. 718.112(2)(d)2. until the end of the officer's or director's period of suspension or the end of his or her term of office, whichever occurs first. If a criminal charge is pending against the officer or director, he or she may not be appointed or elected to a position as an officer or a director of any association and may not have access to the official records of any association, except pursuant to a court order. However, if the charges are resolved without a finding of guilt, the officer or director must be reinstated for the remainder of his or her term of office, if any.

Section 27. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in a reference thereto, subsection (2) of section 812.015, Florida Statutes, is reenacted to read:

812.015 Retail and farm theft; transit fare evasion; mandatory fine; alternative punishment; detention and arrest; exemption from liability for false arrest; resisting arrest; penalties.—

(2) Upon a second or subsequent conviction for petit theft from a merchant, farmer, or transit agency, the offender shall be punished as provided in s. 812.014(3), except that the court shall impose a fine of not less than $50 or more than $1,000. However, in lieu of such fine, the court may require the offender to perform public services designated by the court. In

no event shall any such offender be required to perform fewer than the number of hours of public service necessary to satisfy the fine assessed by the court, as provided by this subsection, at the minimum wage prevailing in the state at the time of sentencing.

Section 28. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in references thereto, subsections (1) and (2) of section 812.0155, Florida Statutes, are reenacted to read:

812.0155 Suspension of driver license following an adjudication of guilt for theft.—

(1) Except as provided in subsections (2) and (3), the court may order the suspension of the driver license of each person adjudicated guilty of any misdemeanor violation of s. 812.014 or s. 812.015, regardless of the value of the property stolen. Upon ordering the suspension of the driver license of the person adjudicated guilty, the court shall forward the driver license of the person adjudicated guilty to the Department of Highway Safety and Motor Vehicles in accordance with s. 322.25.

(a) The first suspension of a driver license under this subsection shall be for a period of up to 6 months.

(b) A second or subsequent suspension of a driver license under this subsection shall be for 1 year.

(2) The court may revoke, suspend, or withhold issuance of a driver license of a person less than 18 years of age who violates s. 812.014 or s. 812.015 as an alternative to sentencing the person to:

(a) Probation as defined in s. 985.03 or commitment to the

Department of Juvenile Justice, if the person is adjudicated delinquent for such violation and has not previously been convicted of or adjudicated delinquent for any criminal offense, regardless of whether adjudication was withheld.

(b) Probation as defined in s. 985.03, commitment to the Department of Juvenile Justice, probation as defined in chapter 948, community control, or incarceration, if the person is convicted as an adult of such violation and has not previously been convicted of or adjudicated delinquent for any criminal offense, regardless of whether adjudication was withheld.

Section 29. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in references thereto, subsections (4), (7), and (8) of section 812.14, Florida Statutes, are reenacted to read:

812.14 Trespass and larceny with relation to utility fixtures; theft of utility services.—

(4) A person who willfully violates subsection (2) commits theft, punishable as provided in s. 812.014.

(7) An owner, lessor, or sublessor who willfully violates subsection (5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Prosecution for a violation of subsection (5) does not preclude prosecution for theft pursuant to subsection (8) or s. 812.014.

(8) Theft of utility services for the purpose of facilitating the manufacture of a controlled substance is theft, punishable as provided in s. 812.014.

Section 30. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in a reference thereto, subsection (3) of section 893.138, Florida

Statutes, is reenacted to read:

893.138 Local administrative action to abate drug-related, prostitution-related, or stolen-property-related public nuisances and criminal gang activity.—

(3) Any pain-management clinic, as described in s. 458.3265 or s. 459.0137, which has been used on more than two occasions within a 6-month period as the site of a violation of:

(a) Section 784.011, s. 784.021, s. 784.03, or s. 784.045, relating to assault and battery;

(b) Section 810.02, relating to burglary;

(c) Section 812.014, relating to theft;

(d) Section 812.131, relating to robbery by sudden snatching; or

(e) Section 893.13, relating to the unlawful distribution of controlled substances,

may be declared to be a public nuisance, and such nuisance may be abated pursuant to the procedures provided in this section.

Section 31. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in a reference thereto, paragraph (a) of subsection (2) of section 932.701, Florida Statutes, is reenacted to read:

932.701 Short title; definitions.—

(2) As used in the Florida Contraband Forfeiture Act:

(a) "Contraband article" means:

1. Any controlled substance as defined in chapter 893 or any substance, device, paraphernalia, or currency or other means of exchange that was used, was attempted to be used, or was intended to be used in violation of any provision of chapter

893, if the totality of the facts presented by the state is clearly sufficient to meet the state's burden of establishing probable cause to believe that a nexus exists between the article seized and the narcotics activity, whether or not the use of the contraband article can be traced to a specific narcotics transaction.

2. Any gambling paraphernalia, lottery tickets, money, currency, or other means of exchange which was used, was attempted, or intended to be used in violation of the gambling laws of the state.

3. Any equipment, liquid or solid, which was being used, is being used, was attempted to be used, or intended to be used in violation of the beverage or tobacco laws of the state.

4. Any motor fuel upon which the motor fuel tax has not been paid as required by law.

5. Any personal property, including, but not limited to, any vessel, aircraft, item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, securities, books, records, research, negotiable instruments, or currency, which was used or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony, whether or not comprising an element of the felony, or which is acquired by proceeds obtained as a result of a violation of the Florida Contraband Forfeiture Act.

6. Any real property, including any right, title, leasehold, or other interest in the whole of any lot or tract of land, which was used, is being used, or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony, or which is acquired

by proceeds obtained as a result of a violation of the Florida Contraband Forfeiture Act.

7. Any personal property, including, but not limited to, equipment, money, securities, books, records, research, negotiable instruments, currency, or any vessel, aircraft, item, object, tool, substance, device, weapon, machine, or vehicle of any kind in the possession of or belonging to any person who takes aquaculture products in violation of s. 812.014(2)(c).

8. Any motor vehicle offered for sale in violation of s. 320.28.

9. Any motor vehicle used during the course of committing an offense in violation of s. 322.34(9)(a).

10. Any photograph, film, or other recorded image, including an image recorded on videotape, a compact disc, digital tape, or fixed disk, that is recorded in violation of s. 810.145 and is possessed for the purpose of amusement, entertainment, sexual arousal, gratification, or profit, or for the purpose of degrading or abusing another person.

11. Any real property, including any right, title, leasehold, or other interest in the whole of any lot or tract of land, which is acquired by proceeds obtained as a result of Medicaid fraud under s. 409.920 or s. 409.9201; any personal property, including, but not limited to, equipment, money, securities, books, records, research, negotiable instruments, or currency; or any vessel, aircraft, item, object, tool, substance, device, weapon, machine, or vehicle of any kind in the possession of or belonging to any person which is acquired by proceeds obtained as a result of Medicaid fraud under s. 409.920 or s. 409.9201.

12. Any personal property, including, but not limited to, any vehicle, item, object, tool, device, weapon, machine, money, security, book, or record, that is used or attempted to be used as an instrumentality in the commission of, or in aiding and abetting in the commission of, a person's third or subsequent violation of s. 509.144, whether or not comprising an element of the offense.

Section 32. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in a reference thereto, paragraph (b) of subsection (3) of section 943.051, Florida Statutes, is reenacted to read:

943.051 Criminal justice information; collection and storage; fingerprinting.—

(3)

(b) A minor who is charged with or found to have committed the following offenses shall be fingerprinted and the fingerprints shall be submitted electronically to the department, unless the minor is issued a civil citation pursuant to s. 985.12:

1. Assault, as defined in s. 784.011.

2. Battery, as defined in s. 784.03.

3. Carrying a concealed weapon, as defined in s. 790.01(1).

4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).

5. Neglect of a child, as defined in s. 827.03(1)(e).

6. Assault or battery on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a) and (b).

7. Open carrying of a weapon, as defined in s. 790.053.

8. Exposure of sexual organs, as defined in s. 800.03.

9. Unlawful possession of a firearm, as defined in s. 790.22(5).

10. Petit theft, as defined in s. 812.014(3).

11. Cruelty to animals, as defined in s. 828.12(1).

12. Arson, as defined in s. 806.031(1).

13. Unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property, as provided in s. 790.115.

Section 33. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 985.11, Florida Statutes, is reenacted to read:

985.11 Fingerprinting and photographing.—

(1)

(b) Unless the child is issued a civil citation or is participating in a similar diversion program pursuant to s. 985.12, a child who is charged with or found to have committed one of the following offenses shall be fingerprinted, and the fingerprints shall be submitted to the Department of Law Enforcement as provided in s. 943.051(3)(b):

1. Assault, as defined in s. 784.011.

2. Battery, as defined in s. 784.03.

3. Carrying a concealed weapon, as defined in s. 790.01(1).

4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).

5. Neglect of a child, as defined in s. 827.03(1)(e).

6. Assault on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a).

7. Open carrying of a weapon, as defined in s. 790.053.

8. Exposure of sexual organs, as defined in s. 800.03.

9. Unlawful possession of a firearm, as defined in s. 790.22(5).

10. Petit theft, as defined in s. 812.014.

11. Cruelty to animals, as defined in s. 828.12(1).

12. Arson, resulting in bodily harm to a firefighter, as defined in s. 806.031(1).

13. Unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property as defined in s. 790.115.

A law enforcement agency may fingerprint and photograph a child taken into custody upon probable cause that such child has committed any other violation of law, as the agency deems appropriate. Such fingerprint records and photographs shall be retained by the law enforcement agency in a separate file, and these records and all copies thereof must be marked "Juvenile Confidential." These records are not available for public disclosure and inspection under s. 119.07(1) except as provided in ss. 943.053 and 985.04(2), but shall be available to other law enforcement agencies, criminal justice agencies, state attorneys, the courts, the child, the parents or legal custodians of the child, their attorneys, and any other person authorized by the court to have access to such records. In addition, such records may be submitted to the Department of Law Enforcement for inclusion in the state criminal history records and used by criminal justice agencies for criminal justice purposes. These records may, in the discretion of the court, be

open to inspection by anyone upon a showing of cause. The fingerprint and photograph records shall be produced in the court whenever directed by the court. Any photograph taken pursuant to this section may be shown by a law enforcement officer to any victim or witness of a crime for the purpose of identifying the person who committed such crime.

Section 34. For the purpose of incorporating the amendment made by this act to section 812.014, Florida Statutes, in references thereto, paragraph (a) of subsection (1) and paragraph (c) of subsection (2) of section 985.557, Florida Statutes, are reenacted to read:

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

(1) DISCRETIONARY DIRECT FILE.—

(a) With respect to any child who was 14 or 15 years of age at the time the alleged offense was committed, the state attorney may file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed and when the offense charged is for the commission of, attempt to commit, or conspiracy to commit:

1. Arson;

2. Sexual battery;

3. Robbery;

4. Kidnapping;

5. Aggravated child abuse;

6. Aggravated assault;

7. Aggravated stalking;

8. Murder;

9. Manslaughter;

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

11. Armed burglary in violation of s. 810.02(2)(b) or specified burglary of a dwelling or structure in violation of s. 810.02(2)(c), or burglary with an assault or battery in violation of s. 810.02(2)(a);

12. Aggravated battery;

13. Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age;

14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony;

15. Grand theft in violation of s. 812.014(2)(a);

16. Possessing or discharging any weapon or firearm on school property in violation of s. 790.115;

17. Home invasion robbery;

18. Carjacking; or

19. Grand theft of a motor vehicle in violation of s. 812.014(2)(c)6. or grand theft of a motor vehicle valued at $20,000 or more in violation of s. 812.014(2)(b) if the child has a previous adjudication for grand theft of a motor vehicle in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).

(2) MANDATORY DIRECT FILE.—

(c) The state attorney must file an information if a child, regardless of the child's age at the time the alleged offense was committed, is alleged to have committed an act that would be a violation of law if the child were an adult, that involves stealing a motor vehicle, including, but not limited to, a violation of s. 812.133, relating to carjacking, or s.

812.014(2)(c)6., relating to grand theft of a motor vehicle, and while the child was in possession of the stolen motor vehicle the child caused serious bodily injury to or the death of a person who was not involved in the underlying offense. For purposes of this section, the driver and all willing passengers in the stolen motor vehicle at the time such serious bodily injury or death is inflicted shall also be subject to mandatory transfer to adult court. "Stolen motor vehicle," for the purposes of this section, means a motor vehicle that has been the subject of any criminal wrongful taking. For purposes of this section, "willing passengers" means all willing passengers who have participated in the underlying offense.

Section 35. For the purpose of incorporating the amendment made by this act to section 812.015, Florida Statutes, in a reference thereto, subsection (5) of section 538.09, Florida Statutes, is reenacted to read:

538.09 Registration.—

(5) In addition to the fine provided in subsection (4), registration under this section may be denied or any registration granted may be revoked, restricted, or suspended by the department if the department determines that the applicant or registrant:

(a) Has violated any provision of this chapter or any rule or order made pursuant to this chapter;

(b) Has made a material false statement in the application for registration;

(c) Has been guilty of a fraudulent act in connection with any purchase or sale or has been or is engaged in or is about to engage in any practice, purchase, or sale which is fraudulent or

in violation of the law;

(d) Has made a misrepresentation or false statement to, or concealed any essential or material fact from, any person in making any purchase or sale;

(e) Is making purchases or sales through any business associate not registered in compliance with the provisions of this chapter;

(f) Has, within the preceding 10-year period for new registrants who apply for registration on or after October 1, 2006, been convicted of, or has entered a plea of guilty or nolo contendere to, or had adjudication withheld for, a crime against the laws of this state or any other state or of the United States which relates to registration as a secondhand dealer or which involves theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, obtaining property by false pretenses, possession of altered property, any felony drug offense, any violation of s. 812.015, or any fraudulent dealing;

(g) Has had a final judgment entered against her or him in a civil action upon grounds of fraud, embezzlement, misrepresentation, or deceit; or

(h) Has failed to pay any sales tax owed to the Department of Revenue.

In the event the department determines to deny an application or revoke a registration, it shall enter a final order with its findings on the register of secondhand dealers and their business associates, if any; and denial, suspension, or revocation of the registration of a secondhand dealer shall also

deny, suspend, or revoke the registration of such secondhand dealer's business associates.

Section 36. For the purpose of incorporating the amendments made by this act to sections 812.014 and 812.015, Florida Statutes, in references thereto, subsection (2) of section 538.23, Florida Statutes, is reenacted to read:

538.23 Violations and penalties.—

(2) A secondary metals recycler is presumed to know upon receipt of stolen regulated metals property in a purchase transaction that the regulated metals property has been stolen from another if the secondary metals recycler knowingly and intentionally fails to maintain the information required in s. 538.19 and shall, upon conviction of a violation of s. 812.015, be punished as provided in s. 812.014(2) or (3).

Section 37. For the purpose of incorporating the amendments made by this act to sections 812.014 and 812.015, Florida Statutes, in references thereto, subsection (2) of section 812.0155, Florida Statutes, is reenacted to read:

812.0155 Suspension of driver license following an adjudication of guilt for theft.—

(2) The court may revoke, suspend, or withhold issuance of a driver license of a person less than 18 years of age who violates s. 812.014 or s. 812.015 as an alternative to sentencing the person to:

(a) Probation as defined in s. 985.03 or commitment to the Department of Juvenile Justice, if the person is adjudicated delinquent for such violation and has not previously been convicted of or adjudicated delinquent for any criminal offense, regardless of whether adjudication was withheld.

(b) Probation as defined in s. 985.03, commitment to the Department of Juvenile Justice, probation as defined in chapter 948, community control, or incarceration, if the person is convicted as an adult of such violation and has not previously been convicted of or adjudicated delinquent for any criminal offense, regardless of whether adjudication was withheld.

Section 38. 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 39. 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 40. 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 41. 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 42. 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) and subsections (3) and (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),

(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) Aggravated fleeing or eluding with serious bodily injury or death,

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

(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,

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),

(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) Unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,

(m) Carjacking,

(n) Home-invasion robbery,

(o) Aggravated stalking,

(p) Murder of another human being,

(q) Aggravated fleeing or eluding with serious bodily injury or death,

(r) Resisting an officer with violence to his or her person, or

(s) 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,

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 43. For the purpose of incorporating the amendment made by this act to section 893.135, Florida Statutes, in a

reference thereto, 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:

(a) Dwelling, and there is another person in the dwelling at the time the offender enters or remains;

(b) Dwelling, and there is not another person in the dwelling at the time the offender enters or remains;

(c) Structure, and there is another person in the structure at the time the offender enters or remains;

(d) Conveyance, and there is another person in the conveyance at the time the offender enters or remains;

(e) Authorized emergency vehicle, as defined in s. 316.003; or

(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 44. 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 45. 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 46. 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 47. 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 48. 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 49. 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 50. 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 51. For the purpose of incorporating the amendment made by this act to section 945.091, Florida Statutes, in a reference thereto, subsection (2) of section 944.516, Florida Statutes, is reenacted to read:

944.516 Money or other property received for personal use or benefit of inmate; deposit; disposition of unclaimed trust funds.—The Department of Corrections shall protect the financial interest of the state with respect to claims which the state may have against inmates in state institutions under its supervision and control and shall administer money and other property received for the personal benefit of such inmates. In carrying out the provisions of this section, the department may delegate any of its enumerated powers and duties affecting inmates of an institution to the warden or regional director who shall personally, or through designated employees of his or her personal staff under his or her direct supervision, exercise

such powers or perform such duties.

(2) The department shall require documentation through an accounting of receipts for expenditures by inmates placed on extended limits of confinement pursuant to s. 945.091. However, the department may allow such inmates an amount up to $25 per week which may not require documentation and which may be used for discretionary needs. The $25 per week may be increased by $5 biennially, beginning in fiscal year 1985-1986, up to a total of $50.

Section 52. For the purpose of incorporating the amendment made by this act to section 945.091, Florida Statutes, in a reference thereto, section 945.092, Florida Statutes, is reenacted to read:

945.092 Limits on work-release and minimum security custody for persons who have committed the crime of escape.—A person who has ever been convicted, regardless of adjudication, of the offense of escape, as prohibited by s. 944.40 or its successor, or as prohibited by a similar law of another state, is not eligible for any work-release program under s. 945.091 or for confinement in minimum security conditions.

Section 53. For the purpose of incorporating the amendment made by this act to section 945.091, Florida Statutes, in a reference thereto, subsection (2) of section 946.503, Florida Statutes, is reenacted to read:

946.503 Definitions to be used with respect to correctional work programs.—As used in this part, the term:

(2) "Correctional work program" means any program presently a part of the prison industries program operated by the department or any other correctional work program carried on at

any state correctional facility presently or in the future, but the term does not include any program authorized by s. 945.091 or s. 946.40.

Section 54. For the purpose of incorporating the amendment made by this act to section 947.149, Florida Statutes, in a reference thereto, subsection (6) of section 316.1935, Florida Statutes, is reenacted to read:

316.1935 Fleeing or attempting to elude a law enforcement officer; aggravated fleeing or eluding.—

(6) Notwithstanding s. 948.01, no court may suspend, defer, or withhold adjudication of guilt or imposition of sentence for any violation of this section. A person convicted and sentenced to a mandatory minimum term of incarceration under paragraph (3)(b) or paragraph (4)(b) is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency or conditional medical release under s. 947.149, prior to serving the mandatory minimum sentence.

Section 55. For the purpose of incorporating the amendment made by this act to section 947.149, Florida Statutes, in a reference thereto, paragraph (k) of subsection (4) of section 775.084, Florida Statutes, is reenacted to read:

775.084 Violent career criminals; habitual felony offenders and habitual violent felony offenders; three-time violent felony offenders; definitions; procedure; enhanced penalties or mandatory minimum prison terms.—

(4)

(k)1. A defendant sentenced under this section as a habitual felony offender, a habitual violent felony offender, or

a violent career criminal is eligible for gain-time granted by the Department of Corrections as provided in s. 944.275(4)(b).

2. For an offense committed on or after October 1, 1995, a defendant sentenced under this section as a violent career criminal is not eligible for any form of discretionary early release, other than pardon or executive clemency, or conditional medical release granted pursuant to s. 947.149.

3. For an offense committed on or after July 1, 1999, a defendant sentenced under this section as a three-time violent felony offender shall be released only by expiration of sentence and shall not be eligible for parole, control release, or any form of early release.

Section 56. For the purpose of incorporating the amendment made by this act to section 947.149, Florida Statutes, in a reference thereto, subsection (3) of section 784.07, Florida Statutes, is reenacted to read:

784.07 Assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers; reclassification of offenses; minimum sentences.—

(3) Any person who is convicted of a battery under paragraph (2)(b) and, during the commission of the offense, such person possessed:

(a) A "firearm" or "destructive device" as those terms are defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 3 years.

(b) A semiautomatic firearm and its high-capacity detachable box magazine, as defined in s. 775.087(3), or a machine gun as defined in s. 790.001, shall be sentenced to a

minimum term of imprisonment of 8 years.

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

Section 57. For the purpose of incorporating the amendment made by this act to section 947.149, Florida Statutes, in a reference thereto, subsection (1) of section 790.235, Florida Statutes, is reenacted to read:

790.235 Possession of firearm or ammunition by violent career criminal unlawful; penalty.—

(1) Any person who meets the violent career criminal criteria under s. 775.084(1)(d), regardless of whether such person is or has previously been sentenced as a violent career criminal, who owns or has in his or her care, custody, possession, or control any firearm, ammunition, or electric weapon or device, or carries a concealed weapon, including a tear gas gun or chemical weapon or device, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person convicted of a violation of this section shall be sentenced to a mandatory minimum of 15 years' imprisonment; however, if the person would be sentenced to a longer term of imprisonment under s. 775.084(4)(d), the person must be sentenced under that provision. A person convicted of a violation of this section is not eligible for any form of discretionary early release, other than pardon,

executive clemency, or conditional medical release under s. 947.149.

Section 58. For the purpose of incorporating the amendment made by this act to section 947.149, Florida Statutes, in a reference thereto, subsection (7) of section 794.0115, Florida Statutes, is reenacted to read:

794.0115 Dangerous sexual felony offender; mandatory sentencing.—

(7) A defendant sentenced to a mandatory minimum term of imprisonment under this section is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, before serving the minimum sentence.

Section 59. For the purpose of incorporating the amendment made by this act to section 947.149, Florida Statutes, in a reference thereto, paragraphs (b), (c), and (g) of subsection (1) and subsection (3) of section 893.135, Florida Statutes, are reenacted 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:

(b)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine, as described in s. 893.03(2)(a)4., or of any mixture containing cocaine, but less than 150 kilograms of cocaine or any such mixture, commits a felony of the first

degree, which felony shall be known as "trafficking in cocaine," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of $50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of $100,000.

c. Is 400 grams or more, but less than 150 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 150 kilograms or more of cocaine, as described in s. 893.03(2)(a)4., commits the first degree felony of trafficking in cocaine. A person who has been convicted of the first degree felony of trafficking in cocaine under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result,

such person commits the capital felony of trafficking in cocaine, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

3. Any person who knowingly brings into this state 300 kilograms or more of cocaine, as described in s. 893.03(2)(a)4., and who knows that the probable result of such importation would be the death of any person, commits capital importation of cocaine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(c)1. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of any morphine, opium, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or more of any mixture containing any such substance, but less than 30 kilograms of such substance or mixture, commits a felony of the first degree, which felony shall be known as "trafficking in illegal drugs," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 4 grams or more, but less than 14 grams, such person

shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of $50,000.

b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of $100,000.

c. Is 28 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of $500,000.

2. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 14 grams or more of hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as described in s. 893.03(2)(a)1.g., or any salt thereof, or 14 grams or more of any mixture containing any such substance, commits a felony of the first degree, which felony shall be known as "trafficking in hydrocodone," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of $50,000.

b. Is 28 grams or more, but less than 50 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of $100,000.

c. Is 50 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of $500,000.

d. Is 200 grams or more, but less than 30 kilograms, such

person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of $750,000.

3. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 7 grams or more of oxycodone, as described in s. 893.03(2)(a)1.q., or any salt thereof, or 7 grams or more of any mixture containing any such substance, commits a felony of the first degree, which felony shall be known as "trafficking in oxycodone," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 7 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of $50,000.

b. Is 14 grams or more, but less than 25 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of $100,000.

c. Is 25 grams or more, but less than 100 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of $500,000.

d. Is 100 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of $750,000.

4.a. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of:

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

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

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

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

(V) A fentanyl derivative, as described in s. 893.03(1)(a)62.;

(VI) A controlled substance analog, as described in s. 893.0356, of any substance described in sub-sub-subparagraphs (I)-(V); or

(VII) A mixture containing any substance described in sub-sub-subparagraphs (I)-(VI),

commits a felony of the first degree, which felony shall be known as "trafficking in fentanyl," punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. If the quantity involved under sub-subparagraph a.:

(I) Is 4 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and shall be ordered to pay a fine of $50,000.

(II) Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years, and shall be ordered to pay a fine of $100,000.

(III) Is 28 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years, and shall be ordered to pay a fine of $500,000.

5. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 30 kilograms or more of

any morphine, opium, oxycodone, hydrocodone, codeine, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture containing any such substance, commits the first degree felony of trafficking in illegal drugs. A person who has been convicted of the first degree felony of trafficking in illegal drugs under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result,

such person commits the capital felony of trafficking in illegal drugs, punishable as provided in ss. 775.082 and 921.142. A person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

6. A person who knowingly brings into this state 60 kilograms or more of any morphine, opium, oxycodone, hydrocodone, codeine, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as

described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or more of any mixture containing any such substance, and who knows that the probable result of such importation would be the death of a person, commits capital importation of illegal drugs, a capital felony punishable as provided in ss. 775.082 and 921.142. A person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(g)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of flunitrazepam or any mixture containing flunitrazepam as described in s. 893.03(1)(a) commits a felony of the first degree, which felony shall be known as "trafficking in flunitrazepam," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 4 grams or more but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of $50,000.

b. Is 14 grams or more but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of $100,000.

c. Is 28 grams or more but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and pay a fine of $500,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state or who is knowingly in

actual or constructive possession of 30 kilograms or more of flunitrazepam or any mixture containing flunitrazepam as described in s. 893.03(1)(a) commits the first degree felony of trafficking in flunitrazepam. A person who has been convicted of the first degree felony of trafficking in flunitrazepam under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result,

such person commits the capital felony of trafficking in flunitrazepam, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(3) Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for parole prior to serving the mandatory minimum term of imprisonment prescribed by this section. A person sentenced to a mandatory minimum term of imprisonment under this

section is not eligible for any form of discretionary early release, except pardon or executive clemency or conditional medical release under s. 947.149, prior to serving the mandatory minimum term of imprisonment.

Section 60. For the purpose of incorporating the amendment made by this act to section 947.149, Florida Statutes, in a reference thereto, paragraph (b) of subsection (7) of section 944.605, Florida Statutes, is reenacted to read:

944.605 Inmate release; notification; identification card.—

(7)

(b) Paragraph (a) does not apply to inmates who:

1. The department determines have a valid driver license or state identification card, except that the department shall provide these inmates with a replacement state identification card or replacement driver license, if necessary.

2. Have an active detainer, unless the department determines that cancellation of the detainer is likely or that the incarceration for which the detainer was issued will be less than 12 months in duration.

3. Are released due to an emergency release or a conditional medical release under s. 947.149.

4. Are not in the physical custody of the department at or within 180 days before release.

5. Are subject to sex offender residency restrictions, and who, upon release under such restrictions, do not have a qualifying address.

Section 61. For the purpose of incorporating the amendment made by this act to section 947.149, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section

944.70, Florida Statutes, is reenacted to read:

944.70 Conditions for release from incarceration.—

(1)

(b) A person who is convicted of a crime committed on or after January 1, 1994, may be released from incarceration only:

1. Upon expiration of the person's sentence;

2. Upon expiration of the person's sentence as reduced by accumulated meritorious or incentive gain-time;

3. As directed by an executive order granting clemency;

4. Upon placement in a conditional release program pursuant to s. 947.1405 or a conditional medical release program pursuant to s. 947.149; or

5. Upon the granting of control release, including emergency control release, pursuant to s. 947.146.

Section 62. For the purpose of incorporating the amendment made by this act to section 947.149, Florida Statutes, in a reference thereto, paragraph (h) of subsection (1) of section 947.13, Florida Statutes, is reenacted to read:

947.13 Powers and duties of commission.—

(1) The commission shall have the powers and perform the duties of:

(h) Determining what persons will be released on conditional medical release under s. 947.149, establishing the conditions of conditional medical release, and determining whether a person has violated the conditions of conditional medical release and taking action with respect to such a violation.

Section 63. For the purpose of incorporating the amendment made by this act to section 947.149, Florida Statutes, in a

reference thereto, subsections (1), (2), and (7) of section 947.141, Florida Statutes, are reenacted to read:

947.141 Violations of conditional release, control release, or conditional medical release or addiction-recovery supervision.—

(1) If a member of the commission or a duly authorized representative of the commission has reasonable grounds to believe that an offender who is on release supervision under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated the terms and conditions of the release in a material respect, such member or representative may cause a warrant to be issued for the arrest of the releasee; if the offender was found to be a sexual predator, the warrant must be issued.

(2) Upon the arrest on a felony charge of an offender who is on release supervision under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731, the offender must be detained without bond until the initial appearance of the offender at which a judicial determination of probable cause is made. If the trial court judge determines that there was no probable cause for the arrest, the offender may be released. If the trial court judge determines that there was probable cause for the arrest, such determination also constitutes reasonable grounds to believe that the offender violated the conditions of the release. Within 24 hours after the trial court judge's finding of probable cause, the detention facility administrator or designee shall notify the commission and the department of the finding and transmit to each a facsimile copy of the probable cause affidavit or the sworn offense report upon which the trial court judge's probable cause determination is based. The offender must

continue to be detained without bond for a period not exceeding 72 hours excluding weekends and holidays after the date of the probable cause determination, pending a decision by the commission whether to issue a warrant charging the offender with violation of the conditions of release. Upon the issuance of the commission's warrant, the offender must continue to be held in custody pending a revocation hearing held in accordance with this section.

(7) If a law enforcement officer has probable cause to believe that an offender who is on release supervision under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated the terms and conditions of his or her release by committing a felony offense, the officer shall arrest the offender without a warrant, and a warrant need not be issued in the case.

Section 64. For the purpose of incorporating the amendment made by this act to sections 812.014 and 893.135, Florida Statutes, in references 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 65. For the purpose of incorporating the amendment made by this act to sections 893.135 and 947.149, Florida

Statutes, in references thereto, paragraphs (a) and (b) of subsection (2) and paragraphs (a) and (b) 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.

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

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

(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.

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

Notwithstanding s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and

the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, prior to serving the minimum sentence.

Section 66. For the purpose of incorporating the amendment made by this act to sections 893.135 and 947.149, Florida Statutes, in references thereto, paragraph (b) of subsection (1) and subsection (2) of section 921.0024, Florida Statutes, are 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.

(2) The lowest permissible sentence is the minimum sentence that may be imposed by the trial court, absent a valid reason for departure. The lowest permissible sentence is any nonstate prison sanction in which the total sentence points equals or is less than 44 points, unless the court determines within its discretion that a prison sentence, which may be up to the statutory maximums for the offenses committed, is appropriate. When the total sentence points exceeds 44 points, the lowest permissible sentence in prison months shall be calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent. The total sentence points shall be calculated only as a means of determining the lowest permissible sentence. The permissible range for sentencing shall be the lowest permissible sentence up to and including the statutory maximum, as defined in s. 775.082, for the primary offense and any additional offenses before the court for sentencing. The sentencing court may impose such sentences concurrently or consecutively. However, any sentence to state prison must exceed 1 year. If the lowest permissible sentence under the code exceeds the statutory maximum sentence as provided in s. 775.082, the sentence required by the code must be imposed. If the total sentence points are greater than or equal to 363, the court may sentence the offender to life imprisonment. An offender sentenced to life imprisonment under this section is not eligible for any form of discretionary early release, except executive clemency or conditional medical release under s. 947.149.

Section 67. Except as otherwise expressly provided in this

act and except for this section, which shall take effect July 1, 2019, this act shall take effect October 1, 2019.

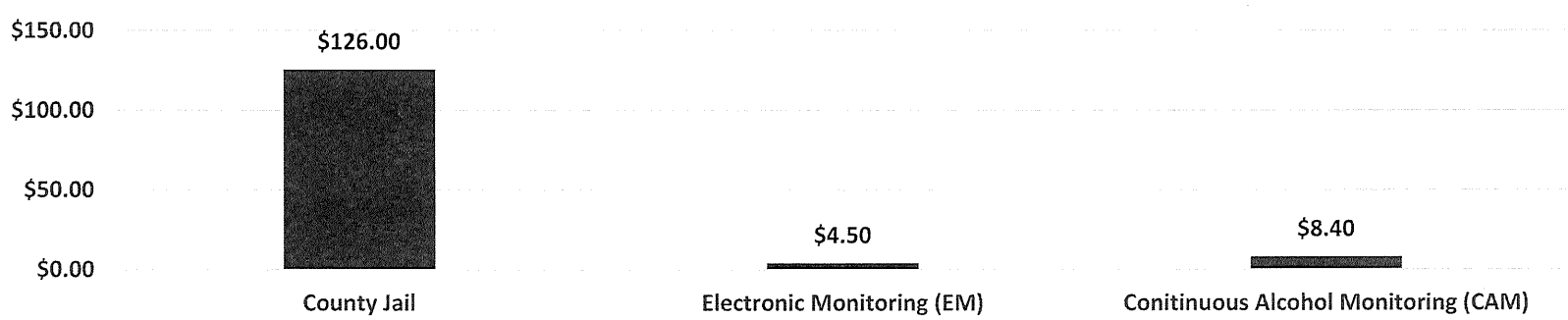
ROR and Supervised Bond Presentation

"Leading The Way For A Safer Pinellas"

Bail Purpose

- Bail is to ensure those released from jail pending disposition of their criminal case are not a danger to the community or risk of flight.
- The challenge for judges is to set a proper bail amount that ensures someone will not reoffend, appear for court and generally comply with the terms of release.
- Some bail amounts are proper to ensure compliance, but too high for defendants to meet and that means they may spend months in jail waiting for their case to be resolved.

Daily Supervision Costs



- Bail is not and should not be punitive.
- Our goal is public safety, compliance with the terms of release, and effectively managing the jail population.
- In 2014 we had a crowded jail with about 70% of the inmates being pre-trial detainees (those awaiting disposition of their cases).

Awaiting Case Disposition

- If someone can be **successfully** released from jail pending disposition of their criminal case, where they can work and support their families, that is better than them unnecessarily sitting in jail for several months.
- Many people were sitting in jail because the bail amounts were too high for them to pay the cash bail or the fee to a bail bondsman.
- The bail amounts were proper, and without more oversight of the defendant the judges could not lower the bail while ensuring public safety and compliance.

Active Monitoring

- We approached the judges and offered to have the sheriff's office electronic monitor (EM) and/or continuous alcohol monitor (CAM) defendants if the judges would lower the bail amounts so the defendants could afford bail.
- This resulted in a partnership with the bail bond industry; they provide the bail and the sheriff's office provides the supervision to ensure compliance that bail alone might not.
- The key is ACTIVE (passive monitoring is different and ineffective) EM and/or CAM, to enforce the conditions of no alcohol consumption and restrictions on where the defendant can/cannot go and when.

Example:

- Example: defendant is in jail on $10,000 bail. Judge agrees to reduce the bail to $5,000 because the person will be on EM and/or CAM supervised by the sheriff's office with the condition that he not consume alcohol and be in his residence between 10:00 p.m. and 6:00 a.m., and not go within 500 feet of the victim's home.
- Pinellas County Sheriff's Office started its Supervised Bail Bond Program in October 2014.
- Over 1,700 people have been released from the jail on bail bond with EM and/or CAM through October 2017.

Monitoring

- We average 200 people per day on EM and/or CAM through our Supervised Bail program who otherwise would be in jail.
- Our EM and CAM is active monitoring that allows us to continuously track offenders through cellular networks and global positioning system (GPS).
- Our CAM system allows us to randomly test for alcohol consumption, absorption or elimination. The presence of alcohol can be measured by testing breath or perspiration. Current equipment is "Alcohol Monitoring System" (AMS) and Secure Continuous Remote Alcohol Monitor (SCRAM) ankle bracelet and Remote Breath device.

Savings & Success

Average	Daily Cost (Total)	Annual Cost (Total)
200 (Jail, $126/day)	$25,200	$9,200,000
200 (Monitoring, $4.50/day)	$900	$328,500

- Of the 1,721 inmates released through our Supervised Bail Bond program, 52% were released on a combination of CAM and bond; 43% EM and bond; and 5% bond with EM and CAM.
- The average length of time a person spends on Supervised Bond is 88 days. That is 88 days that the person would otherwise spend in jail awaiting disposition of their case. (88 days at $126 =$11,088 or 88 days at $4.50 = $396).

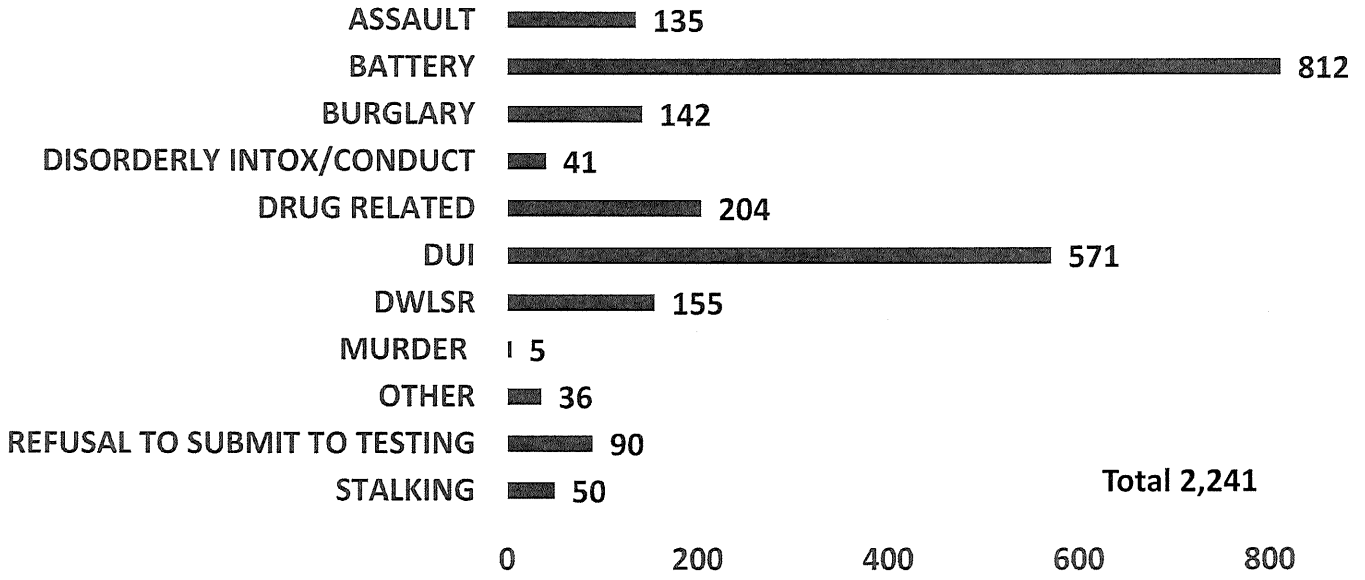
Savings & Success

- Of the 1,721 defendants released on EM and/or CAM only 8 or 0.5% failed to appear and 88 or 5.1% had a new arrest while on supervised release.
- Stated the other way **99.5 % appeared as required for court and 94.9% did not commit a new crime while on Supervised Bond.**
- Of the 1,721 released defendants, 347 or 20% violated the terms of the release but did NOT fail to appear or commit a new crime. Violating the terms of release means they consumed alcohol, violated curfew, etc… The violation was addressed and the person remained on supervised release.

Savings & Success

- 80% fully complied with all terms of the Supervised Bond program.
- The program's effectiveness is due to: proper case evaluation and good decision-making by the judges; the program being ACTIVE monitoring with immediate consequences; and the program being run by the sheriff's office (law enforcement supervision).
- Of the total cases supervised, 45% were felonies, 30% misdemeanors and 25% DUI's (felonies and misdemeanors).

Supervised Bond by Case Type – October 2014 to October 2017



Bond Account Summary	
Average Bond Amount Reduced to:	$5,000
$0-$1,000	43%
$1,001-$2,500	20%
$2,501-$5,000	20%
$5,001-$10,000	10%
$10,001-$100,000	7%
$100,001-$250,000	>1%

Release on Recognizance (ROR) Program

- In addition to the Supervised Bail program we also operate a Release on Recognizance (ROR) program.
- ROR is where a person charged with a crime is released without any monetary conditions.
- This is different from the Supervised Bond program because under supervised bond there is a combination of monetary conditions coupled with other supervision.
- ROR is carries no cash bail or bail bond requirement.

Release on Recognizance (ROR) Program

- In addition to the 200 people per day on Supervised Bail, we average 700 per day on supervised ROR. This is in addition to the people who are released from the booking desk at the jail on unsupervised ROR.
- A person is arrested and under the Bail Schedule we have the option in many cases of releasing the person outright from the jail on unsupervised ROR.
- If we set a bail amount and the person does not post bail then they appear before a judge at first appearance court. The judge may release the person on ROR, raise or lower the bail amount, or refer the person to our office for an ROR investigation.

Release on Recognizance (ROR) Program

- Upon receipt of the referral we conduct an investigation regarding the person's suitability for ROR and if we believe the criteria has been met we then take the file and recommendation to a judge who makes the ROR decision. Our investigation includes the use of a risk assessment instrument.
- We also monitor the jail inmate population and look for people in jail for offenses and with bail amounts that indicate the person may be a candidate for ROR.

Release on Recognizance (ROR) Program

- We self-initiate initiate ROR investigations without a referral from the court and if we believe the person is a good candidate for ROR we take the file to a judge and recommend release on supervised ROR.
- Putting the ROR and Supervised Bond programs together, we have an average of 900 people per day on supervised release who otherwise would be in the Pinellas County Jail.

Release on Recognizance (ROR) Savings

- Our average daily jail population is 3,000 inmates and housing the additional 900 people per day would be an astronomical expense, and it is unnecessary.
- The cost to house 900 people per day is $113,400 and annually it is $41 million.
- The cost to run our entire pre-trial release program is $2.1 million so the annual savings achieved through the ROR and Supervised Bond programs is $38.9 million, with 99% of the defendants appearing for court.

Additional Information

- PCSO pays our EM/CAM provider approximately $500,000 per year, which is offset by some fees we collect from the Supervised Bond defendants if they have the ability to pay.
- Regardless, the $500,000 is offset by the $9.2 million in incarceration costs for the average 200 people per day released on the Supervised Bond program.

Questions?

Compass 100

Compass 100 meets the statutory requirement that, "each inmate released from incarceration by the department must complete a 100-hour comprehensive transition course that covers job readiness and life management skills." Compass 100 integrates a comprehensive, standardized program of career, life and community readiness skills into the existing academic and vocational programs already offered by the Florida Department of Corrections (FDC). Individuals who do not have an academic or vocational need will be enrolled in a hybrid section that contains a combination of self-directed instruction and weekly meetings with the Bureau of Programs' staff to track progress and offer assistance.

To effectively deliver career and community readiness skills, the Compass 100 curriculum contains a modular system of lessons and supporting materials. In addition to the modules, participants will engage in lessons, assignments and discussions on a variety of life and career readiness skills. They include topics such as punctuality, workplace etiquette, interpersonal communication and problem solving, to name a few.

Compass 100 participants will be required to complete the *Thinking for a Change* (T4C) program. T4C is a nationally recognized cognitive-behavioral intervention course specifically designed to assist incarcerated individuals, by changing their thinking and providing skills to effectively communicate and solve problems. For those who cannot complete T4C, there will be an alternate module of lessons to satisfy in order to receive the 24 points/hours. Throughout the program participants will build a *Readiness Portfolio* which will contain items such as well-developed plans/goals, resume, current community resources, scheduled community appointments, program completion certificates and other pertinent documents that will assist in transition back into the community.

Spectrum

Spectrum is an advanced evidence-driven assessment and screening system designed to follow an inmate from community supervision, through institutions and back to the community. This enables FDC to provide data-driven, informed decisions regarding the continuum of care for an individual within our custody. Spectrum hosts an array of assessments and screenings across multiple disciplines including mental health, substance abuse, academic and workforce education. Spectrum calculates an individual's overall risk of returning to prison upon release and identifies those needs within seven criminogenic domains and 3 core program areas. Through motivational interviewing and individualized case planning, FDC maps resources to identified needs to reduce an individual's risk of recidivism.

Academic and Workforce education/GED

Programs encompasses 3 areas:

1. Core Programs

   a. Literacy
   b. Academic/workforce education
   c. Substance abuse treatment
2. Domain Programs
   a. Cognitive Behavioral Treatment, i.e. Thinking for a Change
3. Elective Programs
   a. A wide array of evidence driven, promising programs that influence pro-social behavior and support FDC curriculum
      i. Labs that support Cognitive Behavioral Treatment coursework, i.e. Babies to Brains for Parenting module of Thinking for a Change
      ii. Dog training
      iii. Volunteer support programs, i.e. Toast Masters

Cox, Ryan

From: Cox, Ryan
Sent: Thursday, January 25, 2018 4:59 PM
To: Torres, Jared
Subject: RE: Spectrum

Jared,

Thank you so much!!

Sincerely,

Ryan C. Cox
Senior Attorney
Senate Committee on Criminal Justice
(850) 487-5192

From: Torres, Jared [mailto:Jared.Torres@fdc.myflorida.com]
Sent: Thursday, January 25, 2018 4:58 PM
To: Cox, Ryan <Cox.Ryan@flsenate.gov>
Cc: Vaughan, Scotti <Scotti.Vaughan@fdc.myflorida.com>
Subject: Re: Spectrum

Ryan,

Please find below Department staff:

Spectrum, as well as its predecessor CINAS, is based on the Risk – Needs – Responsivity (RNR) model and they both contain responsivity elements.

Core programming refers to GED, Career & Technical skills (vocation), and substance use treatment and is part of the needs portion of the RNR model as they address criminogenic risk factors.

On Jan 25, 2018, at 3:27 PM, Cox, Ryan <Cox.Ryan@flsenate.gov> wrote:

Hey guys – one more thing from Abe...

I saw this sentence on your Program information background document – "Spectrum calculates an individual's overall risk of returning to prison upon release and identifies those needs within seven criminogenic domains and 3 core program areas"

What are the three core program areas? Is this the Risk-Needs-Responsivity Model I was asking about earlier?

Sincerely,

Ryan C. Cox
Senior Attorney
Senate Committee on Criminal Justice
(850) 487-5192

From: Cox, Ryan
Sent: Thursday, January 25, 2018 2:50 PM
To: 'Torres, Jared' <Jared.Torres@fdc.myflorida.com>; 'Vaughan, Scotti' <Scotti.Vaughan@fdc.myflorida.com>
Subject: Spectrum

Can you also send me an email about who independently verified Spectrum risk assessment tool? Thanks!

Sincerely,

Ryan C. Cox
Senior Attorney
Senate Committee on Criminal Justice
(850) 487-5192

FLORIDA STATE UNIVERSITY
COLLEGE OF CRIMINOLOGY & CRIMINAL JUSTICE

January 19, 2018

Secretary Julie L. Jones
Florida Department of Corrections
501 South Calhoun Street
Tallahassee, FL 32399-2500

Dear Secretary Jones,

The purpose of this letter is to communicate the findings from our independent assessment of the Department's Corrections Integrated Needs Assessment System (CINAS). The primary function of CINAS is to empirically determine an inmate's post-release risk of recidivism so the Department can prioritize high-risk inmates for programming.

Our validation report finds that the components of CINAS are performing as intended. Specifically, CINAS produces a level of predictive accuracy that is above the conventional threshold of acceptability and is consistent with risk assessment systems used by other correctional systems throughout the United States. We hope the findings and recommendations provided in the attached report will be helpful in the transition to the Department's revised risk assessment system—Spectrum.

We wish to express our gratitude to the following individuals for sharing their tremendous knowledge of the development and implementation of CINAS: Abe Uccello, Patrick Mahoney, Brad Locke, Kerensa Lockwood, and others in the Division of Development as well as Rusty McLaughlin in the Bureau of Classification Management. We also wish to extend our gratitude to David Ensley, Dena French, Lori Nolting, and Jami Dunsford in the Bureau of Research and Data Analysis for providing us with the requisite data and valuable insights regarding the construction of the system data and algorithm. By our estimates, these individuals and others have contributed significant time and effort to the internal design, development, and implementation of CINAS. Our report concludes that their efforts have produced commendable results.

If you or your team has questions or needs clarification on the information provided in the attached report, please do not hesitate to contact us.

Sincerely,

William D. Bales, Ph.D.

Jennifer M. Brown, ABD

Eppes Hall, 112 South Copeland Street, Tallahassee, FL 32306-1273
850.644.4050 • Fax 850.644.9614 • www.criminology.fsu.edu

SB 406

Cox, Ryan

From: Vaughan, Scotti <Scotti.Vaughan@fdc.myflorida.com>
Sent: Wednesday, February 6, 2019 11:30 AM
To: Cox, Ryan
Cc: Torres, Jared; Taylor, Chris; Mann, Garrett
Subject: FW: Updated numbers for SB 406
Attachments: Theft offenses.xlsx

Ryan,
Please see the attached. Please note that this spreadsheet has the same definition as last year and includes trafficking in stolen property on the probation side. Without that offense, the probation numbers for theft are 24,312.

Thanks,
Scotti

Scotti P. Vaughan
Deputy Legislative Affairs Director
Florida Department of Corrections
Office: 850.717.3041
Cell: 850.688.7432

From: Cox, Ryan [mailto:Cox.Ryan@flsenate.gov]
Sent: Wednesday, February 06, 2019 8:53 AM
To: Torres, Jared <Jared.Torres@fdc.myflorida.com>; Vaughan, Scotti <Scotti.Vaughan@fdc.myflorida.com>
Subject: Updated numbers for SB 406

Hi, guys! Happy Wednesday. Last year the analysis for the theft bill included a statement about the number of people currently incarcerated and on probation for felony theft offenses. The analysis last year cited an email from DOC. I would like to update the numbers for this year's analysis. Can you get me these by COB today? I have included the exact sentence Connie included last year so you have it for reference. Thanks!!

"There are approximately 3,000 people currently incarcerated in the DOC for felony theft convictions and 31,000 on state community supervision for a felony theft crime in Florida."

Sincerely,

Ryan C. Cox
Senior Attorney
Senate Committee on Criminal Justice
(850) 487-5192

Inmates with Theft Primary Offense as of 2/1/19	
2317-GRAND THEFT O/$100,000 1ST.DEG	25
2318-GRAND THEFT,$300 LESS &20,000	1
2320-GRAND THEFT FIREARM	18
2323-PETIT THEFT/3RD CONVICTION	606
2327-THEFT-STATE FUND $300-20K	1
2328-THEFT STATE FUNDS $20K-100K	1
2329-GRAND THEFT O/20,000 L/$100,00	204
2332-THEFT-STATE FUNDS $100K+	1
2345-GRAND THEFT W/DAMAGE	36
2346-STOLEN CARGO LT $50K	1
2347-GRAND THEFT O/$100K	227
2348-GRAND THEFT CARGO O/$50K	8
2352-USE ANTISHOPLIFTING DEVICE	4
2353-RETAIL THEFT $300+	42
2354-RETAIL THEFT $300+(2ND CONV.)	1
2359-THEFT COPPER/NONFER.METALS	7
2363-ORG RETAIL THEFT > 3K	6
2367-THEFT:CONTROLLED SUBSTANCE	4
2404-GRAND THEFT MOTOR VEHICLE	505
2806-ORGANIZES THEFT PROPERTY ECT.	25
3860-THEFT>65YO>$50K	17
3861-THEFT>65YO>$10K<$50K	15
3862-THEFT>65YO>$300<$10K	10
8530-GRAND THEFT,300 L/5,000	1,048
8531-GRAND THEFT $5KL/$10K	32
8532-GRAND THEFT $10K L/$20K	21
8533-GR. THEFT $100-300 DWELLING	23
Total	**2,889**

Offenders with Theft Primary Offense as of 2/1/19	
2298-THEFT FROM ESTAB.BY EMPLOY	40
2300-LARCENY/GRAND THEFT	63
2303-SHOPLIFTING	5
2304-LARCENY-PARTS FROM VEHICLE	1
2305-LARCENY FROM AUTO	3
2308-LARCENY FROM BUILDING	8
2310-LARCENY FROM MAILS	1
2311-LARCENY FROM BANKING TYPE INST	2
2312-LARCENY FROM INTERSTATE SHIPME	1
2317-GRAND THEFT O/$100,000 1ST.DEG	313
2318-GRAND THEFT,$300 LESS &20,000	1,183
2319-GRAND THEFT OF WILL	9
2320-GRAND THEFT FIREARM	179
2321-GT COMMERCIAL SPECIES/ANIMAL	7
2322-GRAND THEFT FIRE EXTINGUISHER	10
2323-PETIT THEFT/3RD CONVICTION	1,316
2324-GRAND THEFT,CITRUS FRUIT	1
2325-GRAND THEFT FRM CONST.SITE	23
2327-THEFT-STATE FUND $300-20K	115
2328-THEFT STATE FUNDS $20K-100K	179
2329-GRAND THEFT O/20,000 L/$100,00	1,783
2332-THEFT-STATE FUNDS $100K+	39
2334-THEFT - ANHYDROUS AMMONIA	3
2337-THEFT-STATE $$ U$300 3RD+CONV.	4
2340-THEFT/DEST.ARCHEOLOG.SITE	3
2345-GRAND THEFT W/DAMAGE	35
2346-STOLEN CARGO LT $50K	10
2347-GRAND THEFT O/$100K	599
2348-GRAND THEFT CARGO O/$50K	26
2350-THEFT CABLE TV SERVICE	1
2353-RETAIL THEFT $300+	192
2354-RETAIL THEFT $300+(2ND CONV.)	8
2355-CABLE TV THEFT-2ND+	1
2358-GRAND THEFT OF STOP SIGN	2
2359-THEFT COPPER/NONFER.METALS	8
2362-ORG THEFT STOLEN PROP > 3K	15
2363-ORG RETAIL THEFT > 3K	8
2367-THEFT:CONTROLLED SUBSTANCE	84
2399-LARCENY-OTHER	56
2400-VEHICLE THEFT/ILLEGAL USE	1
2402-THEFT AND STRIP VEHICLE	1
2404-GRAND THEFT MOTOR VEHICLE	2,684
2800-STOLEN PROPERTY	2
2802-TRANSP INTERSTATE STOLEN PROP	2

2803-TRAFFIC IN STOLEN PROPERTY	5,025
2804-POSSESS STOLEN PROPERTY	1
2806-ORGANIZES THEFT PROPERTY ECT.	44
3844-OPER.FACILITY W/O LICENSE	4
3860-THEFT>65YO>$50K	36
3861-THEFT>65YO>$10K<$50K	77
3862-THEFT>65YO>$300<$10K	111
8530-GRAND THEFT,300 L/5,000	13,263
8531-GRAND THEFT $5KL/$10K	467
8532-GRAND THEFT $10K L/$20K	494
8533-GR. THEFT $100-300 DWELLING	115
9823-PETIT-THEFT-MISD	674
Total	**29,337**

SB 346

Cox, Ryan

From: Yarger, Alexander <alecyarger@fcor.state.fl.us>
Sent: Friday, December 15, 2017 10:25 AM
To: Cox, Ryan
Subject: RE: Conditional Medical Release
Attachments: CMR info.pdf; Analysis-of-US-Compassionate-and-Geriatric-Release-Laws.pdf

Good morning,

Here is the information you requested. I have also attached a packet with some data on CMR.

FY14/15: 14 inmates released
FY15/16: 27 inmates released
FY16/17: 14 inmates released

Thanks,

Alec Yarger
Director of Legislative Affairs
Florida Commission on Offender Review
Office: (850) 921-2804
Cell: (850) 728-3548

From: Cox, Ryan [mailto:Cox.Ryan@flsenate.gov]
Sent: Friday, December 15, 2017 9:37 AM
To: Yarger, Alexander <alecyarger@fcor.state.fl.us>
Subject: Conditional Medical Release

Good morning, Alex:

Can you send me data for the last three fiscal years on the number of inmates that have been released on CMR and the number of inmates, if any, that were recommitted to the department due to a change in medical status? Thank you.

Sincerely,
Ryan C. Cox
Senior Attorney
Committee on Criminal Justice
(850) 487-5192

FLORIDA COMMISSION ON OFFENDER REVIEW

SERVING THE CITIZENS OF FLORIDA SINCE 1941

CONDITIONAL MEDICAL RELEASE: EXECUTIVE SUMMARY

What is CMR? Conditional Medical Release is a form of release granted to inmates who are recommended to the Florida Commission on Offender Review (FCOR) for release by the Florida Department of Corrections (FDC) due to the inmate being permanently incapacitated or terminally ill. (Florida Statute 947.149 and Administrative Rule 23-24.040)

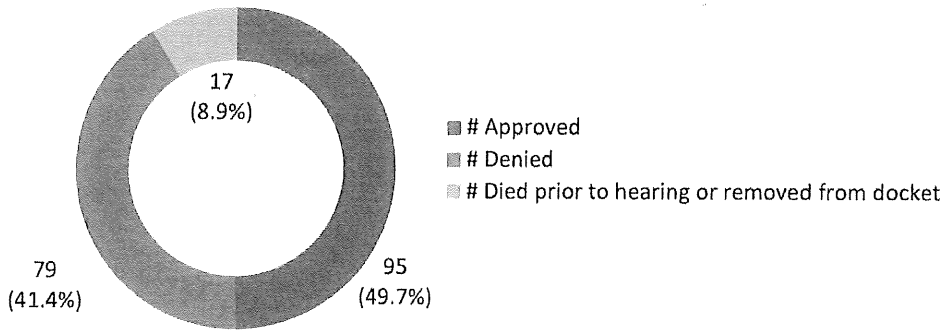
Characteristics of those granted CMR over the last seven years: Over a seven-year period (FY0708-FY1314), a total of 191 inmates were considered for conditional medical release (CMR), some more than once. Almost half (95 or 49.7%) were granted CMR, 79 or 41.4% were denied, and 17 or 8.9% died or were removed from consideration prior to the docket date. Of the inmates who were granted CMR, most are male (80.0%) and white (65.3%), which is somewhat reflective of the entire prison population, which was 92.9% male and 47.8% white as of June 30, 2014. The largest age range of offenders granted CMR status is from ages 45-54 (37.9%). More than a third (34 or 35.8%) of all the granted cases came from Broward, Hillsborough, Miami-Dade and Pinellas counties, which is again reflective of the prison population in general. Almost one third (29.5%) of all granted CMR cases during the seven-year period were serving time for drug offenses, followed by property/theft/fraud (15.8%) and burglary (15.8%). Only one sex offender was granted CMR in the seven years studied. Four of the 95 cases were serving life sentences; the remaining 91 cases had an average of slightly more than five years left on their sentences to serve upon release. Most of the inmates recommended for CMR were diagnosed with some form of cancer.

Average number of approved and denied cases: During the seven-year period, an average of 13.6 of the 95 CMR cases were approved each year, an average of 11.3 of 79 cases were denied each year and an average of 2.4 of 17 cases involved inmates who died prior to docket each year. An average of 27.3 CMR cases were considered each year by the Commission during this period. The highest percentage of cases approved occurred in FY1011 (56.7%) while the lowest percentage of cases approved was in FY1314 (40.0%); the highest percentage of cases denied was also in FY1314 (50.0%), while the lowest percentage of cases denied was in FY0708 (34.6%)

Average timeframes over the seven-year period from docket to death: Using the averages from the seven-year period, the Department would submit a request for CMR consideration for an inmate and it would be placed on the docket within 14 days. He would be released from prison within five days and would be deceased within five or six months (154 days). The average number of days from when FCOR receives the initial request for CMR to getting it put on the docket is 14, or two weeks. The average number of days from request received to death is 154 or slightly more than five months during the seven-year period. The average number of days from CMR request granted to the inmate being released to home or a facility is five; and the average number of days from release to home (or facility) to death is 133 or slightly more than four months. This number continues to decline, to the point that in FY1314, the average number of days from release from prison to death is 30.8 days.

Outcomes of those released to CMR: Most of those approved for CMR were released and subsequently died (68.4%) at home or at a facility within four or five months of release. Almost ten percent completed their sentences after they were released, but may have subsequently died. Five died in the short span of time between being approved for release and being released, and three others EOS'd (expired their sentences) before release to CMR. Eight violated the conditions of their CMR, and either were revoked and returned to prison, were reinstated to CMR or completed their sentences (EOS'd) before the revocation process was complete. Two had their health improve and were returned to prison. One who EOS'd after release reoffended and is back in prison.

Total CMR Cases FY 07/08-13/14



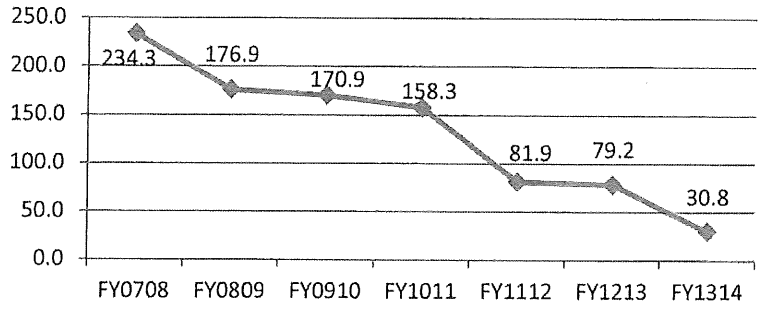
Over a seven-year period (FY0708-FY1314), a total of 191 inmates were considered for conditional medical release (CMR), some more than once. Almost half (95 or 49.7%) were granted CMR, 79 or 41.4% were denied, and 17 or 8.9% died or were removed from consideration prior to the docket date.

CMR Case Outcomes FY 07/08-13/14

FY	# Approved	Percent of FY Total Approved	# Denied	Percent of FY Total Denied	# Died prior to hearing or removed from docket	Percent of FY Total Removed from Docket	FY cases	Total Percent for FY
FY0708	13	50.0%	9	34.6%	4	15.4%	26	100.0%
FY0809	20	55.6%	14	38.9%	2	5.6%	36	100.0%
FY0910	9	42.9%	9	42.9%	3	14.3%	21	100.0%
FY1011	17	56.7%	12	40.0%	1	3.3%	30	100.0%
FY1112	16	45.7%	17	48.6%	2	5.7%	35	100.0%
FY1213	12	52.2%	8	34.8%	3	13.0%	23	100.0%
FY1314	8	40.0%	10	50.0%	2	10.0%	20	100.0%
Total over 7 years	**95**	**49.7%**	**79**	**41.4%**	**17**	**8.9%**	**191**	**100.0%**
Averages	13.6		11.3		2.4		27.3	

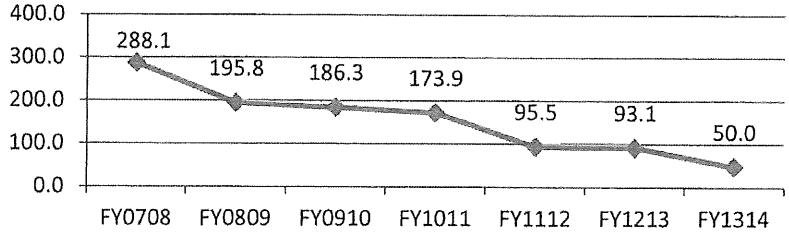
During the seven years covered, the "average" conditional medical release (CMR) gets put on the docket within two weeks (14.1 days) of requesting CMR, and is approved (49.7%). After approval, they wait an average of 5.1 days before they are released. After release, they live an average of 133.2 days, though during the last three years that average has dropped to 64 days. Only one of the 95 approved was serving time for a sex offense. The majority of diagnoses were for some form of terminal cancer, and the life expectancy was generally estimated at six months or fewer. During the seven-year period, the average number of CMR cases approved each year was 13.6, the average number denied was 11.3 and the average number who died prior to docket was 2.4. An average of 27.3 CMR cases were considered each year by the Commission during this period. The highest percentage of cases approved occurred in FY1011 (56.7%) while the lowest percentage of cases approved was in FY1314 (40.0%); the highest percentage of cases denied was also in FY1314 (50.0%), while the lowest percentage of cases denied was in FY0708 (34.6%)

Average # of Days from Release Date to Death



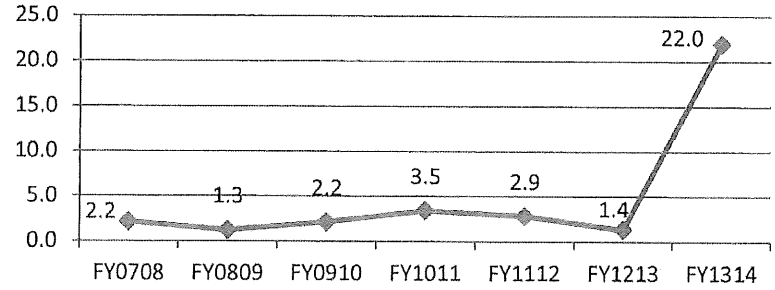
There has been a steady decline in the number of days inmates are living after release from prison on CMR, from a high of 234.3 days in FY0708, to a low of 30.8 days in FY1314. The overall average during the seven year period is 133.2 days from release from prison to death. With the change in eligibility standards from within six months of death to within 12 months, the number of days from release to death is expected to increase.

Average # of Days from Release Request to Death



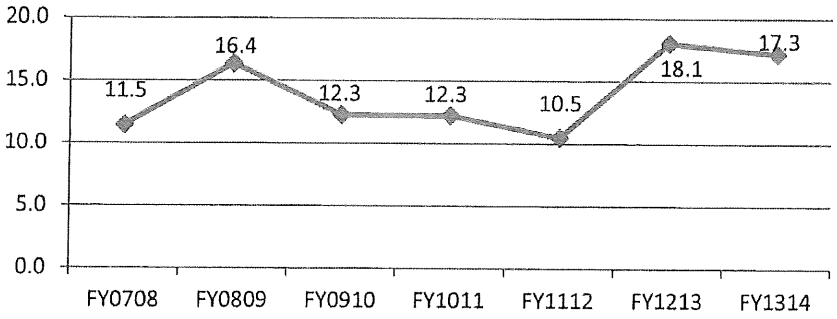
As would be expected based on the previous chart, the average number of days from when the request for CMR is received to when the inmate dies also continues to decline, from a high of 288.1 in FY0708 to a low of 50 days in FY1314. The overall average number of days from CMR request received to death is 154.6.

Average # of Days from Granted Date to Release Date



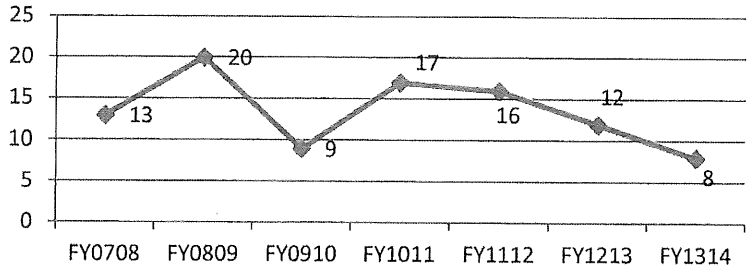
While the average is five days from grant to release, that number is skewed due to one unusual case in FY1314 that took 132 days. This case required that the inmate be accepted into a secure nursing home before release, delaying his release until a bed was available. Excluding that case, the average number of days from granted to release over the other six years is 2.3.

Average # of Days from Request Recieved to Docket



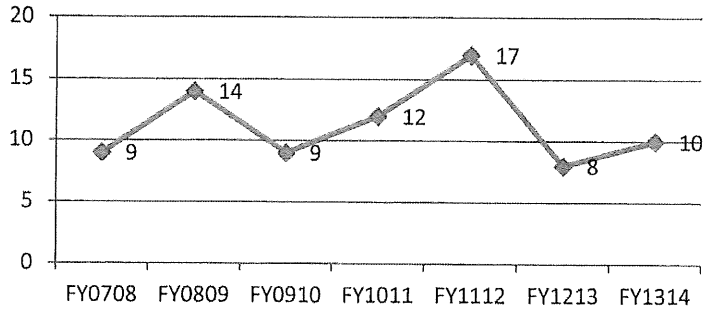
By the same token, FCOR does an excellent job of moving the request along once it's received to get it on the docket quickly, particularly considering there might not be a docket every week. The average has risen slightly over the past seven years, from 11 days to 17, with an average for the seven years of 14.1 days, or two weeks. While it is FCOR's practice to put these cases on the docket immediately, if the Commission is not voting that week it results in a delay to the following week's docket.

Total CMR Cases Approved



The number of FCOR CMR cases that have been approved over the last seven years has dropped, along with the number submitted. About half (49.7%) of all submitted cases are approved, on average.

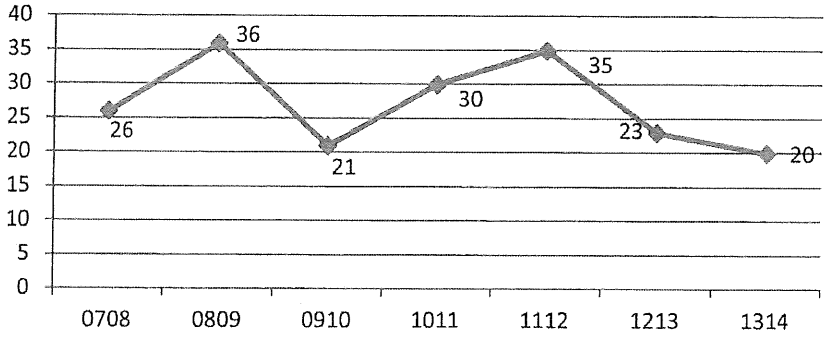
CMR Cases Denied



**Note these include both docketed and non-docketed cases.*

An average of 41.4% of CMR cases are denied each year, and another 8.9% expire prior to their case being heard and are removed from the docket.

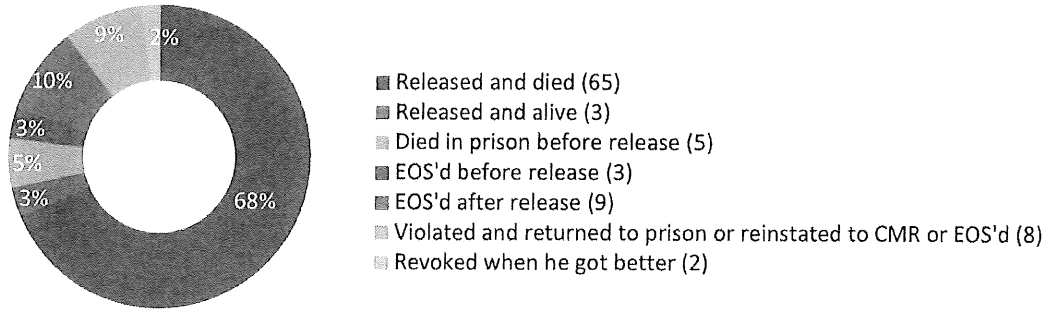
CMR Cases Referred to FCOR by FDC



The number of CMR requests submitted to FCOR from FDC each year has declined over the seven-year period, from 26 in FY0708 to 20 in FY1314 (including cases removed from docket during each of those years), even as the prison population has increased from 98,192 on June 30, 2008 to 100,942 on June 30, 2014*.

**FDC attributes the drop off to the transition of FDC's health services from a public to private enterprise.*

Outcomes for Approved CMR Cases FY 07/08-13/14 (as of April 2015)



Approval Outcomes	FY1314	FY1213	FY1112	FY1011	FY0910	FY0809	FY0708	Total	Percent
Released and died	4	6	13	14	5	15	8	**65**	68.4%
Released and alive	2	1	0	0	0	0	0	**3**	3.2%
Died in prison before release	0	2	0	0	1	0	2	**5**	5.3%
EOS'd before release	0	1	0	0	0	1	1	**3**	3.2%
EOS'd after release*	1	1	2	2	1	1	1	**9**	9.5%
Violated and returned to prison or reinstated to CMR or EOS'd	0	1	1	1	2	2	1	**8**	8.4%
Revoked when he got better	1	0	0	0	0	1	0	**2**	2.1%
Total	**8**	**12**	**16**	**17**	**9**	**20**	**13**	**95**	100.0%

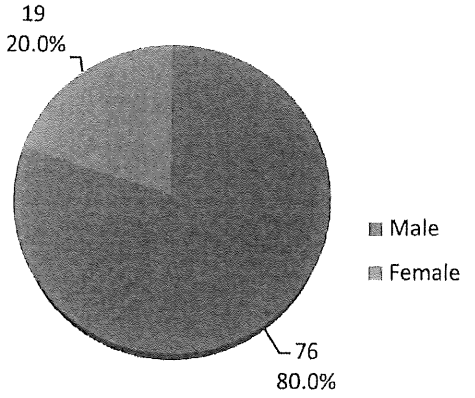
*FY1112 recidivated

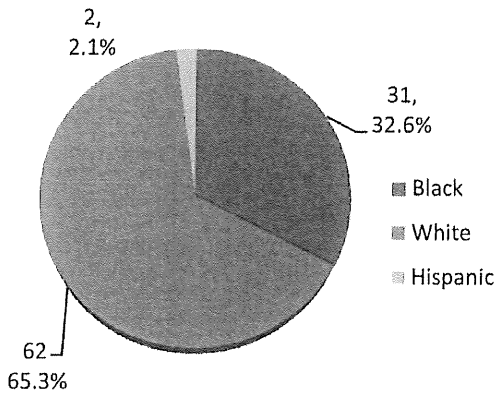
Most of those approved for CMR were released and subsequently died (68.4%) at home or at a facility within four or five months of release. Almost ten percent completed their sentences after they were released, but may have subsequently died. Five died in the short span of time between being approved for release and being released, and three others EOS'd (expired their sentences) before release to CMR. Eight violated, and either were revoked and returned to prison, were reinstated to CMR or completed their sentences (EOS'd) before the revocation process was complete. Two had their health improve and were returned to prison. One who EOS'd after release reoffended and is back in prison.

CONDITIONAL MEDICAL RELEASE: DEMOGRAPHICS

Who are the offenders being released to CMR? They are male (80.0%) and white (65.3%), which is somewhat reflective of the entire prison population, which was 92.9% male and 47.8% white as of June 30, 2014. Some of the black and white offenders may also be Hispanic, but did not identify themselves as such when asked their race. The largest age range of offenders granted CMR status is from ages 45-54 (37.9%). More than a third (34 or 35.8%) of all the granted cases came from Broward, Hillsborough, Miami-Dade and Pinellas (the most with 11 offenders or 11.6%) counties. The most common offense committed by those who were granted CMR was drug-related. Almost one third (29.5%) of all granted CMR cases during the seven-year period were serving time for drug offenses, followed by property/theft/fraud (15.8%) and burglary (15.8%). Only one sex offender was granted CMR in the seven years studied. Four of the 95 cases were serving life sentences; the remaining 91 cases were serving an average of slightly more than five years.

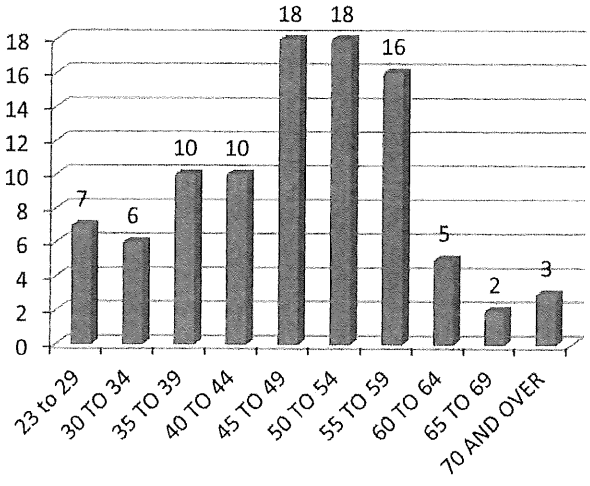
Gender, Race and Age of Inmates Granted CMR





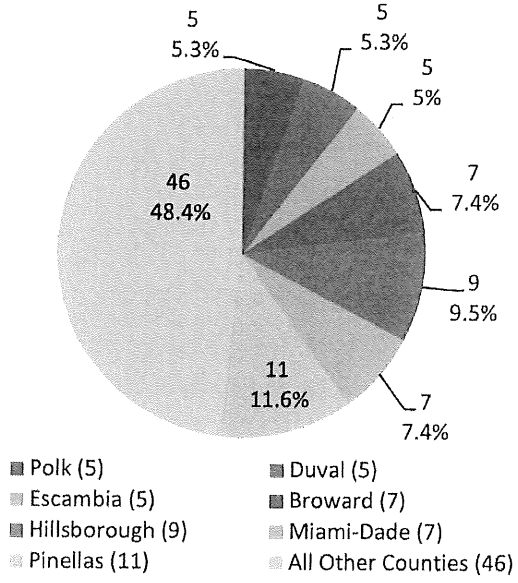
CMR inmates are consistently older than the general population. More than half (54.7%) of all CMR cases granted over the last seven years were ages 45-59, while only a quarter (25.4%) of the inmate population on June 30, 2014 fell into that category. More than a third (35.7%) of the CMR granted cases were age 50-59, compared to the general population on June 30, 2014 at 14.9%.

Age Ranges of Granted Cases	Number	Percent
23 to 29	7	7.4%
30 TO 34	6	6.3%
35 TO 39	10	10.5%
40 TO 44	10	10.5%
45 TO 49	18	18.9%
50 TO 54	18	18.9%
55 TO 59	16	16.8%
60 TO 64	5	5.3%
65 TO 69	2	2.1%
70 AND OVER	3	3.2%
TOTAL	**95**	**100.0%**



County of Offense of Inmates Granted CMR

The four counties with the highest number of CMR cases (Pinellas, Hillsborough, Miami-Dade and Broward) are also in the top five counties for the number of inmates sentenced from those counties as of June 30, 2014. The number of CMR cases from these top four counties comprise more than a third of all the cases over seven years (35.8%). Adding the next three highest counties with approved CMR cases, Polk, Duval and Escambia, brings the total in just those seven counties to 51.6% of all the cases approved over seven years.



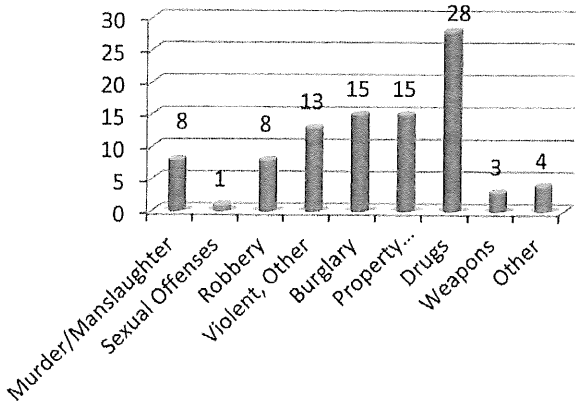
County of Offense	Number	Percen
ALACHUA	1	1.:
BAKER	1	1.:
BAY	1	1.:
BREVARD	4	4.:
BROWARD	7	7.4
CALHOUN	1	1.:
CHARLOTTE	1	1.:
CITRUS	2	2.:
CLAY	1	1.:
COLLIER	2	2.:
COLUMBIA	2	2.:
DIXIE	1	1.:
DUVAL	5	5.3
ESCAMBIA	5	5.3
GADSDEN	1	1.:
HERNANDO	1	1.:
HILLSBOROUGH	9	9.5
INDIAN RIVER	1	1.:
LEE	4	4.:

LEON	1	1.1%
MADISON	1	1.1%
MANATEE	1	1.1%
MARION	1	1.1%
MIAMI-DADE	7	7.4%
NASSAU	1	1.1%
OKALOOSA	1	1.1%
ORANGE	3	3.2%
PALM BEACH	2	2.1%
PASCO	1	1.1%
PINELLAS	11	11.6%
POLK	5	5.3%
PUTNAM	1	1.1%
SARASOTA	1	1.1%
SEMINOLE	2	2.1%
SUWANNEE	2	2.1%
UNION	1	1.1%
VOLUSIA	1	1.1%
WALTON	2	2.1%
Total	95	100.0%

Type of Offense by Inmates Granted CMR

Almost one third (29.5%) of all granted CMR cases during the seven-year period were serving time for drug offenses, followed by property/theft/fraud (15.8%) and burglary (15.8%). Only one sex offender has been granted CMR in the last seven years.

Granted CMR Cases by Type of Offense	Number	Percent
Murder/Manslaughter	8	8.4%
Sexual Offenses	1	1.1%
Robbery	8	8.4%
Violent, Other	13	13.7%
Burglary	15	15.8%
Property theft/damage/fraud	15	15.8%
Drugs	28	29.5%
Weapons	3	3.2%
Other	4	4.2%
TOTAL	95	100.0%



CONDITIONAL MEDICAL RELEASE: STATUTES AND RULES

Florida Statute 947.149 Conditional medical release.—

(1) The commission shall, in conjunction with the department, establish the conditional medical release program. An inmate is eligible for consideration for release under the conditional medical release program when the inmate, because of an existing medical or physical condition, is determined by the department to be within one of the following designations:

(a) "Permanently incapacitated inmate," which means an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to herself or himself or others.

(b) "Terminally ill inmate," which means an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate terminally ill to the extent that there can be no recovery and death is imminent, so that the inmate does not constitute a danger to herself or himself or others.

(2) Notwithstanding any provision to the contrary, any person determined eligible under this section and sentenced to the custody of the department may, upon referral by the department, be considered for conditional medical release by the commission, in addition to any parole consideration for which the inmate may be considered, except that conditional medical release is not authorized for an inmate who is under sentence of death. No inmate has a right to conditional medical release or to a medical evaluation to determine eligibility for such release.

(3) The authority and whether or not to grant conditional medical release and establish additional conditions of conditional medical release rests solely within the discretion of the commission, in accordance with the provisions of this section, together with the authority to approve the release plan to include necessary medical care and attention. The department shall identify inmates who may be eligible for conditional medical release based upon available medical information and shall refer them to the commission for consideration. In considering an inmate for conditional medical release, the commission may require that additional medical evidence be produced or that additional medical examinations be conducted, and may require such other investigations to be made as may be warranted.

(4) The conditional medical release term of an inmate released on conditional medical release is for the remainder of the inmate's sentence, without diminution of sentence for good behavior. Supervision of the medical releasee must include periodic medical evaluations at intervals determined by the commission at the time of release.

(5)(a) If it is discovered during the conditional medical release that the medical or physical condition of the medical releasee has improved to the extent that she or he would no longer be eligible for conditional medical release under this section, the commission may order that the releasee be returned to the custody of the department for a conditional medical release revocation hearing, in accordance with s. 947.141. If conditional medical release is revoked due to improvement in the medical or physical condition of the releasee, she or he shall serve the balance of her or his sentence with credit for the time served on conditional medical release and without forfeiture of any gain-time accrued prior to conditional medical release. If the person whose conditional medical release is revoked due to an improvement in medical or physical condition would otherwise be eligible for parole or any other release program, the person may be considered for such release program pursuant to law.

(b) In addition to revocation of conditional medical release pursuant to paragraph (a), conditional medical release may also be revoked for violation of any condition of the release established by the commission, in accordance with s. 947.141, and the releasee's gain-time may be forfeited pursuant to s. 944.28(1).

Administrative Rule: 23-24.040 Conditional Medical Release Postponement and Rescission

(1) Should any person who has been voted a conditional medical release become the subject of inmate disciplinary or classification proceedings, or become the subject of criminal arrest, information or indictment, or should the release plan prove unsatisfactory prior to actual physical release from the institution of confinement then, any Commissioner can postpone the release date.

(2) The inmate's release date can be postponed for sixty (60) days. On or before the sixty-first (61) day, the Commission shall either release the inmate on conditional medical release or order a Commission investigator to conduct a rescission hearing on the matter of the infraction(s), new information, acts or unsatisfactory release plan as charged.

(3) At a rescission hearing, the inmate shall be afforded all due process safeguards required by law and shall be properly notified not less than seven (7) days prior to the hearing.

(4) The rescission hearing shall be scheduled within fourteen (14) days of the date the Order for a Rescission Hearing is signed by the Commission.

(5) The hearing may be continued or postponed due to the inability of any party or witness to attend or for other good cause (for example, new disciplinary reports, state of emergency, prison lock-down, etc.).

(6) New disciplinary reports received after the Order of Postponement, but prior to the date of the hearing shall be considered at the recission hearing, after re-noticing the inmate. (7) The investigator is not required to find the inmate guilty or not guilty at the rescission hearing, but to determine if any circumstances exist beyond the documentation which provided the basis of the Commission's decision to postpone the release. (8) If the release has been postponed due to an unsatisfactory release plan, the investigator should receive testimony from the inmate and any witnesses as to if an alternate plan exists which may be presented to the Commission for consideration. (9) Following the rescission hearing, the Commission shall determine whether good cause has been established to rescind conditional medical release. The Commission shall then either order the release of the inmate on the same conditions or rescind the release. (10) If the Commission receives information from the Department of Corrections that the inmate no longer qualifies for conditional medical release based on an improvement in the medical condition, a rescission hearing is not required. However, the Commission shall provide written notice to the inmate that release has been rescinded due to a failure to qualify pursuant to Florida Statute, Section 947.149.

Rulemaking Authority 947.07, 947.149 FS. Law Implemented 947.149 FS. History–New 1-5-94, Amended 2-12-13, 7-30-14.

Conditional Medical Releases

CONDITIONAL MEDICAL RELEASE FOR THE LAST 10 FISCAL YEARS					
Fiscal Year	CMR Docket Cases (Code 48)*	Individuals Referred by FDC (docket dupes removed)	Commission Action Granted (Code 49)	Total Released	Release Comments
FY0708	28	24	14	10	Total 14, two died before release, one EOS, 1TBD
FY0809	42	36	20	19	Total 20, one EOS
FY0910	20	19	9	8	Total 9, one died before
FY1011	38	30	16	16	Total 16
FY1112	39	34	16	16	Total 16
FY1213	28	21	12	7	Total 12, two died before release, two EOS, one TBD
FY1314	22	21	8	6	Total 8, two still in prison as of end of FY1314
FY1415	38	35	15	14	Total 14 released during FY; one died before
FY1516	55	51	29	27	Total 27 released - One to EOS; two others not
FY1617	37	34	16**	14	Total 14 released - one died before release; one

*Every docketed case (code 48) is counted, even if it's the same inmate more than once.

** One inmate was granted CMR twice.

16 Conditional Medical Releases Granted in FY1617

A total of 37 inmates were docketed for CMR this FY (three were docketed twice), and 16 or about 43% were granted conditional release. Of those 16, 14 were released during FY1617, and one died before

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Analysis of US Compassionate and Geriatric Release Laws: Applying a Human Rights Framework to Global Prison Health

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Abstract The purpose of this paper was to analyze the compassionate and geriatric release laws in the USA and the role of advanced age and/or illness. In order to identify existing state and federal laws, a search of the LexisNexis legal database was conducted. Keyword search terms were used: compassionate release, medical parole, geriatric prison release, elderly (or seriously ill), and prison. A content analysis of 47 identified federal and state laws was conducted using inductive and deductive analysis strategies. Of the possible 52 federal and state corrections systems (50 states, Washington D.C, and Federal Corrections), 47 laws for incarcerated people, or their families, to petition for early release based on advanced age or health were found. Six major categories of these laws were identified: (1) physical/mental health, (2) age, (3) pathway to release decision, (4) post-release support, (5) nature of the crime (personal and criminal justice history), and (6) stage of review. Recommendations are offered, for increasing social work policy and practice expertise, and advancing the rights and needs of this population in the context of promoting human rights, aging, health, and criminal justice reform.

Keywords Older adults · Criminal justice · Compassionate and geriatric release laws · Content analysis · Human rights · Social work · Forensic social work

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Introduction

Correctional systems across the globe are struggling with managing the rapidly growing aging and seriously ill population. In the USA, approximately 200,000 adults aged 55 and above are behind bars, many of which have a complex array of health, social service, and legal needs that all too often go unaddressed prior to and after their release from prison (Human Rights Watch [HRW] 2012). The large number of older people in prison is partially attributed to the passage of stricter sentencing laws, such as "Three Strikes You're Out" and the subsequent mandatory longer prison terms (American Civil Liberties Union [ACLU] 2012). These restrictive policies have created a human-made disaster in which many sentenced to long-term prison sentences will reach old age while in prison or shortly after their release. Social work, interdisciplinary scholars, and human rights advocates view the current crisis as a human rights issue that impact the rights and needs of the aging and seriously ill population (Byock 2002; HRW 2012).

Compassionate and Geriatric Release Laws

Beginning in the 1970s, there has been a growing awareness among lawmakers and other professionals, especially in the USA, of the need for compassionate and geriatric policies to address the growing aging and health crisis in prisons. Currently, medical parole and compassionate release laws, and programs for mostly nonviolent, terminally ill incarcerated people have been implemented in an effort to transition aging and/or serious or terminally ill incarcerated people to community-based care (Chiu 2010; Williams et al. 2011). Most of the social work and interdisciplinary scholarly literature in law and medicine in the USA has focused on compassionate release laws (Ferri 2013; Jefferson-Bullock 2015; Green 2014; Williams et al. 2011). The authors of these

journal articles describe the legal/ethical practice and financial dilemmas posed when incarcerating older and seriously ill people. These authors acknowledge that, in theory, the release of persons with serious and/or terminal illness from prison to the community is cost-effective. However, there are difficulties noted in their implementation including bureaucratic red tape and negative public attitudes toward more compassionate approaches to criminal justice (Coleman 2003; Ferri 2013; Jefferson-Bullock 2015; Kinsella 2004; Green 2014; Williams et al. 2011).

To date, there has not been comprehensive human rights-based analysis of both the compassionate and geriatric release laws in the USA. The USA is a compelling case study because it has the largest population of adults aged 50 and older (N = 200,000; ACLU 2012) behind bars. Additionally, the USA has 50 states in which laws vary by provisions based on a variety of eligibility factors including age, physical and mental health, and legal status. Therefore, the purpose of this content analysis of the US compassionate and geriatric release laws was to compare the provisions of current laws and to evaluate the extent to which these were consistent with human rights guidelines. This review was guided by the following research questions: (1) What are the characteristics of compassionate and geriatric release laws in the USA? And (2) to what extent are existing compassionate and geriatric release laws consistent with core principles of a human rights framework? As detailed in the discussion section, the results of this review have implications for social work and human rights for improving social work and interdisciplinary and intersectoral responses to the treatment of criminal justice involved aging and serious and terminally ill people (Anno et al. 2004).

Applying a Human Rights Framework

Applying a human rights framework to the laws, policies, and practices with aging and seriously ill people in prison can be used to assess the extent to which these laws meet basic human rights principles. In particular, the principles of a human rights framework can provide assessment guidelines for developing or evaluating existing public health and criminal justice laws or policies, such as USA compassionate and geriatric release laws. The underlying values/principles of a human rights framework include dignity and respect for all persons, and the indivisible and interlocking holistic relationship of all human rights in civil, political, economic, social, and cultural domains (UN 1948). Additional principles include participation (especially with key stakeholder input on legal decision-making), nondiscrimination (i.e., laws and practices in which individuals are not discriminated against based on differences, such as age, race, gender, and legal history), transparency, and accountability (especially for government transparency and accountability with their citizens; Maschi 2016).

The Universal Declaration of Human Rights (UDHR) also is an instrument that provides assistance with determining the most salient human rights issues affected. Ratified in 1948 as a response to the atrocities of World War II, the UDHR was voted in favor of by 48 countries, including the USA (UN 1948). It provides the philosophical underpinnings and relevant articles to guide policy and practice responses to the aging and serious and terminally ill in prison. The UDHR preamble underscores the norm of "respect for the inherent dignity and equal and inalienable rights" of all human beings. This is of fundamental importance to crafting the treatment and release of aging and seriously ill persons in prison.

There are several UDHR articles that are important to consider when providing a rationale and response to the aging and seriously ill population in prison. For example, Article 3 states, "Everyone has the right to life, liberty, and the security of person." Article 5 states, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article 6 states, "Everyone has the right to recognition everywhere as a person before the law." Article 8 states "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law," and Article 25 states, "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food and clothing" (UN 1948, p. 3–7).

The United Nations Office on Drugs and Crime (UNDOC 2009) Special Needs Handbook also offers additional guidelines to assess policy and practice responses to the aging and/or seriously and terminally ill in prison. According to the UNODC (2009), older prisoners, including those with mental and physical disabilities, and terminal illnesses are a special needs population and as such are to be given special health, social, and economic practice and policy considerations (UNODC 2009). The handbook also addresses the issue of age in corrections. It is of note that the age at which individuals are defined as "older" or "elderly" in the community often differs from the definition of elderly applied in corrections. Globally, many social welfare systems, including the USA's, commonly view adults as older when they reach the age of 65 because that is when most individuals are eligible to receive full pension or social security benefits. However, although it varies among states, incarcerated persons in the USA may be classified as "older adult" or "elderly" as young as age 50 (HRW 2012; UNODC 2009).

Study Significance

The results of this review also have important implications for global social service, health and correctional systems, and policymaking bodies. While these findings may not generalize globally, conducting a comparative analysis of the regional laws of one country, such as the USA, may be useful for

developing or refining existing laws internationally. This information also can be used by social workers to collaborate with correctional and community service providers. In particular, forensic social workers, especially those who are trained in case management, can play an important role in facilitating the release process and smooth care transitions of aging and seriously ill people released from prison (Office of the Inspector General, 2016). Local and global policy makers, including social workers, also can use these findings to craft more human rights responsive laws and policies that affect this vulnerable population.

Methods

In order to identify all of the compassionate and geriatric release laws in the USA, the research team conducted a comprehensive search of the LexisNexis legal database. The following key word search terms were used: compassionate release, medical parole, geriatric prison release, elderly (or seriously ill), and prison. Identified laws were included in the sample if they met the following criteria: (1) identified aging or seriously ill people in prison and (2) were a law or policy regarding early release from prison based on age or health status. Two trained research assistants reviewed the laws and coded the data. The team met weekly for a 6-month period with the lead researcher until 100 % consensus was reached for all categories of data extracted. The search located 52 federal and state corrections systems (50 states, Washington DC, and Federal Corrections). Of the 52, 47 were found to have a law for incarcerated people or a family member (or surrogate) to petition for early release based on advanced age or health. There was no evidence of any applicable law or provision found in five states (i.e., Illinois, Massachusetts, South Carolina, South Dakota, and Utah).

Data Analysis Methods

Interpretive content analysis strategies as outlined by Drisko and Maschi (2016) were used to analyze the compassionate and geriatric release laws from the USA. Interpretive content analysis is a systematic procedure that codes and analyzes qualitative data, such as the content of published articles or legal laws. A combination of deductive and inductive approaches can be used, and this strategy was used in the current review. Deductive analysis strategies were used to extract the data by constructing preexisting categories for the criteria commonly found in compassionate and geriatric release laws (e.g., age, physical and mental health status, nature of crime). For each category, counts of state and federal laws were then calculated for frequencies and percentages of each category (e.g., 13 states had laws with age provisions).

Inductive analysis strategies were used to analyze any emerging or new categories that could not be classified in existing categories. Tutty and colleagues' (1996) four-step qualitative data analysis strategies were utilized to analyze this data. Step 1 involved identifying "meaning units" (or in-vivo codes) from the data. For example, the assignment of meaning units included the assigning codes. In step 2, second-level coding and first-level meaning units were sorted and placed in their emergent categories. Meaning unit codes were arranged by clustering similar codes into a category and separating dissimilar codes into separate categories. The data were then analyzed for relationships, themes, and patterns. In step 3, the categories were examined for meaning and interpretation. In step 4, conceptually clustered matrices, or tables, were constructed to illustrate the patterns and themes found in the data, including characteristics of the principles of a human rights framework (Miles and Huberman 1994).

Summary of Findings

Out of 50 states plus Washington, DC, and a Federal Law (totaling 52 jurisdictions), 47 jurisdictions including Washington, DC, and the Federal Government were found to have compassionate or geriatric release laws. Five states did not have any publicly available records of compassionate or geriatric release laws (i.e., IL, MA, SC, SD, and UT). After review of the laws from these 47 legal systems in the USA (45 separate US States and D.C., as well as one federal law), basic structural consistencies were found that impacted the determination for early release or furlough from prisons based on physical or mental incapacity or advanced age. Six categories of compassionate and geriatric release laws identified were (1) physical/mental health status, (2) age, (3) nature of crime (i.e., personal and criminal justice history or risk level), (4) pathway to release decision, (5) post-release support, and (6) stage of review (i.e., initial ground-level investigation for a release petition).

Physical and Mental Health Status and Life Limits

Conditions for release in some US laws were based on physical and mental health status, including life limits. These early release or parole and furlough laws have some definition or measurement in which they can determine if an incarcerated person may be eligible for release. This included level of medical infirmity, age, and/or psychological or mental facility (see Tables 1 and 2). Some US states or federal laws used vague language about what conditions were viable for parole or furlough. In comparison, other laws were very specific about conditions for release. For example, some laws considered the potential threat to society or level of public safety risk of

Table 1 Characteristics of laws that specify the conditions that warrant release

	Illness is terminal or incapacitating		Mental health consideration	Age±disability
	With a lifespan time limit	Without a lifespan time limit		
Number of states	17	19	17	14
Abbreviations	AK, AR, DC, HI, KS, KY, MO, MT, NC, NJ, NM, NV, PA, RI, TN, US FED, WY	AL, CT, FL, GA, ID, IN, KS, LA, MD, MN, NE, NH, NY, OH, OK, OR, TX, VT, WI	AK, AL, AR, DE, KS, MD, MI, MS, NH, NJ, RI, TN, TX, US FED, WI, WV, WY	AL, CT, DC, LA, MO, NC, NM, OR, TX, US FED, VA, WA, WI, WY

the incarcerated person. Other laws focused on the high cost of treatment or considered a combination of age, health, and risk factors that influenced release. There was little consistency, or even clarity, among these 47 laws about the well-being of the incarcerated people and their families, and/or victims and their families included across these US laws.

When determining if the incarcerated person's medical health warrants potential early parole or furlough, 36 laws used terminal illness as the consideration. Of those, 17 included a maximum anticipated survival period or time limit for life expectancy. For example, the US federal law includes a time limit of 18 months for the patient to survive in order to be considered for parole. In contrast, the state laws most often included a limit for life expectancy of 6 or 12 months to live. However, in one state, Kansas, the period is only 30-day life expectancy. In the 19 cases where states do not specify the time period for life expectancy, terminal illness is included as a potential factor for early release, as are terms such as "imminent peril of death" or "illness from which the inmate will not recover," or simply, "terminal illness."

The US laws also had provisions for mental or psychological health as a consideration for early release. Seventeen states included mental health capacity as a factor to consider for early parole or furlough. These 17 laws refer to any mental or psychological infirmity that results in incapacity to care for oneself or renders the person bedridden and/or incapable of caring for his or her activities of daily living (ADL). All of these laws required evaluation by both medical and mental health care professionals to make the determination of functional capacity. Only one state, Texas, mentioned "mental retardation" as a potential consideration for parole. Only the US federal prison system is quite specific in defining cognitive impairment associated with either brain injury or disease, such as Alzheimer's.

When reviewing general health conditions that may be factors for early release or furlough, many laws (27) used language that indicated that the incarcerated person was incapacitated in such a way that he/she was incapable of performing activities of daily living, or was incapacitated in general. Fifteen of the laws stated that precondition for early release was that the incarcerated person must be incapacitated either due to age, mental health, or illness, and be a low level risk to society. In some laws, assessing level of public safety risk was the only factor that the medical staff must evaluate before making an application to the parole board or judiciary. In some state laws, the healthcare costs to the prison system are a consideration for early release of an individual.

Several laws that identified criteria for early release simply used terms such as "serious medical syndrome" or "needing medical attention." Many of the states that included vague language around what constellation of factors amount to the likelihood of early release seemed to have fewer transparent processes, leaving the decision to the parole board's discretion on a case-by-case basis.

Table 2 Legal considerations for release

	Considerations for early release for incapacitated or terminally ill patients included in legal language			
	No threat to society	Incapacitated so cannot care for self	Cost to treat is too high	General healthcare to be qualitatively assessed
Number of States	15	27	4	16
Abbreviations	CT, DC, LA, MD, MN, MT, NM, NC, NV, OK, TN, TX, US FED, VT, WY	AK, AL, AR, CA, CT, DC, GA, ID, KS, KY, MI, MN, MO, NC, NE, NJ, NM, NV, NY, OR, TN, TX, US FED, VT, WA, WI, WY	AK, GA, RI, WA	AL, AR, CO, DE, FL, HI, IN, MI, MN, MS, ND, NH, NJ, OH, PA, WV

Age as a Consideration

Some states used age as a factor for considering early release. As illustrated in Table 3, of the 47 laws, only 13 had laws with provisions that considered age (ranging from 45 to 65 or older) as a determining factor for potential early parole (12) or furlough (1). In each law, age itself was not the sole determinant for release, but age in association with some degree of being unable to care for oneself, or an indication of some lack of capability in terms of performing activities of daily living. Most states did not define elderly. If age was defined, it mostly was delineated as 65 and older. Three states and the Federal Government limited how long an incarcerated elder must have served prior to considering advanced age as a factor for early release.

Interestingly, Oregon was the only state whose law recited language on the humane treatment of the aging population and stated that without the release of the prisoner at the advanced age/infirmity, their incarceration may be considered cruel or inhumane. All other states required that an incarcerated person of advanced age, as defined by each, had some incapacity that either was permanent and costly or rendered the incarcerated person unable to physically harm society in any way.

In several US laws, the age of the applicant was almost always considered a determining factor only in conjunction with a medical or cognitive condition. That is, age as a sole factor did not only justify release but also included the presence of a chronic and/or serious health issue. The few exceptions in state laws included Alabama and Louisiana, which considered age only as a reason to release an incarcerated person without incapacity. However, the incarcerated person's level of risk based on offense history and crimes was weighted heavily when determining release based on age without the presence of a notable serious or chronic health condition.

Table 3 States including language around age as a factor for early release

States including language around age as a factor for early release	
State:	Age specification:
Alabama	55+
Connecticut	65 or "advanced"
Louisiana	45+ and serving at least 20 years of a 30+ sentence
Missouri	"Advanced"
North Carolina	65+
New Mexico	65+
Oregon	No specification
Texas	No Specification
Virginia	60+
Washington	No specification
Wisconsin	No specification
Wyoming	65+
US Federal Law	65+ and dependent on % of time served

Pathway to Release Decision

As shown in Table 4, similar to mental and physical health considerations, the pathways to release decisions varied from state to state. Only 18 of the states had very specific and strictly defined pathways to follow for compassionate release and early parole eligibility. The more specific rules included the mechanism, such as the individual or committee that made the final determination for release or furlough. Eleven states had very clearly written rules governing physician documentation, how many or which physicians would be considered for review, and what factors must be included in their medical letter.

In these US laws, early release applications were subject to official parole board review. The series of steps in order to reach the parole board and the supporting documentation varied across laws. Of the 17 states noted above that had clearly written review procedures, most required the deputy warden, in conjunction with the prison medical director, review all documentation prior to making a submission to the parole board. Often, the laws specified that the incarcerated person or his/her family or legal advocate petitions the parole board directly. The medical director could also petition for early release if the incarcerated person could not do so themselves. The 29 states that had less clearly defined provisions often specified that parole review boards consider all information prior to rendering a final decision. At least three states had requirements that the parole board must review the request for early parole within a certain number of days (e.g., 30 days). Other laws seemed to assume that the case would be heard in a

Table 4 The pathway and process for determination of release

	Process for determination of release		
	More malleable decision-process for release	Clearly defined process and rules for release	Clearly written rules around physician documentation
Number of States	28*	17	11
Abbreviations	AK, AZ, CO, CT, DE, FL, GA, HI, IN, KY, LA, MD, MI, MN, ND, NE, NH, NM, OH, OK, OR, PA, US FED, VA, VT, WA, WV, WY	AL, AR, CA, DC, ID, KS, MO, MS, MT, NC, NJ, NV, NY, RI, TN, TX, WI	AK, AL, AZ, CA, MO, NC, NJ, NY, TX, WI, WY
	*IA and ME have precedent for early parole but no law in place		

timely manner or be reviewed by the next meeting of the parole board.

Some laws specified that a request for early release would be in the form of an application or petition to the parole board. Additionally, a submission of a post-release plan was also customary. Some laws addressed where the incarcerated person would receive post-release medical care or hospice services (Table 5). In some laws, these placements were to be vetted by the medical staff of the prison. Social workers or case managers were designated to provide other services, such as family supports, discharge planning, and care coordination.

Eighteen of the laws noted that the medical hospital or hospice, or family home with healthcare professionals, must be vetted prior to release to ensure both safety and proper healthcare. In addition, 11 of the laws mentioned that the incarcerated person must have financial resources to cover healthcare, such as Medicaid, in place prior to early release. Five of the laws mentioned a holistic style of care, including emotional support for the incarcerated person and family, as well as reintegration support. Of the states that allowed for the patient to live in the home with medical care, nine states cited "family conditions" or "support for the family as caregivers" as factors. Some laws mentioned that victim notification and participation as a condition must be met as part of the release petition.

Interestingly, many states, including the federal system, also required that the released person be closely monitored by a parole or medical officer to ensure that the released person's physical health did not improve. If the incarcerated person's condition should improve to the point they could function to perform activities of daily living or are no longer terminally ill, the incarcerated person must be returned to prison to complete their full sentence.

Assessing Level of Risk: Nature of Crime (Criminal Offense History)

As shown in Table 6, most US states/Federal prisons excluded some incarcerated people—regardless of their overall health—from potential early release. Most laws stipulated that eligibility for early parole or furlough, the incarcerated person must be convicted of an offense with potential for parole ($n = 25$). Some jurisdictions also specified that the incarcerated person may not have been convicted of murder, either first or second degree ($n = 7$). However, most exclusions were focused upon the incarcerated person who has committed a Class A (e.g., murder or treason), B (e.g., homicide, drug trafficking, or violent assault), or C felony (e.g., some types of assault, fraud, theft, robbery, larceny, drug distribution).

In addition, 11 of the states/Federal laws and regulations excluded incarcerated persons convicted of offenses of a sexual nature. For those incarcerated persons with serious offense histories, a psychologist or psychiatrist must also investigate and determine their level of risk for potential harm to society and recidivism. Nine state laws (KS, KY, MD, MT, NC, NV, NY, TN, and WI) included provisions that victims or their families must be notified of an upcoming case for parole or furlough, and may participate in the hearing (if there is one) or submit a letter or an opinion concerning the potential release of the prisoner.

Table 5 Post-release support in place for release

	Post-release support in place			
	Medical facilities vetted	Financial coverage	Holistic support system	Family or support conditions
Number of States	18	11	5	9
Abbreviations	AK, DC, ID, IN, KS, MD, MN, MO, NC, NE, NJ, NM, NY, TN, TX, US FED, VT, WY	AK, AL, CO, ID, KS, MO, MT, NY, TN, US FED, WY	ID, MN, NC, NJ, NY	ID, LA, MD, MN, MT, NC, NJ, NY, US FED

Style of Review

Forty-seven US laws differed in their style of review which ranged from strictly regulated to very discretionary release determinants. In addition to factors, such as age, physical and mental health status, and level of risk, other determinants included a state's ability to grant medical release. For example, if the governor or Deputy Warden "deemed it beneficial," either for reasons of cost or overcrowding, early release could be granted.

Table 6 Type of crime considered for early release

	Type of crime considered for early release			
	Ability for parole and/or without sentence of death	Excluding murder	Consider % of time served	Excluding sexually oriented crimes
Number of States	25	7	8	11
Abbreviations	AK, CA, CT, DC, FL, ID, KY, LA, MD, MO, MS, MT, NC, NE, NH, NJ, OR, RI, TN, TX, US FED, VA, WA, WI, WY	AL, DC, LA, NJ, NM, NY, OR	CT, DE, IN, MO, MS, NC, NY, OH	AK, AL, AR, CO, ID, KY, MS, NC, NJ, TX, WI

Discussion

Implications for a Human Rights Approach to Social Work

The purpose of this content analysis was to describe and analyze the compassionate and geriatric release laws in the USA. As noted in the findings section, we found that these laws had one or more provisions that fell within one of these six major categories. These categories were (1) physical/mental health status, (2) age, (3) nature of the crime (e.g., offense history), (4) pathway to release decision, (5) post-release support, and (6) stage of review. These finding have important implications for social workers and other key stakeholders who want to advance the human rights of justice involved vulnerable populations of older persons and persons with physical or mental disabilities or terminal illnesses, especially those in prison. The 2015 release of the Council on Social Work Education's Educational Policy (CSWE 2015) states the "purpose of the social work profession is to promote human and community well-being" (CSWE 2015, p. 1). This purpose is inclusive of all individuals regardless of their backgrounds, including criminal justice histories. Two particularly relevant skills for social workers, who want to respond to the crisis of the aging and dying in prison, are to engage in human rights and social and economic justice and to understand laws and regulations that may impact practice at the micro, mezzo, and macro levels (CSWE 2015).

The US laws governing compassionate and geriatric release are an example of an intersectional human rights issue that bridges aging, health, and criminal justice practice and policy arenas. An often unrecognized human rights area of the social work profession is the specialization of forensic social work ((Maschi and Leibowitz 2017)). Forensic social workers, who are often referred to as practicing at intersection of social work and the law, are trained in micro (e.g., clinical) and/or macro (e.g., intersectoral collaboration and policy level) interventions. In particular, geriatric forensic social workers are well positioned to prevent or intervene with the aging and dying in prison issue because of combined generalist and specialized practice knowledge and skills. Given this current crisis, a two-pronged approach to clinical and policy practice in diverse settings, such as prisons, and with diverse populations, such as incarcerated older people is necessary (Maschi et al. 2013). For example, in many of the research, practice, and policy recommendations noted in the Office of the Inspector General's report (2015), social workers can play a role in addressing all of them. These recommendations are:

1. Consider the feasibility of placing additional social workers in more institutions, particularly those with larger populations of aging inmates.
2. Provide all staff training to identify signs of aging and assist in communicating with aging inmates.
3. Reexamine the accessibility and the physical infrastructure of all of its institutions to accommodate the large number of aging inmates with mobility needs.
4. Study the feasibility of creating units, institutions, or other structures specifically for aging inmates in those institutions with high concentrations of aging inmates.
5. Systematically identify programming needs of aging inmates and develop programs and activities to meet those needs.
6. Develop sections in release preparation courses that address the post-incarceration medical care and retirement needs of aging inmates.
7. Consider revising its compassionate release policy to facilitate the release of appropriate aging inmates, including by lowering the age requirement and eliminating the minimum 10 years served requirement (Office of Inspector General, United States Department of Justice. 2015, p. 3–4).

Applying a Human Rights Approach to Justice Policy Reform

Most relevant to this paper, a human rights approach can be applied to assess the laws, policies, and practices to the extent to provisions of existing compassionate and geriatric release laws meet basic human rights principles. As described in the introduction, the principles of the human rights framework are dignity and worth of the person, the five domains of human rights (i.e., political, civil, social, economic, and cultural), participation, nondiscrimination, and transparency and accountability (UN 1948). Developed by the first author, the Compassionate and Geriatric Release Checklist (CGR-C, Maschi 2016) was created for social workers, policymakers, advocates, and other key stakeholders to use as an assessment tool to develop or amend existing compassionate or geriatric release laws (please contact the authors for a copy of the checklist). This tool also can be used by social workers to prepare expert testimony for local, state, or federal hearings or as an educational or professional training exercise. Applying a human rights framework, the checklist consists of six assessment categories for compassionate and geriatric release laws: dignity and respect of the person, promotes political, civil, economic, social, and cultural rights, nondiscrimination, participation, transparency, accountability, and special populations served.

A human rights-based analysis using the framework as highlighted in the checklist suggests that most of the provisions of each US compassionate and geriatric release often fall short of meeting the basic human rights principles that speak

to the dignity and worth of the incarcerated person, family and victim rights and supports, and accountability and transparency on the part of the judicial and correctional systems to grant release. Additionally, the majority of the US compassionate and geriatric release laws fell short of inconclusive nondiscrimination provisions. This is especially true when assessing level of risk of incarcerated people with histories of sex or violent offenses. Based on available research, this type of provision is overly restrictive. For example, research shows that older adults with diverse offense histories have low recidivism rates (1–5 %) compared to their younger counterparts and person (ACLU 2012; Jhi and Joo 2009). For example, in a study investigating whether risk factors for recidivism remained stable across age groups (N=1303), the findings showed that rates decreased in older age groups (ages 55 and older (Fazel et al. 2006). These findings are consistent with recidivism rates in studies with international samples of older sexual offenders, including research conducted in the UK, the USA, and Canada. Given these findings about older age and the reduced risk for recidivism, it is important to underscore that incarcerated individuals with violent offense histories (despite their failing health status) or elderly in US federal and state prisons are often nevertheless excluded from compassionate or geriatric release provisions (HRW 2012).

Applying a Multitiered Practice Model for All Levels of Prevention and Intervention

The 2012 Report of the United Nations High Commissioner for Human Rights (UN 2012) urges that specialized treatment be given to older adults and seriously ill people in prison and post-release. The need for specialized treatment is because many incarcerated elders experienced histories of accumulated disadvantages and currently are experiencing grave human rights conditions in prison. Therefore, when crafting a human rights-based social work, a multitiered prevention and intervention response to the current crisis and the process that led to it is needed. One helpful human rights-based practice model is Wronka's (2007) Advanced Generalist/Public Health (AGPH) Model. The AGPH model conceptualizes four interventions levels designed to prevent or alleviate social problems, such as the crisis and the process leading to the aging and seriously ill people in prison. These coincide with macro, mezzo, micro, meta-micro, and meta-macro, and research levels of intervention. Although research has its own level, it also informs all intervention levels (Wronka 2007). These levels of intervention are described and then applied to how social workers can address the aging and dying crisis below.

Macro and meta-macro levels In the AGPH model, the macro level is a target of primary intervention strategies. The macro level targets a whole national population, such as the USA, to prevent a problem, such as the crisis of aging and dying people in prison. The purpose of primary intervention strategies is to prevent individuals, families, and community from experiencing health and justice disparities (Maschi and Youdin 2012; Wronka 2007). An example of a primary intervention strategy is the development and implementation of a national campaign for criminal justice reform, especially with regard to peeling back the punitive and strict long-term sentencing policies that emerged in the 1980s. These policy advocacy strategies are an area where social worker are involved and/or could be more actively involved in crafting a more compassionate response to the aging and seriously ill in prison.

In an even larger meta-macro level, the focus is international. An example of a global prevention initiative is a social media campaign that promotes the importance of universal health and justice and fairness for all persons. Given that the criminal justice system disproportionately consists of historically underrepresented and underserved groups, such as older people, racial/ethnic minorities, and persons with physical or mental disabilities, a campaign that would promote prevention would reduce the societal oppression to prison pipeline, such as ending mass incarceration, is a potential strategy. Social workers, especially forensic social workers, can and do assume a pivotal role in these prevention efforts that advance human rights that reduce health and justice disparities for individuals of all ages and families and communities most affected by the USA's current state of hyper-incarceration (Wronka 2007).

Mezzo levels The mezzo level targets secondary intervention strategies among groups at risk, such as individuals that come to the attention of the law (Wronka 2007). These strategies may be interventions in high-risk environments, such as police stations and/or the courts. For example, a social worker can develop an alternative to incarceration/diversion program and monitor effectiveness on outcomes, such as reduced rates of imprisonment. Another example for an at-risk group is in prison settings. A social worker can develop or administer and evidence-based practice on health literacy or the management of chronic health problems that reduces the risk of rapid health decline while residing in the often unhealthy conditions of prison.

Micro and meta-micro levels The micro level is the target of tertiary intervention strategies and symptomatic populations, such as the older or serious or terminally ill population in prison. Tertiary level interventions commonly entail clinical intervention on an individual or family level, such as medical or palliative care social work interventions. For example, a social worker employed at a prison hospice may design and implement a grief therapy group for inmate peer supports or family members and monitor its effectiveness on the coping and well-being of the participants (Wronka 2007).

The meta-micro level consisting of informal supports also is the target of tertiary intervention strategies. Although clinical interventions help with problems, everyday life social connections, such as family, friends, and others, can have therapeutic benefits. For example, a social worker in a prison can be instrumental in arranging family, volunteers, or community service provider visits to a prison or connect with families, peers, or professionals to prepare them for the release of an ill person in prison (Wronka 2007).

Research and evaluation level In the AGPH model, research and evaluation are the method of quaternary (fourth level) intervention strategies. Findings from research and evaluation studies provide informed knowledge for prevention and intervention strategies across the other intervention levels. In turn, the primary, secondary, and tertiary levels influence the research questions to be asked and the types of research methods used (Wronka 2007). For example, research is needed to provide data-driven development of policies impacting this aging and dying in population or to monitor the implementation of existing compassionate and geriatric release laws. Quantitative and qualitative methods can be used to gather data from key stakeholders.

An example of an important area of research is the reliability and validity of risk assessment (Andrews et al. 2006; Lansing 2012), especially for those with violent sex offense histories. Based on age factors, risk assessment should be attentive to the level of risk based on age (younger versus older offenders). As indicated above, recidivism rates are lower in older age groups. In a study of older sex offenders, they were found to score lower on the Static-99, a widely used actuarial measure (Hansen, 2006), and research on repeat offending (sexual and violent offenses) among an older prison population showed that recidivism decreased in the older age group (55+ years; Fazel et al. 2006). Therefore, more research is needed to accurately assess risk that accounts for age (Andrews and Dowden 2012).

Limitations of the Current Review

These findings have methodological limitations that warrant discussion. First, although a comprehensive search of the Lexis Nexus database was conducted, the extent to which all of the subject laws and possible amendments were available is unknown. Second, although multiple coders were used to select a sample of laws, classify them, and analyze their findings, it is entirely possible that other research teams may obtain different results. Third, the content analyses of categories and themes were developed deductively and inductively by the research team, and it goes without saying that a content analysis with a different set of categories and frequency counts would yield a different outcome. Yet, despite these limitations, this comprehensive analysis of the compassionate and geriatric release laws in the USA offers insight into the next steps for research and evaluation to improve conditions for the elderly and seriously and terminally ill persons in prison and for their families and communities.

Conclusion

From a human rights perspective, human beings—even individuals who have committed crimes—should receive adequate physical and psychological care in the prison system and have access to supports post-release. If incarcerated individuals are unable to receive adequate care inside prisons, it is incumbent upon social workers, advocates, and researchers to compel further investigation into the barriers to care. Potential barriers may include the potential cost of care for aging and terminally ill patients, public perception of release, expediency of the process of consideration, and level of access of timely evidence-based treatment. Supports for family members, surrogates and/or guardians, and survivors of crimes should be part of compassionate or geriatric release legislation. Social workers also should promote a compassionate care as opposed to the use of tactics that are punitive and forms of cruel and unusual punishment within the prison system and community post-release. If the standard of care available in-prison remains suboptimal to a basic standard of community care, it is social work's role to advocate for more humane prison conditions or prison release policies that result in improved care quality. It is our view that social workers grounded in human rights are the missing piece of compassion and care in our current punitive criminal justice system. Perhaps it is time to embrace our criminal justice roots for the "just" cause of promoting human rights for the aging and dying in prison.

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SB 1334 – Criminal Justice

This bill creates s. 562.112, F.S., stating that "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, F.S. or s. 562.111, F.S. if the evidence for such offense was obtained as a result of that person seeking medical assistance." Furthermore, "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, F.S. if the evidence for such offense was obtained as a result of that person seeking medical assistance."

This bill also amends s. 893.21, F.S., adding the following (in bold): "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 for **a violation of s. 782.04(1)(a)3, F.S., s. 893.13, F.S., s. 893.135, F.S., or s. 893.147, F.S.** if the evidence for **such offense** was obtained as a result of the person's seeking medical assistance." Furthermore, similar language is added for "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," though s. 782.04(1)(a)3., F.S. is not included. Lastly, for both scenarios, a person acting in good faith for another individual believed to be experiencing a drug-related overdose and a person having a good faith belief that he or she is experiencing a drug-related overdose, this bill adds that the person "may not be 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 that person seeking medical assistance." Therefore, this bill expands the types of offenses where immunity would apply to an individual, including the unlawful killing of a human being which resulted from the unlawful distribution by a person 18 years of age or older of a list of controlled substances, drug sale/manufacture/delivery, drug trafficking, and drug paraphernalia.

While the statutes referenced under s. 562.112, F.S. are misdemeanors, s. 562.11, F.S. provides a court with the option to order the suspension or revocation of a driver license for selling, giving, or serving alcoholic beverages to a person under age 21, and s. 562.111, F.S. requires that a court suspend or revoke the license of someone charged with the possession of alcohol under 21 years old.

Per DOC, in FY 17-18, 4,462 (adj.) offenders were sentenced for driving with a suspended, revoked, cancelled, or disqualified license, with 286 (adj.) sentenced to prison (mean sentence length=23.6 m, incarceration rate: 6.2% adj.-6.2% unadj.). There were 38 (adj.) offenders sentenced for careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury, with 16 (adj.) sentenced to prison (mean sentence length=23.6 m, incarceration rate: 42.1% adj.-42.9% unadj.). It is not known how many of these offenders would be impacted by this bill.

Per DOC, in FY 17-18, there were 4 (adj.) offenders sentenced for the unlawful killing of a human being which resulted from the unlawful distribution of controlled substances, s. 782.04(1)(a)3, F.S., with 4 (adj.) sentenced to prison (mean sentence length=122.5 m, incarceration rate: 100%). Furthermore, 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.). Also, 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.). Finally, there were 21 (adj.) offenders sentenced under s. 893.147, F.S., with 2 (adj.) sentenced to prison (mean sentence length=36.0 m, incarceration rate: 9.5% adj.-10.0% unadj.). It is not known how many offenders in these offense groups would fit the new criteria for receiving immunity.

EDR PROPOSED ESTIMATE: Negative Indeterminate

Amends s. 812.014(2)(c)(1), F.S., increasing the minimum threshold property values for third degree grand theft from $300 to $1,500. Further amending third degree grand theft, it removes “a will, codicil, or other testamentary instrument,” and removes any fire extinguisher.

It also amends s. 812.014(2)(d), F.S., increasing the minimum threshold property values for third degree grand theft for stealing property from a dwelling or unenclosed curtilage of a dwelling from $100 to $1,500 and increasing the maximum threshold from $300 to $5,000.

This bill also amends s. 812.014(2)(e), F.S., increasing the minimum threshold property values for petit theft of the first degree (misdemeanor) from $100 to $500 and increasing the maximum threshold from $300 to $1,500. While these changes would impact s. 812.014(3)(c), F.S., the bill also amends this, adding that a “person who commits petit theft in the first degree and who has previously been convicted two or more times as an adult of any theft” commits a Level 1, 3rd degree felony, “if the third or subsequent petit theft offense occurred within 3 years after the expiration of his or her sentence for the most recent theft conviction.” Currently, this felony applies for any petit theft committed for a third or more time at any age without any point in time where the prior offenses could no longer be considered.

It also adds that “for purposes of determining the value of property taken in violation of this section, the value must be based on the fair market value of the property at the time the taking occurred.”

Per DOC, in FY 17-18 there were 10,351 (adj.) offenders sentenced under s. 812.014(2)(c)(1), F.S., with 1,131 (adj.) of these offenders sentenced to prison (mean sentence length=25.7 m, incarceration rate: 10.9% adj-10.9% unadj). The number of offenders that currently fall within the proposed changes to the s. 812.014(2)(c)(1), F.S., thresholds cannot be differentiated from the current thresholds. Per DOC, in FY 17-18,

nobody was sentenced for theft of a will. Theft of a fire extinguisher had 4 (adj.) offenders sentenced, with no offenders receiving a prison sentence.

Per DOC, in FY 17-18, there were 116 (adj.) offenders sentenced under s. 812.014(2)(d), F.S., with 10 (adj.) of these offenders sentenced to prison (mean sentence length=20.9 m, incarceration rate: 8.6% adj-8.3% unadj). A certain number of offenders currently charged under s. 812.014(2)(c)(1), F.S. will now fall into the new threshold for s. 812.014(2)(d), F.S., where a higher incarceration existed in prior years. However, it is not known how many offenders charged under s. 812.014(2)(c)(1), F.S. stole property from a dwelling or unenclosed curtilage of a dwelling.

Per DOC, in FY 17-18, there were 3,389 (adj.) offenders sentenced under s. 812.014(3)(c), F.S., with 436 (adj.) of these offenders sentenced to prison (mean sentence length=23.1 m, incarceration rate: 12.9% adj-12.9% unadj). The available data cannot determine how many offenders would be impacted by the proposed changes.

EDR PROPOSED ESTIMATE: Negative Significant

This bill also amends s. 812.015(8), F.S., increasing the minimum threshold property values for retail theft from $300 to $1,500, a Level 5, 3rd degree felony, and amends s. 812.015(9)(a), F.S., adding that the Level 6, 2nd degree felony applies when the person violates s. 812.015(8), F.S. as an adult “and has previously been convicted of a violation of subsection (8) within 3 years after the expiration of his or her sentence for the conviction.” Currently, there is no age range or time limit for when the first violation occurred.

Value is also defined as “the fair market value of the property taken in violation of this section at the time the taking occurred.”

Per DOC, in FY 17-18, there were 301 (adj.) offenders sentenced under s. 812.015(8), F.S., with 65 (adj.) of these offenders sentenced to prison (mean sentence length=30.1 m, incarceration rate: 21.6% adj-21.7% unadj). There were 5 (adj.) offenders sentenced under s. 812.015(9)(a), F.S., and one of these offenders received a prison sentence (sentence length=24.0, incarceration rate: 20.0% adj-20.0% unadj). The number of offenders that currently fall within the proposed changes to the s. 812.015(8), F.S., threshold cannot be differentiated from the current threshold.

EDR PROPOSED ESTIMATE: Negative Indeterminate

This bill amends s. 893.13, F.S., removing “deliver, or possess with intent to sell, manufacture, or deliver” from prohibitions against sale/manufacture/delivery near a child care facility, school, park, community center, college, physical place of worship, convenience business, public housing facility, or assisted living facility. This would result in selling and manufacturing being the only acts where these prohibitions would apply. Furthermore, it reduces the distance from these areas where one is prohibited from

committing these acts from within 1,000 feet to within 250 feet for a park, community center, college, convenience business, and public housing facility.

Per DOC, in FY 17-18, 1,071 (adj.) offenders were sentenced for sale/manufacture/delivery offenses near prohibited places, with 628 (adj.) sentenced to prison (mean sentence length=53.5 m, incarceration rate: 58.6% adj.-58.7% unadj.). There were 8,353 (adj.) offenders sentenced for all other sale, manufacture, and delivery penalties under s. 893.13, F.S., with 2,671 (adj.) sentenced to prison (mean sentence length=36.0 m, incarceration rate: 32.0% adj.-32.0% unadj.).It is not known how many of these offenses would be impacted by the proposed changes to the statute.

EDR PROPOSED ESTIMATE: Negative Significant

This bill 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, each having a clear manufacturer marking, 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.

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, but 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.

EDR PROPOSED ESTIMATE: Negative Indeterminate

This bill amends s. 893.135, F.S., adding that a "a court may impose a sentence for a violation of this section other than the mandatory minimum term of imprisonment and mandatory fine if the court finds on the record that all of the following circumstances exist:

"(a) The person did not engage in a continuing criminal enterprise as defined in s. 893.20(1).

(b) The person did not use or threaten violence or use a weapon during the commission of the crime.

(c) The person did not cause a death or serious bodily injury."

Per DOC, in FY 17-18, there were 1,269 offenders fitting the criteria to be eligible for a sentence other than a drug trafficking mandatory minimum. Of those, 511 (40.3%) received a sentence less than the mandatory minimum, with 264 receiving a prison sentence and 247 receiving probation. Therefore, it cannot be quantifed how these changes to the language would affect current court practices.

EDR PROPOSED ESTIMATE: Negative Significant

This bill amends s. 945.091, F.S., allowing an inmate to "participate in supervised community release as prescribed by the department by rule," beginning "90 days before his or her provisional or tentative release date" and would "include active electronic monitoring and community control."

Per DOC, there were 1,500 inmates under community custody as of June 30, 2018, with that number expected to look similar at different time points. It is not known how many inmates currently under community custody would be included under this new

language, nor is it known how many more would be eligible to be released under supervision.

EDR PROPOSED ESTIMATE: Negative Indeterminate

This bill amends s. 947.005, F.S., defining conditional medical release, and also amends s. 947.149, F.S., adding the following: "Inmate with a debilitating illness," which means an inmate who is determined to be suffering from a significant terminal or nonterminal condition, disease, or syndrome that has rendered the inmate so physically or cognitively impaired, debilitated, or incapacitated as to create a reasonable probability that the inmate does not constitute a danger to herself or himself or others." It also replaces the requirement that death be imminent for a terminally ill inmate, adding that death "is expected within 12 months." This expands the pool of those eligible for conditional medical release.

Per DOC, under the criteria provided in HB 607, there are approximately 160 inmates that would be eligible for conditional medical release. However, this bill removes the requirement that a debilitating illness must be "permanent," and adds cognitive impairment to the definition. Therefore, this bill is expected to expand the eligible pool calculated under HB 607, though DOC is cannot determine what that population would be. In the past, FCOR approved on average 40% of eligible inmates per calendar year under current conditional medical release (2014 through 2016).

EDR PROPOSED ESTIMATE: Negative Significant

EDR PROPOSED ESTIMATE FOR ENTIRE BILL: Negative Significant

Requested by: Senate

FLORIDA
DEPARTMENT of
CORRECTIONS

Governor
RON DESANTIS
Secretary
MARK S. INCH

501 South Calhoun Street, Tallahassee, FL 32399-2500
www.dc.state.fl.us

To whom it may concern:

A request was made to the Florida Department of Corrections to complete an analysis of SB 534–Pretrial Release. Please be advised that SB 534 does not have direct impact on the Florida Department of Corrections.

The Florida Legislature

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY

R. Philip Twogood, Coordinator

February 11, 2019

SB0534

SB0534 has no policy impact on OPPAGA. The tasks assigned to OPPAGA in the proposed legislation may be accomplished with existing resources.

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2019 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Corrections

BILL INFORMATION	
BILL NUMBER:	SB 338
BILL TITLE:	Extension of Confinement
BILL SPONSOR:	Senator Brandes
EFFECTIVE DATE:	October 1, 2019

COMMITTEES OF REFERENCE
1) Criminal Justice
2) Appropriations Subcommittee on Criminal and Civil Justice
3) Appropriations
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?

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	January 31, 2019
LEAD AGENCY ANALYST:	Joe Winkler
ADDITIONAL ANALYST(S):	Gregory Roberts, Sibyle Walker, Lee Adams
LEGAL ANALYST:	Philip Fowler
FISCAL ANALYST:	Suzanne Hamilton

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill amends s. 945.091 F.S., authorizes the Florida Department of Corrections (FDC or Department) to extend the limits of confinement of an inmate in the last 180 days of a sentence to participate in supervised community supervision.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Extended Limits of Confinement

Subsection 945.091(1)(a), F.S., allows for the extension of the limits of confinement by allowing trusted inmates under prescribed conditions to leave direct Department supervision. With Department approval, inmates may visit a dying relative, attend a funeral of a relative, or arrange for employment or residence for use when released. Inmates may also be released for specified periods to designated places if it will otherwise aid in their rehabilitation or successful transition back into the community.

Subsection 945.091(1)(b), F.S., provides that an inmate may participate in paid employment, an education or training program, or voluntarily serve a public or nonprofit agency or faith-based service group in the community, while still being confined by the Department, with exception of the hours served in any of the above activities. Section 945.091(c), F.S., states that an inmate may participate in a residential or nonresidential rehabilitative program operated by a public or private nonprofit agency, including faith-based groups. The Department may contract with agencies to provide treatment to the inmate.

Community Work Release

Currently under s. 945.091 F.S., inmates are allowed to work at paid employment in the community through the community work release program. Community Work Release (CWR) is a portion of the Community Release Program that allows selected inmates to work at paid employment in the community during the last months of their confinement. Work Release provides an inmate with a gradual reintegration back into the community, gainful employment, accumulation of savings from paid employment, and preservation of family and community ties. Within two weeks of admission to the community work release program, a written Personalized Program Plan is developed for each inmate. This plan incorporates the inmate's individual needs and provides a positive framework for program participation (i.e., orientation and intake, employment, furloughs, personal budget, substance abuse counseling, academic and vocational education, mental health, and medical rehabilitative programs). The plan includes program objectives to be accomplished while an inmate is assigned to the community work release program. Measurable criteria are established in determining completion of the objectives, along with a reasonable time schedule to achieve each goal and a progress review for evaluating progress toward objectives. Inmates are allowed to work in the community without Department supervision but must reside in a Community Release Center during the period they are not at work. As of January 25, 2019, there are 3,247 inmates in Community Work Release Centers.

Community Release Centers

Community Release Centers (CRC): No sex offenders may be assigned to community release centers. Facilities that house two categories of community custody inmates, those who are participating in community work release and work at paid employment in the community, those who work in a support capacity for the center (CWA). Inmates must be within 6 to 36 months of their release date, depending on their assignment.

Those assigned to CWA perform such tasks as: food service, maintenance of the center, or assignment to work squads. There are no perimeter fences and inmates must remain at the CRC when they are not working or attending programs outside the CRC.

Custody Level

The Department uses custody level as the fundamental determinant of an inmate's trustworthiness as required by statute. To be assigned to a community work release center an inmate must be classified as "community" custody. The following will prevent an inmate from being classified as community custody:

1. Current or prior sex offense convictions;
2. Current or prior conviction for murder or attempted murder under s. 782.04, F.S.;
3. Current or prior conviction for aggravated manslaughter of an elderly person or disabled adult or attempted manslaughter of an elderly person or disabled adult under ss. 782.07(2), F.S.;
4. Current or prior conviction for aggravated manslaughter of a child or attempted aggravated manslaughter of a child under ss. 782.07(3), F.S.;
5. Current or prior conviction for aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic or attempted aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic under ss. 782.07(4), F.S.;
6. Current or prior conviction for murder of an unborn child or attempted murder of an unborn child under ss. 782.09(1), F.S.;
7. Current or prior conviction for attempted murder of a law enforcement officer under ss. 784.07(3), F.S.;
8. Current or prior conviction for making, possessing, throwing, projecting, placing, or discharging any destructive device and the act results in the death of another person or for attempted making, possessing, throwing, projecting, placing, or discharging any destructive device and the act results in the death of another person under ss. 790.161(4), F.S.;
9. Current or prior conviction for assisting self-murder or for attempted assisting self-murder under s. 782.08, F.S.
10. A guilty finding on any disciplinary report for escape or attempted escape within the last five years;
11. A current or prior conviction for escape covered by ss. 945.092, F.S.;
12. A felony, Immigration and Customs Enforcement, or misdemeanor (for other than child support) warrant or detainer;
13. A misdemeanor detainer for child support, unless it can be established by the inmate's classification officer that the detainer would be withdrawn upon payment of restitution, fines, or court ordered obligations and it appears that the inmate will earn sufficient funds to pay the obligation that has caused the detainer.

Community Control

In ss. 948.001(3), F.S., it defines community control as "a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads. Community control is an individualized program in which the freedom of an offender is restricted within the community, home, or non-institutional residential placement and specific sanctions are imposed and enforced."
s. 948.10, F.S., provides that "community control" programs are to "focus on the provision of home confinement subject to an authorized level of limited freedom and special conditions that are commensurate with the seriousness of the crime. The program shall offer the courts and the Florida Commission on Offender Review an alternative, community-based method to punish an offender in lieu of incarceration and shall provide intensive supervision to closely monitor compliance with restrictions and special conditions, including, but not limited to, treatment or rehabilitative programs."

Arrest/Warrant Authority

In ss. 944.405, F.S., it authorizes the Department to issue an arrest warrant for a person who has "absconded from a rehabilitative community reentry program before the offender has satisfied his or her sentence or combined sentences." S. 948.06(1), F.S., authorizes probation officers or law enforcement officers to arrest probationers and community controlees without written warrant based on a belief the offender has violated terms of supervision.

Escape

In ss. 945.091(4), F.S., it provides that the willful failure of an inmate to remain within the extended limits of his or her confinement or to return within the time prescribed to the place of confinement designated by the Department shall be deemed as an escape from the custody of the Department and shall be punishable as prescribed by law.

2. EFFECT OF THE BILL:

The bill requires the Department to administer a risk assessment instrument to appropriately determine an inmate's ability to be released. The department currently uses custody level when determining eligibility for inmate placed on community work release.

S. 945.091(1)(b) authorizes participation in paid employment in the community to inmates "as to whom there is reasonable cause to believe that the inmate will honor his or her trust". It requires the Department to administer a

risk assessment instrument to appropriately determine an inmate's ability to be released. The custody classification system is the instrument by which the department determines if an inmate meets this standard.

The bill is similar to a program in effect under s.945.091, F.S. from 1986 to 1996 called Supervised Community Release Program (SCRP). This program was limited to inmates within the last 90 days of sentence who were assigned to a community release center, or who were medically unable to participate in work release. SCRP participants were not considered to be inmates but were able to earn gain time and were under the disciplinary rules of the Department.

The bill expands on the current concept of the "extension of the limits of confinement" under s.945.091, F.S. to create another step in the transition process by allowing an inmate, regardless of where he/she is assigned, to continue serving his/her state prison sentence while under custodial supervision in the community during the last 180 days of the sentence. Since the inmate remains in service of the court-imposed sentence while participating in the program, and the Department maintains the calculation of the release date in accordance with s.944.275, F.S. program participation remains consistent with the requirement that inmate serve 85% of the sentence. To allow an inmate to participate there must be "reasonable cause to believe that the inmate will honor his or her trust". The bill authorizes the Department to impose community control standards of supervision as well as electronic monitoring tracking technology, and provides the Department authority to establish standards for assessing progress in the program and for termination for failure to meet those standards. Program participants remain eligible to earn and forfeit gain time under Department rules.

As of December 31, 2018, there were about 479 inmates that were 180 days out from their release date that had served at least 85% of their sentence. Within the next 6 months there will be about 2508 additional inmates falling within this criterion.

Since the program would expose participating inmates to disciplinary penalties including loss of gain time, to avoid ex post facto violations participation would have to be voluntary as to crimes committed before the statutory change. Inmates sentenced for crimes committed after the statute changed could be required to participate; however, that may not be prudent considering the level of trust needed for inmates assigned in a community setting. If the inmate does not want to be in the program it may be best to allow for recusal. Also, a number of inmates would likely rather serve slightly more time in prison than be under community supervision, especially if that includes electronic monitoring (EM), risking return to prison for additional time if they violate. Finally, it is unknown as whether how many inmates in the pool have a suitable employment or residence to release to. Thus, the bed impact of the bill is indeterminate. Further, the fiscal impact of the bill will also vary based on the number of released inmates placed on electronic monitoring, and the rate at which they pay the EM costs, as well as the type of facility from which program participants were released (based on the different per diems between community release facilities, major institutions, and work camps). Finally, depending on the number of participants in the program, there could be a need for additional correctional probation officer positions.

The bill also provides authority for warrantless arrest by probation officers and law enforcement officers, similar to the authority currently under ss. 948.06(1), F.S.

Additionally, please note to implement the provisions of the bill, the Department will likely have to promulgate rules and/or amend existing rules and procedures.

Furthermore, when the inmate population is impacted in small increments statewide, the inmate variable per diem of $20.04 is the most appropriate to use. This per diem includes costs more directly aligned with individual inmate care such as medical, food, inmate clothing, personal care items, etc. The Department's FY 17-18 average per diem for community supervision was $5.47.

In addition, the current cost of supervision via electronic monitoring device is $3.90 per day for contracted facilities and $5.29 for department operated facilities.

The Department is requesting 1 (Correctional Programs Consultant) position to be located in the Bureau of Classification Management to oversee, provide guidance, and coordinate the implementation and administration of the SCR program statewide. Duties would include, but not be limited to: Rule, policy, and procedure creation/promulgation and interpretation. On-going management of eligible inmates by providing guidance, oversight, database creation/updating as it relates to the placement, removal, and reinstatement of inmates into and out of the SCR program. Provide statewide training, coordination, and implementation of the operation of the SCR program.

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:	Rulemaking will be necessary to effectuate the implementation of the bill.
Is the change consistent with the agency's core mission?	Y☒ N☐
Rule(s) impacted (provide references to F.A.C., etc.):	Addition of a rule for Supervised Community Release. Rule adjustments (additions and deletions for gain time application, disciplinary procedures, escape policies for absconders, conditions of supervision with DC form for instructions and signature by the inmate, specification as to who shall be responsible for carrying out the provisions of this bill (warden, probation officer, central office staff, etc.), specifications of the amount of the handling of inmate trust fund accounts, release gratuity, etc.

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

Proponents and summary of position:	
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:	Unknown
Expenditures:	Unknown

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:	The overall inmate and community supervision population fiscal impact is indeterminate
Expenditures:	The overall inmate and community supervision population fiscal impact is indeterminate. The cost associated with 1 Correctional Program Consultant is as follows:

Class Title	Class Code	Salary & Benefits	FTE	FY 19-20 Annual Costs
Correctional Program Consultant	8094	$ 66,242	1	$ 66,242
Total salaries & benefits			1	$ 66,242
Recurring expense - Professional		$ 3,378		3,378
Non-recurring expense - Professional		$ 4,429		4,429
Total expenses				$ 7,807
Human Resource Services		$ 329		$ 329
Total Operating			**1**	**$ 74,378**

Summary of Costs

Recurring	$ 69,949
Non-recurring	4,429
Total	$ 74,378

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:	Unknown
Expenditures:	Unknown

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.	The technology systems impact is significant, but indeterminate. There would likely be a significant technology impact due to the need for updating and additional programming on both the Institutions and Community Corrections sentence structure screens.

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:	As referenced in the Policy analysis above, rulemaking by FDC will be necessary to effectuate the intent of the bill.

2019 FDLE LEGISLATIVE BILL ANALYSIS

BILL INFORMATION	
BILL NUMBER:	SB 1334
BILL TITLE:	**Criminal Justice**
BILL SPONSOR:	Senator Jeff Brandes
EFFECTIVE DATE:	October 1, 2019

COMMITTEES OF REFERENCE
1) Criminal Justice
2) Judiciary
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:	March 11, 2019
LEAD AGENCY ANALYST:	Sherry Gomez
ADDITIONAL ANALYST(S):	David Coffman; Karen Weaver
LEGAL ANALYST:	Jason Jones; Jeff Dambly
FISCAL ANALYST:	Cynthia Barr

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

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; authorizing each county to establish a supervised bond program with the concurrence of the chief judge of the judicial circuit, the county's chief correctional officer, the state attorney and the public defender; authorizing the department to extend the limits of the place of confinement to allow an inmate to participate in supervised community release, subject to certain requirements, as prescribed by the department by rule.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Section 893.135, F.S., provides mandatory sentences of trafficking oxycodone, hydrocodone, fentanyl and other controlled substances.

2. EFFECT OF THE BILL:

The proposed "trafficking in pharmaceuticals" (lines 597 – 604) may conflict with s. 893.135, F.S., if the weight and penalty differ between sections. Some pharmaceuticals are already covered in s. 893.135, F.S.

A person seeking medical assistance for an individual under 21 experiencing an alcohol-related overdose may not be arrested, charged, prosecuted, or penalized for a violation of s. 562.11 or s. 562.111, F.S., if the evidence for such offense was obtained as a result of that person seeking medical assistance.

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, F.S., if the evidence for such offense was obtained as a result of that person seeking medical assistance.

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 ss. 775.082, 775.083 or 775.084, F.S.

A person seeking medical assistance for an individual experiencing a drug-related overdose may not be arrested, charged, prosecuted or penalized for a violation of ss. 782.04(1)(a)3., 893.13, 893.135 or 893.147, F.S.

A person seeking medical assistance for him or herself because of a drug-related overdose may not be arrested, charged, prosecuted or penalized for a violation of ss. 893.13, 893.135 or 893.147, F.S.

A supervised bond program may be established in each county, with the terms of each program to be developed with concurrence of the chief judge of the judicial circuit, the county's chief correctional officer, the state attorney and the public defender.

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:	
What is the expected impact to 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?

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:	
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:	
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.	

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:	• For the creation of s. 562.112, F.S., (247-268) and the amendments to s. 893.21, F.S., (lines 637-670), the bill provides that certain persons cannot be arrested, charged, prosecuted or penalized if reporting certain emergencies. Such situations can be very fluid in how they evolve in regard to what law enforcement learns. FDLE respectfully recommends language in both sections providing that these sections do not create causes of action to bring suit against law enforcement agencies or officers when they act in good faith. Without such language, these provisions may create a chill on law enforcement from engaging in arrests in situations otherwise desired due to a fear of lawsuits. • Lines 459-470 amends s. 893.13, F.S., in regard to violations for sale, manufacturing, delivery or possession with intent to sell, manufacture or deliver

	a controlled substance within 1,000 feet of a child care facility. The amendments do not relate to proximity, but subsequent amendments in the bill reduce the proximity requirement from 1,000 feet to 250 feet. • Clarification of the standard for believing another to experience a drug-related overdose may be useful in lines 641-648, as the text would currently absolve the non-overdosing individual from certain crimes related to murder, trafficking, and/or possession.

ADDITIONAL COMMENTS

- Lines 247-268: The statute currently provides a penalty for the 2nd degree misdemeanor in which a person who sells, gives, serves or permits to be served alcoholic beverages to a person under 21. The penalties for a 2nd degree misdemeanor are not more than 60 days in county jail and/or a fine not exceeding $500. However, subsequent offenses within one year of the first conviction elevate to a 1st degree misdemeanor. The penalties for a 1st degree misdemeanor are not more than one year of imprisonment and/or not more than a $1,000 fine. The language in the proposed bill appears to be limited to the misdemeanor charges under ss. 562.11 (Selling, giving, or serving alcoholic beverages to person under age 21) and 562.111, F.S. (Possession of alcoholic beverages by persons under age 21). The proposed bill language does not appear to apply to any other charges (e.g. manslaughter) that might result from an alcohol-related overdose.

- Lines 497-499; 518-519; 538-540; 561-562: The proposed bill strikes language related to delivering, or possessing with intent to sell, manufacture or deliver found in these lines removes a valuable tool in the investigation of illegal narcotics activity. The charge of possession with intent to sell, manufacture or deliver is often lodged based on the amount a person has in their possession and how it is subdivided or packaged for distribution. This charge is important for curbing criminal activity around schools, churches, public housing or assisted living facility. The removal of this language may have the unintended consequence of increasing criminal drug activity around the very places cited in the statute, especially schools where children are a targeted in an effort to create a new supply of illegal drug users. The probable result would be that in order to charge for selling drugs in one of these areas, an undercover hand to hand transaction would have to occur and have to occur much closer to the location referenced, impacting the resources required to investigate criminal drug activity in these areas.

- Lines 592-596: The proposed bill adds language (Line 592-596) exempting from the trafficking statute (s. 893.135, F.S.) the sale, purchase, manufacture, delivery or actual or constructive possession of fewer than 120 dosage units containing any controlled substance described in s. 893.135, F.S. The widespread nature of the illicit market for prescription pharmaceuticals (including oxycodone, hydrocodone, fentanyl, alprazolam (Xanax) and many other highly addictive drugs which could be described as pharmaceutical) which are causing or contributing to deaths in Florida will undermine any progress made in controlling illegal drug activity through previous efforts to strengthen the trafficking statute, making the impact of this proposed language extremely dangerous. A drug suspect in possession of 119 dosage units of oxycodone can do grave damage in the illicit market. Additionally, this limitation may have the effect of hindering investigations into the sale, purchase, manufacture, delivery or actual or constructive possession of counterfeit drugs made to appear to be legitimate pharmaceutical drugs.

- Lines 597-604: The proposed bill language may want to address is what to do with partial tablets. For example, if a person decides to cut 120 oxycodone tablets in half and now has 240 half-tablets, how would this be handled? Would it now be prosecuted under the old statute that deals with non-pharmaceutical oxy because now each half does not have the markings that the definition of “dosage unit” requires?

- Lines 639-670: The current language provides that such a person may not be charged, prosecuted or penalized pursuant to Chapter 893, F.S., for possession of a controlled substance if the evidence was obtained as a result of the person’s seeking medical attention. The most significant impact of the proposed bill language is that rather than providing that a person who seeks medical assistance for an individual experiencing a drug-related overdose not being charged under a possession of a controlled substance; rather the proposed language provides that a person cannot be arrested, charged, prosecuted or penalized for a violation of ss. 782.04(1)(a)3, 893.13, 893.135 or 893.147, F.S., all much more serious crime than possession of a controlled substance as is the current situation. Section 782.04(1)(a)3, F.S., adopted under Chapter No. 2017-207, L.O.F., in response to the substantially increasing overdose deaths occurring as a result of the opioid crisis. The proposed bill language would substantially impact the

ability to prosecute persons who may be responsible for providing the illegal drug that is the cause of the overdose or overdose death. Similarly, s. 893.147, F.S., was adopted under Chapter No. 2018-13, L.O.F. The proposed bill language would substantially impact the ability to prosecute persons who may responsible for providing an illegal counterfeit drug that is the cause of the overdose or overdose death and would effectively halt the ability to arrest, charge, prosecute or penalize persons under any part of ss. 893 or 893.135, F.S., when the person had a role in the overdose or overdose death, but was also the person who called for medical assistance. The proposed language also applies to persons experiencing or believing they are experiencing a drug overdose. Additionally, the proposed language provides for similar non-action related to the violation of a condition of pre-trial release, probation or parole or the evidence for such violation was obtained as a result of that person seeking medical assistance.

- Lines 993-994: Recommend verifying these lines are accurate in regards to change in statute. Lines 626-636 purport to add a (6) to s. 893.135, F.S., which may be what 994 is meant to reference. Line 994 implicitly references that there already was a 7 so this may be a typographical error.

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 1766
INTRODUCER:	Senator Gruters
SUBJECT:	Crime Stoppers Programs
DATE:	March 15, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Storch	Jones	CJ	**Pre-meeting**
2.			ACJ	
3.			AP	

I. Summary:

SB 1766 creates s. 90.595, F.S., which establishes that communication between a person and a crime stoppers organization is *privileged* within the Florida Evidence Code (Code).

The bill defines "privileged communication" as the act of providing information to a crime stoppers organization for the purpose of reporting alleged criminal activity and provides that a person who engages in privileged communication with a crime stoppers organization, a law enforcement crime stoppers coordinator or his or her staff, or a member of a crime stoppers organization's board of directors may not be required to disclose such communication or protected information, subject to exceptions.

However, a person charged with a criminal offense may petition the court to compel the disclosure of the protected information collected in connection with the privileged communication. Such information must be disclosed if the lack of disclosure would infringe on the accused's constitutional right.

The bill provides that a person who discloses any information related to privileged communication or protected information commits a third degree felony, unless the disclosure is made pursuant to a court order.

The bill also establishes additional authorized uses of a grant awarded to a county from the Crime Stoppers Trust Fund.

The fiscal impact of the bill is unknown at this time. However, to the extent that the felony created in the bill results in persons being convicted, the bill may result in a positive indeterminate prison bed impact (i.e. an unquantifiable increase of prison beds). See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2019.

II. Present Situation:

Crime Stoppers

Crime Stoppers programs are non-profit organizations led by citizens against crime, founded on the concept that someone other than the criminal has information that can help solve a crime. These programs offer anonymity to anyone who can provide information about crimes and subsequently pay rewards when such information leads to an arrest.[1]

The idea of providing a reward to someone with information about a crime originated in Albuquerque, New Mexico, when a detective was tasked with solving a homicide with no leads. He thought to make a video re-enactment of the murder and guarantee anonymity for anyone who was willing to call with information about the crime. After receiving calls following the re-enactment, one of which allowed police to solve a different crime, the detective persuaded the Albuquerque Police Department to permit citizens to establish the first Crime Stoppers program. Today, there are over 1,200 crime stopper organizations throughout the world.[2]

There are 27 crime stopper programs in Florida that operate collectively under the name Florida Association of Crime Stoppers, Inc. (Association).[3] In order to expand the model of these programs by providing more stable funding, the Crime Stoppers Trust Fund (Fund) was created for the purpose of grant administration.[4] The Department of Legal Affairs (DLA) administers the Fund and is tasked with establishing criteria for local governments to apply for funding.[5]

Crime Stoppers Trust Fund

The amount of funding available for a crime stoppers organization or a county is based upon all money deposited pursuant to s. 938.06, F.S., available unused funds, and money collected pursuant to financial consequences.[6] Section 938.06, F.S., provides that, in addition to other fines that may be imposed, a court must assess a $20 fee for any person convicted of any criminal offense, the proceeds of which are then deposited into the Fund.[7] Such proceeds are placed in a separate account in the Fund and are designated according to the judicial circuit in which they were collected.[8] A county may then apply to the DLA for a grant from the funds collected in the judicial circuit in which the county is located. However, such grants are awarded only to counties that are served by an organization that is an official member of the Association and in good standing.[9]

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[1] Crime Stoppers USA, *Profile*, available at https://www.crimestoppersusa.org/profile/ (last visited March 12, 2019).
[2] Florida Association of Crime Stoppers, *Where it all started*, available at http://www.facsflorida.org/where-it-all-started (last visited March 12, 2019).
[3] Florida Association of Crime Stoppers, *Our History*, available at http://www.facsflorida.org/who-we-are/our-history/ (last visited March 12, 2019).
[4] Ch. 91-205, s. 13, Laws of Fla. (1991).
[5] Section 16.555, F.S.
[6] Fla. Admin. Code. R. 2A-9.003(2) (2018).
[7] Section 938.06, F.S.
[8] Section 16.555(4)(b), F.S.
[9] Fla. Admin. Code. R. 2A-9.003(5)(c) (2018).

Money awarded from a grant to a county may only be used to support Crime Stoppers and its crime fighting programs.[10] There is one crime stoppers program per county eligible to receive funding and eligible programs must complete and submit a performance-based grant proposal outlining its annual operational plan.[11] A county that is awarded a grant may use such funds to purchase items to assist in educating the public and increasing public awareness of Crime Stoppers.[12] The Fund is also used to reimburse programs for the payment of rewards. In order to obtain reimbursement from the Fund, the reward paid must have been for a tip that lead to an arrest, arrest warrant, or recovery of stolen property or drugs.[13]

Privileged Communications in the Evidence Code

The Florida Evidence Code (Code) specifies what types of evidence and testimony are admissible in court.[14] The Code makes certain communications privileged, meaning their disclosure generally cannot be compelled, even in legal proceedings.[15] Privileged communication is used to describe an interaction between two parties in which the law recognizes a private, protected relationship.[16] Some examples of generally privileged communications include communications between a lawyer and client;[17] a husband and wife;[18] and a psychotherapist and a patient.[19]

Typically, such communication only loses its privileged status if the person who made the original disclosure of such information waives the privilege, thus permitting the communication to be subject to general rules of evidence. A person is deemed to have waived the privilege if he or she voluntarily discloses or makes the communication when he or she does not have a reasonable expectation of privacy, or consents to the disclosure of any significant part of the communication.[20]

Crime Stoppers Privileged Communication in Other States

Other states have already implemented laws that both protect the identity of a person who provides a tip to a crime stoppers organization and provide that the communication of the tip and any documents created as a result of the tip are privileged. Those states are:

- Arkansas;[21]
- Colorado;[22]

[10] Section 16.555(5)(b), F.S.
[11] Florida Association of Crime Stoppers, *Funding*, available at https://www.facsflorida.org/who-we-are/62-2/ (last visited March 13, 2019).
[12] Section 16.555(5)(b), F.S.
[13] Fla. Admin. Code. R. 2A-9.006(7)(d) (2018).
[14] Chapter 90, F.S.
[15] US Legal, *Privileged Communications Law and Legal Definition*, available at https://definitions.uslegal.com/p/privileged-communications/ (last visited March 12, 2019).
[16] Will Kenton, Investopedia, *Privileged Communication*, (February 21, 2018), available at https://www.investopedia.com/terms/p/privileged-communication.asp (last visited March 13, 2019).
[17] Section 90.502, F.S.
[18] Section 90.504, F.S.
[19] Section 90.503, F.S.
[20] Section 90.507, F.S.
[21] Section 16-90-1005, A.C.A. (1995).
[22] Section 16-15.7-104, C.R.S.A. (1994).

- Connecticut;[23]
- Kentucky;[24]
- Louisiana;[25]
- Michigan;[26]
- Mississippi;[27]
- New Mexico;[28]
- Oklahoma;[29] and
- Texas.[30]

Furthermore, six states have created criminal penalties for the prohibited disclosure of such protected information. However, the criminal penalty is generally a misdemeanor, rather than a felony.[31]

III. Effect of Proposed Changes:

The bill establishes that communication between a person and a crime stoppers organization is *privileged* within the Code.

Privileged Communication with a Crime Stoppers Organization

The bill defines the following terms:

- "Crime stoppers organization" means a private not-for-profit organization that collects and expends donations for rewards to persons who report to the organization information concerning criminal activity and forwards that information to appropriate law enforcement agencies.
- "Privileged communication" means the act of providing information to a crime stoppers organization for the purpose of reporting alleged criminal activity.
- "Protected information" includes the identity of a person who engages in privileged communication with a crime stoppers program and any records, recordings, oral or written statements, papers, documents, or other tangible things provided to or collected by a crime stoppers organization, a law enforcement crime stoppers coordinator or his or her staff, or a law enforcement agency in connection with such privileged communication.

[23] Section 29-1d., C.G.S.A. (1984).
[24] Section 431.580, KRS. (1992).
[25] Section 15:477.1, L.A.R.S. (1985).
[26] Section 600.2157b, M.C.L.A. (2006).
[27] Section 45-39-7, Miss. Code Ann. (1996).
[28] Section 29-12A-4, N.M.S.A. (1978).
[29] Section 2510.1, Okl.St.Ann. (2002).
[30] Sections 414.008 and 414.009, V.T.C.A. (1987).
[31] The six states that assign criminal penalties are Arkansas, Colorado, Kentucky, Mississippi, New Mexico, and Texas. *See* s. 16-90-1006, A.C.A., s. 16-15.7-104, C.R.S.A., s. 431.585, KRS., s. 45-39-9, Miss. Code Ann., s. 29-12A-5, N.M.S.A., and s. 414.009, V.T.C.A. The exception to the offense being classified as a misdemeanor is in Texas where the offense is a felony if the person divulged the information for the purposes of obtaining a monetary benefit.

The bill provides that a person who engages in privileged communication with a crime stoppers organization, a law enforcement crime stoppers coordinator or his or her staff, or a member of a crime stoppers organization's board of directors may not be required:

- To disclose, by testimony or other means, a privileged communication or protected information unless such failure to disclose would infringe on the accused person's constitutional rights;[32]
- To produce, under subpoena, any records, documentary evidence, opinions, or decisions relating to such privileged communication or protected information:
  - In connection with a criminal case, criminal proceeding, or any administrative hearing; or
  - By way of any discovery procedure.

The bill permits a person charged with a criminal offense to petition the court for inspection in camera[33] of the protected information. The petition must allege that the protected information meets the following criteria:

- Provides evidence favorable to the defendant;
- Is specifically related to the determination of the innocence or guilt of the petitioner; and
- Will cause a deprivation of a constitutional right of the petitioner if it is not disclosed.

Upon a determination that the above criteria is met, the court may order the production and disclosure of all or any part of the protected information while, to the fullest extent possible, protecting the identity of the persons who engaged in privileged communication.

The bill provides that a person who discloses any information related to privileged communication or protected information commits a third degree felony,[34] unless the disclosure is made pursuant to a court order. However, the following people cannot face penalty for disclosure of such communication or information:

- The person who provides the privileged communication;
- A law enforcement officer acting within the scope of his or her official duties; or
- An employee of a law enforcement agency or the DLA when acting within the scope of his or her official duties.

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[32] In *Thomas v. State*, the issue before the court was whether a crime stopper statute that prohibited the disclosure of privileged communication in *all circumstances* was unconstitutional because the statute infringed on the appellant's fundamental right to a fair trial. The court found that while the state's interest in law enforcement is sufficient to justify crime stoppers programs and the confidentiality provisions of the statute, the fact that the statute operated to totally bar a defendant's access to information that may be material was problematic. The court concluded that the denial of access to information which would have a reasonable probability of affecting the outcome of a defendant's trial abridges a defendant's due process rights and undermines the court's duty to vindicate Sixth Amendment rights. *See* 837 S.W. 2d 106, 113. (Tex. Crim. App. 1992).

[33] "In camera" refers to a hearing or discussions with the judge in the privacy of his chambers or when spectators and jurors have been excluded from the courtroom. *See* US Legal, *In Camera Law and Legal Definition*, available at https://definitions.uslegal.com/i/in-camera/ (last visited March 13, 2019).

[34] A third degree felony is punishable by a term of imprisonment not exceeding 5 years, a fine of $5,000, or both. Sections 775.082 and 775.083, F.S.

Crime Stoppers Trust Fund

The bill also establishes additional authorized uses of a grant awarded to a county from the Fund. Specifically, a county may use such funds to pay rewards for tips that result in any of the following:

- An arrest;
- Recovery of stolen property;
- Recovery of illegal narcotics;
- Recovery of the body of a homicide victim;
- Recovery of a human trafficking victim or a missing person connected to criminal activity;
- Recovery of an illegal firearm or an illegal weapon on a K-12 school campus;
- Prevention of a terrorist act; or
- Solving and closing a homicide or other violent felony offense that remains unsolved for one year or more after being reported to a law enforcement agency and that has no viable and unexplored investigatory leads.

Current law permits a county to apply for a grant from the funds collected in the judicial circuit in which the county is located. The bill provides that the DLA and the Association may reallocate up to 50 percent of any unused funds that were returned to the Fund following the initial distribution to the judicial circuit in which they were collected. Such unused funds may be distributed to other judicial circuits for the subsequent grant year to fund Crime Stoppers initiatives or other Association programs.

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 First Amendment of the United States Constitution prohibits the government from creating laws that restrict a citizen's ability to communicate nonprotected opinions or

information with other people.[35] The bill makes it a crime for a person to disclose any protected information made in connection to the privileged communication. To the extent that this prohibition restricts a person's right to communicate nonprotected speech, the bill may implicate the First Amendment.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill creates a new felony offense related to a person disclosing any information related to privileged communication or protected information pertaining to a tip provided to a crime stoppers organization. To the extent that this provision results in offenders being convicted for this felony offense, the bill may result in a positive indeterminate prison bed impact (i.e. an unquantifiable increase in prison beds).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 16.555 of the Florida Statutes.

This bill creates section 90.595 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.

[35] U.S. Const. amend. I.

B. Amendments:

None.

By Senator Gruters

23-00646C-19 20191766__

A bill to be entitled

An act relating to crime stoppers programs; creating s. 90.595, F.S.; providing definitions; prohibiting a person who engages in privileged communication, a law enforcement crime stoppers coordinator or his or her staff, or a member of a crime stoppers organization's board of directors from being required to disclose privileged communications or produce protected information; providing an exception; authorizing a person charged with a criminal offense to petition the court to inspect the protected information under certain circumstances; authorizing a court to disclose all or a portion of the protected information; providing criminal penalties; providing exceptions; amending s. 16.555, F.S.; specifying permissible uses for funds awarded to counties from the Crime Stoppers Trust Fund; authorizing certain unencumbered funds to be reallocated to other judicial circuits after the initial disbursement of funds; providing an effective date.

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

Section 1. Section 90.595, Florida Statutes, is created to read:

90.595 Privileged communication with and the provision of protected information to crime stoppers organizations.—

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

(a) "Crime stoppers organization" means a private not-for-

23-00646C-19 20191766__

profit organization that collects and expends donations for rewards to persons who report to the organization information concerning criminal activity and forwards that information to appropriate law enforcement agencies.

(b) "Privileged communication" means the act of providing information to a crime stoppers organization for the purpose of reporting alleged criminal activity.

(c) "Protected information" includes the identity of a person who engages in privileged communication with a crime stoppers program and any records, recordings, oral or written statements, papers, documents, or other tangible things provided to or collected by a crime stoppers organization, a law enforcement crime stoppers coordinator or his or her staff, or a law enforcement agency in connection with such privileged communication.

(2) A person who engages in privileged communication under this section, a law enforcement crime stoppers coordinator or his or her staff, or a member of a crime stoppers organization's board of directors may not be required:

(a) To disclose, by way of testimony or any other means, a privileged communication or protected information unless such failure to disclose would infringe on the constitutional rights of an accused person.

(b) To produce, under subpoena, any records, documentary evidence, opinions, or decisions relating to such privileged communication or protected information:

1. In connection with a criminal case, criminal proceeding, or any administrative hearing; or

2. By way of any discovery procedure.

(3)(a) A person charged with a criminal offense may petition the court for inspection in camera of the protected information. The petition must allege that the protected information meets all of the following criteria:

1. Provides evidence favorable to the defendant.

2. Is specifically related to the determination of the innocence or guilt of the petitioner.

3. Is such that, if it is not disclosed, will cause a deprivation of a constitutional right of the petitioner.

(b) If the court determines that all of the criteria specified in paragraph (a) are satisfied, the court may order the production and disclosure of all or any part of the protected information, while, to the fullest extent possible, protecting the identity of the persons who engaged in privileged communication.

(4)(a) Except as provided in paragraph (b), a person who discloses any information related to privileged communication or protected information commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) This subsection does not apply to:

1. The person who provides the privileged communication; or

2. A law enforcement officer or an employee of a law enforcement agency or the Department of Legal Affairs when acting within the scope of his or her official duties.

Section 2. Paragraphs (e) and (f) are added to subsection (5) of section 16.555, Florida Statutes, to read:

16.555 Crime Stoppers Trust Fund; rulemaking.—

(5)

(e) A county that is awarded a grant under this section may

use such funds to pay rewards for tips that result in any of the following:

1. An arrest.

2. Recovery of stolen property.

3. Recovery of illegal narcotics.

4. Recovery of the body of a homicide victim.

5. Recovery of a human trafficking victim or a missing person connected to criminal activity.

6. Recovery of an illegal firearm or an illegal weapon on a K-12 school campus.

7. Prevention of a terrorist act.

8. Solving and closing a homicide or other violent felony offense that remains unsolved for 1 year or more after being reported to a law enforcement agency and that has no viable and unexplored investigatory leads.

(f) After the initial distribution of funds to the judicial circuit in which they were collected as required under paragraph (b), up to 50 percent of any unencumbered funds returned to the Crime Stoppers Trust Fund from a previous grant year may be reallocated for the subsequent grant year to other judicial circuits to fund special Crime Stoppers initiatives or other Florida Association of Crime Stoppers member programs, as cooperatively determined and prioritized by the department and the Florida Association of Crime Stoppers.

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

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 7082
INTRODUCER:	For consideration by the Criminal Justice Committee
SUBJECT:	Controlled Substances
DATE:	March 15, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Jones		**Pre-meeting**

I. Summary:

SPB 7082 amends s. 893.03, F.S., Florida's controlled substance schedules, to reschedule the following substance from Schedule I to Schedule V: a drug product in finished dosage formulation which has been approved by the U.S. Food and Drug Administration (FDA) and which contains cannabidiol (CBD) derived from cannabis and no more than 0.1 percent tetrahydrocannabinols.

This scheduling language currently applies only to Epidiolex®, a pharmaceutical oral solution which contains highly purified CBD and which is used for the treatment of seizures associated with two rare and severe forms of epilepsy. Epidiolex® is the only CBD product currently approved by the FDA.

The bill codifies an emergency rule adopted by the Florida Attorney General, which reschedules the described drug product from Schedule I to Schedule V. The codification of this scheduling is consistent with federal law.

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

The bill is effective upon becoming a law.

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.

Punishment of Prohibited Drug Acts Involving Cannabis and Schedule V Controlled Substances

Cannabis is a Schedule I controlled substance.[2] Schedule I is the most restrictive controlled substance schedule. Section 893.13, F.S., in part, punishes unlawful possession, sale, purchase, manufacture, delivery, and importation of a Schedule I controlled substance. Simple possession of 20 grams or less of cannabis is a first degree misdemeanor,[3] and simple possession of more than 20 grams of cannabis is a third degree felony.[4] Purchase, or possession with intent to purchase, cannabis is a third degree felony.[5] Delivery, without consideration, of 20 grams or less of cannabis is a first degree misdemeanor.[6] Generally, it is a third degree felony to deliver, sell, manufacture, import, or possess with the intent to sell, manufacture, or deliver cannabis.[7] Section 893.135, F.S., punishes drug trafficking. Trafficking in significant quantities of cannabis is a first

[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.
[2] Section 893.03(1)(c)7., F.S.
[3] Section 893.13(6)(b), F.S. 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.
[4] Section 893.13(6)(a), F.S. A third degree felony is punishable by up to five years in state prison and a fine of up to $5,000. Sections 775.082 and 775.083, F.S.
[5] Section 893.13(2)(a)2., F.S.
[6] Section 893.13(3), F.S.
[7] Section 893.13(1)(a)2. and (5)(b), F.S.

degree felony, which is subject to a 3, 7, or 15-year mandatory minimum term and mandatory fine based on the quantity of cannabis trafficked.[8]

Schedule V is the least restrictive controlled substance schedule. Section 893.13, F.S., in part, punishes unlawful possession, sale, purchase, manufacture, delivery, and importation of a Schedule V controlled substance. Simple possession of a Schedule V controlled substance is a second degree misdemeanor.[9] Purchase, or possession with intent to purchase, a Schedule V controlled substance is a first degree misdemeanor.[10] Generally, it is a first degree misdemeanor to deliver, sell, manufacture, import, or possess with the intent to sell, manufacture, or deliver a Schedule V controlled substance.[11] Drug trafficking offenses in s. 893.135, F.S., do not apply to Schedule V controlled substances.[12]

Scheduling of Epidiolex®

Epidiolex® is an oral solution developed by GW Pharmaceuticals (GW).[13] According to GW, Epidiolex® is "a pharmaceutical formulation of highly purified cannabidiol (CBD)[.]"[14] CBD is "a chemical constituent of the cannabis plant (commonly referred to as marijuana)."[15] "However, CBD does not cause intoxication or euphoria (the 'high') that comes from tetrahydrocannabinol (THC)."[16]

In June of 2018, the U.S. Food and Drug Administration (FDA) announced that it approved Epidiolex® for the treatment of seizures associated with two rare and severe forms of epilepsy, Lennox-Gastaut syndrome and Dravet syndrome, in patients two years of age and older.[17] Epidiolex® "is the first FDA-approved drug that contains a purified drug substance derived from marijuana."[18]

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[8] Section 893.135(1)(a), F.S. 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.
[9] Section 893.13(6)(d), F.S. 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.
[10] Section 893.13(2)(a)3., F.S.
[11] Section 893.13(1)(a)3. and (5)(c), F.S.
[12] *See* s. 893.135(1)(a)-(n), F.S.
[13] *EPIDIOLEX® (cannabidiol) Oral Solution – the First FDA-approved Plant-derived Cannabinoid Medicine – Now Available by Prescription in the U.S.*, Press Release (Nov. 1, 2018), GW Pharmaceuticals, Ltd., available at http://ir.gwpharm.com/news-releases/news-release-details/epidiolexr-cannabidiol-oral-solution-first-fda-approved-plant (last visited on March 13, 2019). According to GW, Epidiolex® "will be marketed in the U.S. by its subsidiary, Greenwich Biosciences." *Id*.
[14] *FDA-approved drug Epidiolex placed in schedule V of Controlled Substance Act*, Press Release (Sept. 27, 2018), U.S. Drug Enforcement Administration, available at https://www.dea.gov/press-releases/2018/09/27/fda-approved-drug-epidiolex-placed-schedule-v-controlled-substance-act (last visited on March 13, 2019).
[15] *Id*.
[16] *FDA approves first drug comprised of an active ingredient derived from marijuana to treat rare, severe forms of epilepsy*, News Release (June 25, 2018), U.S. Food and Drug Administration, available at https://www.fda.gov/newsevents/newsroom/pressannouncements/ucm611046.htm (last visited on March 13, 2019).
[17] *Id*.
[18] *See* footnote 14, *supra*.

According to the FDA,

> Epidiolex's effectiveness was studied in three randomized, double-blind, placebo-controlled clinical trials involving 516 patients with either Lennox-Gastaut syndrome or Dravet syndrome. Epidiolex, taken along with other medications, was shown to be effective in reducing the frequency of seizures when compared with placebo.
>
> The most common side effects that occurred in Epidiolex-treated patients in the clinical trials were: sleepiness, sedation and lethargy; elevated liver enzymes; decreased appetite; diarrhea; rash; fatigue, malaise and weakness; insomnia, sleep disorder and poor quality sleep; and infections.
>
> Epidiolex must be dispensed with a patient Medication Guide that describes important information about the drug's uses and risks. As is true for all drugs that treat epilepsy, the most serious risks include thoughts about suicide, attempts to commit suicide, feelings of agitation, new or worsening depression, aggression and panic attacks. Epidiolex also caused liver injury, generally mild, but raising the possibility of rare, but more severe injury. More severe liver injury can cause nausea, vomiting, abdominal pain, fatigue, anorexia, jaundice and/or dark urine.[19]

On September 28, 2018, the U.S. Department of Justice and the U.S. Drug Enforcement Administration (DEA) rescheduled Epidiolex® from Schedule I to Schedule V of the federal Controlled Substance Act (CSA).[20] Because Epidiolex® was approved by the FDA, the DEA determined it has a currently accepted medical use in treatment in the United States, and no longer met criteria for placement in Schedule I of the CSA.[21] Epidiolex® was a Schedule I substance under federal law because it contains CBD, a chemical component of the cannabis plant, which is a Schedule I controlled substance.[22]

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[19] *See* footnote 16, *supra*.
[20] *Schedules of Controlled Substances: Placement in Schedule V of Certain FDA-Approved Drugs Containing Cannabidiol; Corresponding Change to Permit Requirements*, 83 FR 48950 (Sept. 28, 2018), available at https://www.federalregister.gov/documents/2018/09/28/2018-21121/schedules-of-controlled-substances-placement-in-schedule-v-of-certain-fda-approved-drugs-containing (last visited on March 13, 2019). The U.S. Department of Health and Human Services advised the DEA "that it found the Epidiolex formulation to have a very low potential for abuse[.]" *Id*. The federal Controlled Substance Act is codified at 21 U.S.C. ss. 801-978.
[21] *Id*.
[22] *Id*.

On October 31, 2018, former Florida Attorney General Pam Bondi, pursuant to her emergency scheduling authority under s. 893.0355, F.S.,[23] rescheduled Epidiolex® from Schedule I of the Florida controlled substance schedules (s. 893.03, F.S.) to Schedule V of the schedules.[24] The full text of the emergency rule is:

> 2ER18-1 Rescheduling of a Drug Product in Finished Dosage Formulation That Has Been Approved by the U.S. Food and Drug Administration That Contains Cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) Derived from Cannabis and No More Than 0.1 Percent (w/w) Residual Tetrahydrocannabinols. Under the authority of Section 893.0355, Florida Statutes, a drug product in finished dosage formulation that has been approved by the U. S. Food and Drug Administration that contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than 0.1 percent (w/w) residual Tetrahydrocannabinols, is hereby rescheduled from a Schedule I to a Schedule V controlled substance.[25]

Former Attorney General Bondi indicated in her findings in support of the emergency rule that she was required to give great weight to the scheduling rules adopted by the U.S. Attorney General "in order to achieve the original legislative purpose of the Florida Comprehensive Drug Abuse Prevention and Control Act of maintaining uniformity between the laws of Florida and those of the United States with respect to controlled substances."[26] In addressing factors she was required to consider in making her decision whether to promulgate the emergency rule,[27] former Attorney General Bondi adopted the FDA's findings regarding its approval of Epidiolex®, which she concluded had "fully and comprehensively" addressed all of those factors.[28]

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[23] Section 893.0355(2), F.S., delegates to the Attorney General the authority to adopt rules rescheduling specified substances to a less controlled schedule, or deleting specified substances from a schedule, upon a finding that reduced control of such substances is in the public interest. Rulemaking under s. 893.0355, F.S., must be in accordance with the procedural requirements of ch. 120, F.S., including the emergency rule provisions found in s. 120.54, F.S., except that s. 120.54(7), F.S. (petition to initiate rulemaking), does not apply. Section 893.0355(4), F.S.

[24] The text of Emergency Rule 2ER18-1 is available at https://www.flrules.org/gateway/notice_Files.asp?ID=21109642 (last visited on March 13, 2019).

[25] *Id*.

[26] *Findings of the Attorney General in Support of Emergency Rule 2ER18-1, F.A.C.*, dated Oct. 31, 2018 (on file with the Senate Committee on Criminal Justice). In making the public interest determination, the Attorney General must give great weight to the scheduling rules adopted by the United States Attorney General subsequent to such substances being listed in Schedules I, II, III, IV, and V, to achieve the original legislative purpose of the Florida Comprehensive Drug Abuse Prevention and Control Act of maintaining uniformity between the laws of Florida and the laws of the United States with respect to controlled substances. Section 893.0355(3), F.S.

[27] In determining whether reduced control of a substance is in the public interest, the Attorney General must consider the following: whether the substance has been rescheduled or deleted from any schedule by rule adopted by the United States Attorney General pursuant to s. 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811; the substance's actual or relative potential for abuse; scientific evidence of the substance's pharmacological effect, if known; the state of current scientific knowledge regarding the substance; the substance's history and current pattern of abuse; the scope, duration, and significance of abuse; what, if any, risk there is to the public health; and the substance's psychic or physiological dependence liability. Section 893.0355(2), F.S.

[28] *See* footnote 26, *supra*.

Former Attorney General Bondi provided the following justification for promulgating the emergency rule:

> There are currently approximately 64 patients in the state of Florida who are legally using a FDA approved cannabidiol product for the treatment of seizures associated with Lennox-Gastaut syndrome or Dravet syndrome pursuant to clinical trial programs that have either ended or will end soon. Any delay caused by the rescheduling of the FDA approved cannabidiol product through the regular rulemaking process or by waiting for legislative action during the 2019 legislative session will likely cause a disruption in the supply of the product that will result in serious bodily harm to seriously ill Floridians. Attorney General Bondi recognizes that such circumstances constitute an immediate danger to the health, safety, and welfare of a limited but extremely vulnerable population of Floridians, and therefore, concludes that such circumstances justify the promulgation of emergency rule 2ER18-1 pursuant to Section 893.055 and Section 120.54(4).[29]

The findings further provided that the above-described cannabidiol product "will become a Schedule V controlled substance in Florida and will become immediately legal and available to children who suffer illnesses such Lennox-Gastaut syndrome or Dravet syndrome."[30] However, "non-FDA approved CBD extracts or any material, compound, mixture, or preparation other than Epidiolex that fall under the term Cannabis as set forth in Section 893.03(1)(c), remain a Schedule I controlled substance under the Florida Comprehensive Drug Abuse Prevention and Control Act."[31]

Emergency Rule 2ER18-1 became effective upon filing with the Secretary of State on October 31, 2018.[32] Rules adopted pursuant to s. 893.0355, F.S., must be reviewed each year by the Legislature, and each rule remains in effect until the effective date of legislation that provides for a different scheduling of a substance than that set forth in such rule.[33]

[29] *Id.*
[30] *Id.*
[31] *Id.*
[32] *Certification of Department of Legal Affairs Emergency Rule Filed with the Department of State*, date stamped Oct. 31, 2018 (on file with the Senate Committee on Criminal Justice). Section 120.54(4)(d), F.S., provides that, subject to applicable constitutional and statutory provisions, an emergency rule becomes effective immediately on filing, or on a date less than 20 days thereafter if specified in the rule, if the adopting agency finds that such effective date is necessary because of immediate danger to the public health, safety, or welfare.
[33] Section 893.0355(6), F.S.

"Low-THC Cannabis" and Epidiolex®

The Compassionate Medical Cannabis Act of 2014[34] legalized "low-THC cannabis," a low THC and high CBD form of cannabis,[35] for medical use[36] by patients suffering from cancer, epilepsy, and certain other specified medical conditions.[37]

A "low-THC cannabis" product obtained from a medical marijuana treatment center is not an FDA-approved CBD product. As previously described, Epidiolex® is the only CBD product that is currently approved by the FDA. Further, Epidiolex® is *prescribed* by a physician. A "low-THC cannabis" product is not prescribed. In addition to other requirements, a *physician certification* from a qualified physician is required for a qualified patient to obtain a "low-THC cannabis" product from a medical marijuana treatment center.[38]

Epidiolex® was subject to extensive nonclinical and clinical studies to determine its safety and efficacy for the treatment of Lennox-Gastaut syndrome and Dravet syndrome in patients two years of age and older.[39] In contrast, a "low-THC cannabis" product dispensed by a medical marijuana treatment center is tested by a medical marijuana testing laboratory to determine that the product meets the definition of "low-THC cannabis," the THC concentration meets the potency requirements of s. 381.986, F.S., the labeling of the concentration of THC and CBD is accurate, and the product is safe for human consumption and free from contaminants that are unsafe for human consumption.[40]

"Low-THC cannabis" described in s. 381.986(1)(e), F.S., is still cannabis and cannabis is a Schedule I controlled substance. As previously described, unlawful acts involving a Schedule I controlled substance are generally subject to significant criminal penalties. However, when a qualified patient lawfully obtains "low-THC cannabis" (as provided in s. 381.986, F.S.), he or she is not subject to criminal penalties.[41] In contrast, as previously described, Epidiolex® is a Schedule V controlled substance pursuant to federal law and the Florida Attorney's General's emergency rule, and unlawful acts involving a Schedule V controlled substance are punished less severely than unlawful acts involving a Schedule I controlled substance.

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[34] *See* ch. 2014-157, L.O.F., and s. 381.986, F.S.

[35] "Low-THC cannabis" means a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed from a medical marijuana treatment center. Section 381.986(1)(e), F.S.

[36] With specified exceptions, "medical use" means the acquisition, possession, use, delivery, transfer, or administration of marijuana authorized by a physician certification. Section 381.986(1)(j), F.S.

[37] Section 381.986(2), F.S.,

[38] Section 381.986(2)-(8), F.S.

[39] *Basis for the Recommendation to Place Cannabidiol in Schedule V of the Controlled Substance Act*, U.S. Food and Drug Administration, included as Addendum A to *Findings of the Attorney General in Support of Emergency Rule 2ER18-1, F.A.C. See* footnote 26, *supra*.

[40] Section 381.986(8)(e)10.d., F.S.

[41] Notwithstanding s. 893.13, F.S., s. 893.135, F.S., s. 893.147, F.S., or any other provision of law, but subject to the requirements of this section, a qualified patient and the qualified patient's caregiver may purchase from a medical marijuana treatment center for the patient's medical use a marijuana delivery device and up to the amount of marijuana authorized in the physician certification, but may not possess more than a 70-day supply of marijuana at any given time and all marijuana purchased must remain in its original packaging. Section 381.986(14)(a), F.S.

III. Effect of Proposed Changes:

The bill amends s. 893.03, F.S., Florida's controlled substance schedules, to reschedule the following substance from Schedule I to Schedule V: "[a] drug product in finished dosage formulation which has been approved by the U. S. Food and Drug Administration and which contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and not more than 0.1 percent (w/w) residual tetrahydrocannabinols."

This scheduling language currently applies only to Epidiolex®, a pharmaceutical oral solution which contains highly purified CBD and which is used for the treatment of seizures associated with two rare and severe forms of epilepsy. Epidiolex® is the only CBD product currently approved by the FDA.

The bill codifies an emergency rule adopted by the Florida Attorney General, which reschedules the described drug product from Schedule I to Schedule V. The codification of this scheduling is consistent with federal law.

As previously described, unlawful acts involving Schedule V controlled substances are punished less severely than unlawful acts involving Schedule I controlled substances.

The bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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 Legislature's Office of Economic and Demographic Research (EDR) preliminarily estimates that the bill will have a "negative insignificant" prison bed impact (a decrease of 10 or fewer prison beds).[42]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 893.03 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 817.563, 831.31, 893.07, and 893.13.

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.

[42] The EDR estimate is on file with the Senate Committee on Criminal Justice.

FOR CONSIDERATION By the Committee on Criminal Justice

591-02860-19 20197082pb

A bill to be entitled

An act relating to controlled substances; amending s. 893.03, F.S.; adding to Schedule V of the controlled substances list certain drug products in their finished dosage formulations which are approved by the United States Food and Drug Administration; reenacting ss. 817.563(2), 831.31, 893.07(5)(b), and 893.13(1)(a), (2)(a), (5)(c), and (6)(d), F.S., relating to controlled substances named or described in s. 893.03, F.S.; the sale, manufacture, delivery, or possession, with intent to sell, manufacture, or deliver, of counterfeit controlled substances; required reporting of certain theft or significant loss of controlled substances; and prohibited acts and penalties relating to controlled substances, respectively, to incorporate the amendment made to s. 893.03, F.S., in references thereto; providing an effective date.

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

Section 1. Subsection (5) of section 893.03, Florida Statutes, is amended to read:

893.03 Standards and schedules.—The substances enumerated in this section are controlled by this chapter. The controlled substances listed or to be listed in Schedules I, II, III, IV, and V are included by whatever official, common, usual, chemical, trade name, or class designated. The provisions of this section shall not be construed to include within any of the

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schedules contained in this section any excluded drugs listed within the purview of 21 C.F.R. s. 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt Anabolic Steroid Products."

(5) SCHEDULE V.—A substance, compound, mixture, or preparation of a substance in Schedule V has a low potential for abuse relative to the substances in Schedule IV and has a currently accepted medical use in treatment in the United States, and abuse of such compound, mixture, or preparation may lead to limited physical or psychological dependence relative to the substances in Schedule IV.

(a) Substances controlled in Schedule V include any compound, mixture, or preparation containing any of the following limited quantities of controlled substances, which must include one or more active medicinal ingredients that are not controlled substances in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the controlled substance alone:

1. Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

2. Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

3. Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

4. Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

5. Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

6. Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(b) Unless a specific exception exists or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances is controlled in Schedule V:

1. Brivaracetam.

2. Ezogabine.

3. Lacosamide.

4. Pregabalin.

(c) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: Pyrovalerone.

(d) A drug product in finished dosage formulation which has been approved by the United States Food and Drug Administration and which contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and not more than 0.1 percent (w/w) residual tetrahydrocannabinols.

Section 2. For the purpose of incorporating the amendment made by this act to section 893.03, Florida Statutes, in a reference thereto, subsection (2) of section 817.563, Florida Statutes, is reenacted to read:

817.563 Controlled substance named or described in s.

893.03; sale of substance in lieu thereof.—It is unlawful for any person to agree, consent, or in any manner offer to unlawfully sell to any person a controlled substance named or described in s. 893.03 and then sell to such person any other substance in lieu of such controlled substance. Any person who violates this section with respect to:

(2) A controlled substance named or described in s. 893.03(5) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 3. For the purpose of incorporating the amendment made by this act to section 893.03, Florida Statutes, in references thereto, section 831.31, Florida Statutes, is reenacted to read:

831.31 Counterfeit controlled substance; sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver.—

(1) It is unlawful for any person to sell, manufacture, or deliver, or to possess with intent to sell, manufacture, or deliver, a counterfeit controlled substance. Any person who violates this subsection with respect to:

(a) A controlled substance named or described in s. 893.03(1), (2), (3), or (4) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A controlled substance named or described in s. 893.03(5) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) For purposes of this section, "counterfeit controlled substance" means:

(a) A controlled substance named or described in s. 893.03 which, or the container or labeling of which, without authorization bears the trademark, trade name, or other identifying mark, imprint, or number, or any likeness thereof, of a manufacturer other than the person who in fact manufactured the controlled substance; or

(b) Any substance which is falsely identified as a controlled substance named or described in s. 893.03.

Section 4. For the purpose of incorporating the amendment made by this act to section 893.03, Florida Statutes, in a reference thereto, paragraph (b) of subsection (5) of section 893.07, Florida Statutes, is reenacted to read:

893.07 Records.—

(5) Each person described in subsection (1) shall:

(b) In the event of the discovery of the theft or significant loss of controlled substances, report such theft or significant loss to the sheriff of that county within 24 hours after discovery. A person who fails to report a theft or significant loss of a substance listed in s. 893.03(3), (4), or (5) within 24 hours after discovery as required in this paragraph commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A person who fails to report a theft or significant loss of a substance listed in s. 893.03(2) within 24 hours after discovery as required in this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 5. For the purpose of incorporating the amendment made by this act to section 893.03, Florida Statutes, in references thereto, paragraph (a) of subsection (1), paragraph

(a) of subsection (2), paragraph (c) of subsection (5), and paragraph (d) of subsection (6) of section 893.13, Florida Statutes, are reenacted to read:

893.13 Prohibited acts; penalties.—

(1)(a) Except as authorized by this chapter and chapter 499, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance. A person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2)(a) Except as authorized by this chapter and chapter 499, a person may not purchase, or possess with intent to purchase, a controlled substance. A person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s.

893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(5) A person may not bring into this state any controlled substance unless the possession of such controlled substance is authorized by this chapter or unless such person is licensed to do so by the appropriate federal agency. A person who violates this provision with respect to:

(c) A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(6)

(d) If the offense is possession of a controlled substance named or described in s. 893.03(5), the person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 6. This act shall take effect upon becoming a law.

STATE OF FLORIDA
OFFICE OF THE ATTORNEY GENERAL

IN RE: RULE 2-40.007 RESCHEDULING,

A DRUG PRODUCT IN FINISHED DOSAGE FORMULATION THAT HAS BEEN APPROVED BY THE FOOD AND DRUG ADMINISTRATION THAT CONTAINS CANNABIDIOL (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl] -5-pentyl-1, 3-benzenediol) DERIVED FROM CANNABIS AND NO MORE THAN 0.1 PERCENT (w/w) RESIDUAL TETRAHYDROCANNABINOLS

FROM SCHEDULE I TO SCHEDULE V, PURSUANT TO SUBSECTION 893.0355, F.S.

_____/

FINDINGS OF THE ATTORNEY GENERAL IN SUPPORT OF RULE 2-40.007, F.A.C.

Pursuant to Section 893.0355, Florida Statutes, Attorney General Pam Bondi finds that it would appropriate to reschedule the above referenced substance (hereinafter "cannabidiol" or "CBD") from Section 893.03(1) SCHEDULE I to 893.03(5) SCHEDULE V. This substance, in the form of the drug product EPIDIOLEX, was approved by the Food and Drug Administration (FDA) on June 25, 2018 for the treatment of seizures associated with Lennox-Gastaut syndrome (LGS) or Dravet syndrome in patients two years and older and has been rescheduled by the Drug Enforcement Administration (DEA) from Schedule I to Schedule V effective September 27, 2018.

ANALYSIS

When rescheduling an existing substance pursuant to Section 893.0355, Florida Statutes, the Attorney General is required to consider by subsection (2) of the statute the following factors when making her determination:

- Whether the substance has been rescheduled or deleted from any schedule by rule adopted by the United States Attorney General pursuant to s. 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811
- The substance's actual or relative potential for abuse
- Scientific evidence of the substance's pharmacological effect, if known
- The state of current scientific knowledge regarding the substance
- The substance's history and current pattern of abuse
- The scope, duration, and significance of abuse
- What, if any, risk there is to the public health
- The substance's psychic or physiological dependence liability

Furthermore, when making her determination, the Attorney General is required to give great weight to the scheduling rules adopted by the United States Attorney General in order to achieve the original legislative purpose of the Florida Comprehensive Drug Abuse Prevention

and Control Act of maintaining uniformity between the laws of Florida and those of the United States with respect to controlled substances.

In addressing the factors set forth above, the Attorney General hereby adopts the Food and Drug Administration's "Basis for the Recommendation to Place Cannabidiol in Schedule V of the Controlled Substance Act" as findings of her own as it fully and comprehensively addresses all the factors set forth above. It is hereby incorporated into this document as "Addendum A."

CONCLUSION

Until the effective date of this rule, Epidiolex, is a Schedule I controlled substance under both federal and Florida law. By virtue of this rule, it will become a Schedule V controlled substance in Florida and legally available to those who suffer illnesses such as Lennox-Gastaut syndrome or Dravet syndrome. It is important to note, however, that non-FDA approved CBD extracts or any other any material, compound, mixture, or preparation other than Epidiolex that fall under the term Cannabis as set forth in Section 893.03(1)(c), remain a Schedule I controlled substance under the Florida Comprehensive Drug Abuse Prevention and Control Act.

Hereby ORDERED this 30th day of October, 2018.

Pamela Jo Bondi

PAMELA JO BONDI
ATTORNEY GENERAL

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Office of the Assistant Secretary for Health
Washington, D.C. 20201

MAY 16 2018

The Honorable Robert W. Patterson
Acting Administrator
Drug Enforcement Administration
U.S. Department of Justice
8701 Morrissette Drive
Springfield, VA 22152

Dear Mr. Patterson:

Pursuant to the Controlled Substances Act (CSA), U.S.C. §811 (b), (c), and (f), the Department of Health and Human Services (HHS) is recommending that the substance cannabidiol (CBD) and its salts be controlled in Schedule V of the CSA. CBD is a cannabinoid with no significant affinity for cannabinoid receptors (CB_1 or CB_2). It also does not have significant affinity for other sites in the brain, including opioid, GABA, dopamine, norepinephrine, serotonin, glutamate, adenosine, histamine, ion channels, or monoamine transporters.

CBD, in a rat drug discrimination study, did not generalize to delta-9-tetrahydrocannabinol (THC), suggesting it does not have cannabinoid-like effects. It also does not produce cannabinoid-like responses in the tetrad test with rats. In a separate drug discrimination study, CBD did not generalize to midazolam. CBD is not self-administered by rats, suggesting that it does not have sufficiently rewarding properties to induce reinforcement. In a human abuse potential (HAP) study with CBD, there were slight but statistically significant increases in positive subjective responses after administration of high and supratherapeutic doses of CBD. These responses were just outside the acceptable placebo range, and were much less than those produced by the two positive control drugs: THC and alprazolam. CBD also does not appear to produce physical dependence. CBD as the single active ingredient in a drug product formulation is not yet marketed or available for sale in any country.

The Food and Drug Administration (FDA) is currently reviewing a new drug application (NDA) for CBD. Upon approval of this pending NDA, CBD will be marketed as a prescription drug as an oral adjunct treatment of two epilepsy conditions in children who remain on their current antiepileptic medication: Dravet syndrome, also known as severe myoclonic epilepsy of infancy (SMEI) for ages 4-10; and Lennox-Gastaut syndrome, for ages 2-18.

FDA and the National Institute on Drug Abuse have also considered the abuse potential of CBD. After reviewing the available information, the agencies conclude that CBD and its salts should be controlled in Schedule V of the CSA. Enclosed is a document prepared by FDA's Controlled Substance Staff that is the basis for the recommendation.

Addendum

A

Should you have any questions regarding this recommendation, please contact Corinne P. Moody, Science Policy Analyst, Controlled Substance Staff, Center for Drug Evaluation and Research, at (301) 796-3152.

Sincerely yours,

Brett P. Giroir, M.D.
ADM, USPHS
Assistant Secretary for Health

Enclosure

BASIS FOR THE RECOMMENDATION TO PLACE CANNABIDIOL IN SCHEDULE V OF THE CONTROLLED SUBSTANCES ACT

A. Background

The Food and Drug Administration (FDA) recommends that the substance cannabidiol (CBD), a new molecular entity, chemically known as 2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol, be placed in Schedule V of the Controlled Substances Act (CSA). CBD derived from the *Cannabis sativa* plant is currently controlled as a Schedule I substance under the CSA.[1]

CBD has not been approved as a drug product for therapeutic use in any country.[2] However, a new drug application (NDA) for CBD was submitted by GW Pharmaceuticals, Inc. ("Sponsor") on October 27, 2017. CBD is proposed as an oral adjunct treatment of two epilepsy conditions in children who remain on their current antiepileptic medication: Dravet syndrome, also known as severe myoclonic epilepsy of infancy (SMEI) for ages 4-10; and Lennox-Gastaut syndrome, for ages 2-18. The pharmacological mechanism of action of CBD is not known. Although it is a cannabinoid, it does not have significant affinity for cannabinoid receptors (CB_1 or CB_2). It also does not have significant affinity for other sites in the brain, including opioid, GABA, dopamine, norepinephrine, serotonin, glutamate, adenosine, histamine, ion channels, or monoamine transporters. The Sponsor is seeking approval to market CBD as an oral solution (100 mg/ml) with a recommended dosing up to 20 mg/kg/day.

As stated above, CBD derived from the *Cannabis sativa* plant is currently controlled as a Schedule I substance under the CSA. Drugs in Schedule I cannot be legally marketed in the United States. Thus, the Drug Enforcement Administration (DEA) must reschedule or remove CBD from CSA controls before it can be legally marketed. In a letter dated May 8, 2017, the DEA requested that the Department of Health and Human Services (HHS) conduct a medical and scientific evaluation and a scheduling recommendation for CBD. The predicate for that request was a modified petition submitted by the Sponsor to the DEA on March 9, 2017, to initiate proceedings for the issuance of a rule that would

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[1] The CSA defines "Marihuana" in [21 U.S.C 802(16)] as "(16) The term "marihuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; **and every compound, manufacture, salt, derivative, mixture, or preparation of such plant,** its seeds or resin. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination" (emphasis added).

[2] A drug product containing a 1:1 ratio of CBD and tetrahydrocannabinol (THC) has been approved and marketed in other countries under the trade name Sativex. We have not included epidemiology or other abuse-related data related to Sativex as part of our evaluation of the abuse potential of CBD with (b) (4) % residual THC. THC, which is in Schedule I of the CSA, has a high risk of abuse. Because of the high levels of THC in Sativex, the abuse-related data regarding Sativex would likely be caused by the presence of THC.

transfer such drug product from Schedule I to Schedule IV of the CSA. This petitioner has since modified their request again, requesting that such drug product be transferred from Schedule I to Schedule V of the CSA. The NDA described above, submitted to FDA by the petitioner, is for the same drug product that is the subject of the pending petition to DEA, now referred to HHS. The medical and scientific evaluation and the scheduling recommendation that follow address both CBD and the petition that DEA has referred to HHS.

Pursuant to section 201 of the CSA (21 U.S.C. § 811), the Secretary of HHS is required to consider in a scientific and medical evaluation eight factors determinative of control under the CSA. Following consideration of the eight factors, the Secretary must make a recommendation for scheduling, rescheduling, or removing a substance from CSA control. The eight factors are:

1. Its actual or relative potential for abuse;
2. Scientific evidence of its pharmacological effect, if known;
3. The state of current scientific knowledge regarding the drug or other substance;
4. Its history and current pattern of abuse;
5. The scope, duration, and significance of abuse;
6. What, if any, risk there is to the public health;
7. Its psychic or physiological dependence liability; and
8. Whether the substance is an immediate precursor of a substance already controlled.

Administrative responsibilities for evaluating a substance for control under the CSA are performed for HHS by FDA, with the concurrence of the National Institute on Drug Abuse (NIDA) according to a Memorandum of Understanding (50 Fed. Reg. 9518; March 8, 1985).

This evaluation considers the scientific and medical information relative to each of the eight factors, and makes a recommendation regarding scheduling. In determining the abuse potential of CBD, FDA evaluated all available abuse potential data on CBD, which include *in vitro*, animal, and human data from studies conducted by the Sponsor and submitted in the NDA.

In this document, FDA has evaluated, pursuant to section 201(c) of the CSA, the eight factors that the Secretary must consider for a scheduling recommendation for CBD. These considerations include the evaluation of data from *in vitro*, animal, and human studies submitted in the NDA. We conclude, based on consideration of these data and with respect to the eight factors, that CBD and its salts, with a limit of (b)(4) % (w/w) residual (−)-*trans*-Δ^9-tetrahydrocannabinol (THC), do not have a significant potential for abuse and could be removed from control under the CSA.

As discussed below, however, there are treaties to which the United States is a signatory, which dictate international drug controls for substances listed among the various treaties.

In a letter dated April 6, 2018, from Robert W. Patterson, Acting Administrator of DEA, to Dr. Donald Wright, HHS's Acting Assistant Secretary for Health ("April 6, 2018, DEA Letter"), the DEA has asserted that the United States would not be able to keep its obligations under the 1961 Single Convention on Narcotic Drugs if CBD were decontrolled under the CSA.[3] If this is so, to maintain treaty obligations, and reflecting our scientific findings to the extent currently possible, we recommend CBD and its salts, with a limit of (b) (4) % (w/w) residual (−)-*trans*-Δ^9-tetrahydrocannabinol (THC), be placed in the least restrictive CSA schedule, Schedule V. If treaty obligations do not require control of CBD, or if the international controls on CBD change in the future, this recommendation will need to be promptly revisited.

In the event that FDA approves the NDA submitted by the Sponsor, our recommendation to move CBD from Schedule I to Schedule V of the CSA will, as noted by DEA in the April 6, 2018, DEA letter, "requir[e] DEA to issue an immediately effective interim final rule" in accordance with section 201(j) of the CSA. Under these provisions, DEA would be required to publish an interim final rule scheduling the drug within 90 days of the later of (1) FDA approval or (2) receipt of the scheduling recommendation from the Secretary. The interim final rule would be immediately effective, and the drug could be marketed on the date of publication in the *Federal Register*. Additionally, under section 505(x) of the Federal Food, Drug, and Cosmetic Act (FD&C Act), the date of issuance of the interim final rule controlling the drug would be the date of approval of the Sponsor's NDA. This result would be consistent with the statutory goal of expanding patient access in the interest of the public health.

Separately, and also discussed in the Recommendations section below, FDA concludes that, with this recommendation for placement of CBD in Schedule V, and in the event that FDA approves the submitted NDA for the CBD product, scheduling of CBD should proceed under the provisions of section 505(x) of the FD&C Act and section 201(j) of the CSA. These provisions express the intent of Congress that there be an expedited process in the interests of the public health for DEA to schedule or reschedule certain drugs that have been approved by FDA, so that these drug products may more rapidly be available to patients. NIDA concurs with this recommendation.

Pursuant to section 201(c) of the CSA, the eight factors pertaining to the scheduling of CBD are considered below.

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[3] In a report published following its November 2017 meeting (Report), the Expert Committee on Drug Dependence (ECDD) of the World Health Organization stated that although CBD is not listed in the schedules of the 1961, 1971, or 1988 United Nations International Drug Control Conventions (Conventions), CBD that is produced as an extract of cannabis is currently included in Schedule I of the 1961 Convention. The Report stated that CBD had not been previously reviewed, and would be the subject of an ECDD meeting in May of 2018 (since revised to June of 2018).

B. Evaluating CBD Under the Eight Factors

This section presents the current scientific and medical information about CBD under the eight factors that must be considered pursuant to section 201(c) of the CSA.

1. Its Actual or Relative Potential For Abuse

The first factor the Secretary must consider is the actual or relative potential for abuse of CBD. The term "abuse" is not defined in the CSA. Since CBD has not been approved by FDA for therapeutic use in the United States, or approved in any other country, information on actual abuse of CBD is limited. The legislative history of the CSA suggests that the following criteria are applicable when determining whether a particular drug or substance has a potential for abuse.

a) Individuals are taking the substance in amounts sufficient to create a hazard to their health or to the safety of other individuals or to the community;

b) There is significant diversion of the drug or substance from legitimate drug channels;

c) Individuals are taking the substance on their own initiative rather than on the basis of medical advice from a practitioner licensed by law to administer such substance; and

d) The substance is so related in its action to a substance already listed as having a potential for abuse to make it likely that it will have the same potential for abuse as such substance, thus making it reasonable to assume that there may be significant diversions from legitimate channels, significant use contrary to or without medical advice, or that it has a substantial capability of creating hazards to the health of the user or to the safety of the community.[4]

CBD is a new molecular entity and thus has not been marketed in the United States or any other country. It is not currently available for medical treatment, has not been diverted from legitimate sources, and individuals have not taken the substance in amounts sufficient to create a hazard to public health and safety. Therefore, criteria (a), (b), and (c) do not apply; (d) is the only known relevant criterion that applies to CBD.

Although CBD is a cannabinoid, it does not have affinity for cannabinoid receptors (or other sites in the brain). In a rat drug discrimination study, CBD did not generalize to THC, a cannabinoid that, in its various forms or drug product formulations, is controlled

[4] Comprehensive Drug Abuse Prevention and Control Act of 1970, H.R. Rep. No. 91-1444, 91st Cong., Sess. 1 (1970), reprinted in 1970 U.S.C.C.A.N. 4566, 4603.

in Schedules I, II and III. This lack of generalization suggests CBD does not have cannabinoid-like effects. It also does not produce cannabinoid-like responses in the tetrad test with rats. In a separate drug discrimination study, CBD did not generalize to midazolam, a Schedule IV sedative. CBD is not self-administered by rats, suggesting that it does not have sufficiently rewarding properties to induce reinforcement. In a human abuse potential (HAP) study with CBD, there were slight but statistically significant increases in positive subjective responses after administration of high and supratherapeutic doses of CBD. These responses were just outside the acceptable placebo range, and were much less than those produced by the two positive control drugs: THC (Schedules I, II, and III) and alprazolam (Schedule IV). CBD also does not appear to produce physical dependence.

For these reasons, CBD does not appear to have abuse potential under the CSA.

2. SCIENTIFIC EVIDENCE OF ITS PHARMACOLOGICAL EFFECT, IF KNOWN

The second factor the Secretary must consider is the scientific evidence of the pharmacological effects of CBD.

Neurochemical Activity of CBD (*In Vitro* Studies)

Receptor Binding Studies

In receptor binding studies with CBD, there was no significant affinity of CBD for cannabinoid (CB1 or CB2) sites. There was also no significant affinity of CBD for other sites associated with abuse potential: opioids (mu, kappa, or delta), GABA/ benzodiazepine, dopamine (D1 or D2), serotonin (1A, 1B, 2A, 3, 5A, 6, or 7), NMDA/glutamate, channels (calcium, potassium, sodium, or chloride), or transporters (dopamine or norepinephrine). CBD also did not have significant affinity for sites that are not associated with abuse potential: acetylcholine (muscarinic or nicotinic), adenosine, norepinephrine (alpha or beta), histamine, and neurokinin. CBD inhibits the transient receptor potential cation channel subfamily M member 8 (TRPM8) channel and activates TRPV1, TRPV2, TRPV3, and STRPV4 and TRPA1 channels, but it is unclear how this activity might contribute to the behavioral effects of CBD. These receptors are not currently associated with abuse potential.

Central Nervous System Effects

Animal Behavioral Effects

The animal behavioral effects of CBD were determined through general behavioral studies in mice and rats, evaluating whether CBD produces CNS activity, as well as through studies to determine if CBD produces abuse-related CNS activity using the tetrad

test, drug discrimination studies, and self-administration studies in mice, rats, and monkeys.

General Behavioral Studies

In an Irwin test of general behavior in rats, acute oral doses of CBD (10, 50, and 100 mg/kg) did not produce any changes in behavior or body temperature relative to vehicle. When the test was conducted in mice, acute intravenous doses of CBD (3, 10, and 30 mg/kg) produced a slight transient alteration in gait and a decrease in pain response relative to vehicle, suggestive of a sedative effect. However, when mice were given acute intravenous dose of CBD at 120 mg/kg, there were no changes in behavioral or muscular tone relative to vehicle.

In an open-field test in mice, in which animals are allowed to transverse a cage, acute intraperitoneal CBD (30 mg/kg) did not alter behavior, but the 100 mg/kg dose reduced locomotor activity, both relative to vehicle. When the test was conducted in rats, acute intraperitoneal CBD (60 and 120 mg/kg) produced a decrease in locomotor activity relative to vehicle. These data suggest CBD produces some sedative activity at high doses.

In the rotorod test, which evaluates the muscular coordination of an animal to maintain itself on a slowly rotating rod, acute intraperitoneal CBD (200 mg/kg) produced no changes in latency to fall relative to vehicle.

These results show that CBD produces some CNS activity, as evidenced by changes in general behavioral effects, but this occurs only at doses that are equivalent to human supratherapeutic doses. These sedative-like effects were transient, however.

Cannabinoid-Specific Behavioral Test

Mice were evaluated using the Tetrad Test, a screening study that measures changes in four behaviors that are known to be altered by THC, which include locomotor activity, immobility, hypothermia, and antinociception. In this study, mice received intraperitoneal doses of CBD, THC, or vehicle prior to observation.

CBD did not alter locomotor activity, immobility, or antinociception at 1, 10, 50, or 100 mg/kg, but did produce slight hypothermia at 50 and 100 mg/kg, relative to vehicle. In contrast, THC produced a decrease in locomotion as well as hypothermia and antinociception (but no changes in immobility) at 50 and 100 mg/kg, but produced no changes in response at 1 and 10 mg/kg, relative to vehicle.

These results show that CBD only produced positive signs on one of the four tetrad test behaviors. In contrast, THC produced positive signs in three of the four tetrad behaviors. This suggests that CBD does not have THC-like effects.

Drug Discrimination Study Evaluating Similarity to Known Drugs of Abuse

Drug discrimination is an experimental method of determining whether a test drug produces physical and behavioral responses that are similar to a training drug with specific pharmacological effects. Any centrally acting drug can serve as the training drug. When the training drug is a known drug of abuse, drug discrimination in animals serves as an important method for predicting whether the effects of a new drug will similarly have abuse potential. Drugs that produce a response similar to known drugs of abuse in animals are also likely to be abused by humans.

In drug discrimination, an animal learns to press one bar when it receives the training drug and another bar when it receives a placebo. Once responding to the training drug and placebo is stable, an animal is given a challenge session with the test drug. A test drug is said to have "full generalization" to the training drug when the test drug produces bar pressing ≥75% on the bar associated with the training drug (Doat et al., 2003; Sannerud and Ator, 1995).

Three drug discrimination studies were conducted with CBD in rats that had been trained to discriminate THC from vehicle or midazolam (Schedule IV) from vehicle.

In the first two studies, rats (n = 7/study) were trained to discriminate THC (3 mg/kg, i.p., 15 minute pretreatment time) from vehicle using a fixed ratio (FR) 10 schedule of reinforcement. When rats could stably discriminate THC from vehicle, challenge sessions with CBD began. CBD was tested orally with a 2-hour pretreatment time at 20, 75, and 150 mg/kg (first study) and at 1, 3, and 10 mg/kg (second study). THC was tested as a positive control using oral administration (1, 3, and 10 mg/kg, p.o., 90 minute pretreatment time).

As expected, THC (3 and 10 mg/kg) produced full generalization (70-99%) to the THC cue. In contrast, CBD did not produce full generalization to the THC cue at any dose: 1 mg/kg (9%), 3 mg/kg (9%), 10 mg/kg, (8%), 20 mg/kg (14%), 75 mg/kg (46%), and 150 mg/kg (27%). Vehicle produced no generalization (<11%) to the THC cue (which is full generalization (>89%) to the placebo cue). Only the two highest CBD doses produced partial generalization (27-46%) to the THC cue, but each of these responses was < 50% for the THC cue. These same data can be inverted as showing that the partial generalization was >50% for the placebo cue (54% for 75 mg/kg and 73% for 150 mg/kg). These data suggest that CBD is more like placebo than THC. Thus, these data show that CBD does not produce interoceptive effects similar to those produced by THC in rats.

In the third study, rats (n = 6) were trained to discriminate midazolam (0.5 mg/kg, i.p.) from vehicle. Once responding was stable, rats were challenged with midazolam (0.50, 1.0, and 1.50 mg/kg, p.o., 30-minute pretreatment time), alprazolam (0.125, 0.25, 0.50,

and 1.0 mg/kg, p.o.), CBD (20, 75, and 150 mg/kg, p.o.), or vehicle. Full generalization to the midazolam cue was seen after administration of midazolam (1.0 and 1.5 mg/kg) and alprazolam (0.50 and 1.0 mg/kg). However, CBD produced no generalization (<11%) to the midazolam cue at any dose. These data can be inverted to show >89% generalization to placebo. These data show that CBD does not produce interoceptive effects similar to those produced by midazolam in rats.

Self-Administration Studies Evaluating Rewarding Effects

Self-administration is a method that assesses whether a drug produces rewarding effects that increase the likelihood of behavioral responses in order to obtain additional drug. Drugs that are self-administered by animals are likely to produce rewarding effects in humans, which is indicative of abuse potential. Generally, a good correlation exists between those drugs that are self-administered by animals and those that are abused by humans (Balster and Bigelow, 2003). It is notable that self-administration is a behavior that is produced by drugs that have been placed into every schedule of the CSA. Additionally, rates of self-administration for a particular drug will go up or down if the available drug dose or the work requirement, i.e., bar pressing for drug, is altered. Positive results from a self-administration test provide an abuse potential signal, suggesting that a drug has rewarding properties but does not necessarily produce more rewarding effects than another drug in humans.

Two separate self-administration studies were conducted in rats (n = 5-7/group) to evaluate whether CBD produces sufficient reward to be reinforcing. Animals were initially trained to press a lever to receive either the Schedule II stimulant, cocaine (0.32 mg/kg/infusion, i.v.), using a fixed ratio (FR) 10 final schedule of reinforcement, or to lever-press for the Schedule I opioid, heroin (0.015 mg/kg/injection, i.v.), using FR3. Once responding for cocaine or heroin was stable, animals were also allowed to lever-press for CBD (0.02, 0.1, 0.5, or 1.5 mg/kg/infusion, i.v.), amphetamine (Schedule II; 0.05 mg/kg/infusion, i.v.), midazolam (Schedule IV; 0.0003, 0.001, 0.0015, 0.003 mg/kg/injection, i.v.), diazepam (Schedule IV; 0.001, 0.003, 0.0045, 0.01 mg/kg/injection, i.v.), or vehicle (i.v.). Rats were given access to each drug treatment for 3 consecutive days.

As expected, in rats, cocaine and heroin produced a relatively high degree of self-administration (~45 and ~18 infusions/session, respectively) and vehicle produced a low degree of self-administration (<10 infusions/session). The positive control drugs produced varying degrees of self-administration: cocaine = ~25 infusions/session, midazolam and diazepam = <10 infusions/session. Each of the four doses of CBD produced self-administration that was similar to that of vehicle (<10 infusions/session). In the heroin-trained animals, the 0.1 mg/kg/infusion dose of CBD produced a response that was statistically significantly greater than vehicle ($p<0.05$), but was numerically in the range of vehicle responding (e.g., 7 infusions/session).

A self-administration study was also conducted in monkeys (n = 5) trained to self-administer midazolam (0.01 and 0.032 mg/kg/infusion, i.v.) using an FR30 schedule of reinforcement. Both doses of midazolam produced ~13 infusions/session. In comparison, vehicle produced <1 infusion/session. When CBD (0.1, 0.32, 1.0, and 3.2 mg/kg/infusion, i.v.) was substituted, it did not maintain self-administration (<1 infusion/session).

Data from all these self-administration studies suggest that CBD produced insufficiently rewarding properties to sustain reinforcement.

Human Behavioral Effects

The human behavioral effects of CBD are evidenced by a human abuse potential study and by adverse events (AEs) reported in the clinical efficacy studies conducted with CBD.

Human Abuse Potential Study (Study #GWEP1431)

A human abuse potential study was conducted to evaluate the oral abuse potential, safety, tolerability, and pharmacokinetics of CBD (750, 1500, and 4500 mg) compared to alprazolam (Schedule IV) (2 mg), dronabinol (THC in the drug product Marinol (Schedule III); 10 and 30 mg), or placebo using a randomized, double-blind, double-dummy, placebo- and active-controlled, 6-period, crossover design in healthy non-dependent recreational polydrug users (n = 40). The doses of CBD represent the two therapeutic doses (10 mg/kg and 20 mg/kg) and a supratherapeutic dose (3 to 6 times greater than the therapeutic doses), scaled for a 75 kg adult.

Subjective Responses

As shown below in Table 1, on the primary subjective measure of Drug Liking visual analog scale (VAS), the two positive control drugs alprazolam (2 mg) and dronabinol (10 and 30 mg) produced significantly higher maximum (Emax) scores compared to placebo ($P < 0.001$ to 0.0001), which validates the study.

CBD at the two highest doses (1500 and 4500 mg) produced small but statistically significantly higher Emax scores on Drug Liking compared to placebo ($P < 0.05$ for both). However, both of these responses were just outside the placebo range (40-60, with 50 being "neutral" on a bipolar scale of 0 to 100) and had large standard deviations. CBD at the lowest dose (750 mg) did not differentiate statistically from placebo on Drug Liking. Additionally, the response to any dose of CBD was statistically significantly less than that produced by the positive control drugs, dronabinol and alprazolam.

These data contrast with data from previously conducted HAP studies with Schedule V drugs such as ezogabine, pregabalin, and lacosamide, in which these drugs produced

Drug Liking that was statistically similar to, or greater than, that produced by alprazolam or diazepam.

Table 1: Effects of Oral Placebo, Alprazolam (2 mg), Dronabinol (THC, 10 and 30 mg), and CBD (750, 1500, and 4500 mg) on Subjective Measures (VAS) – Emax Scores

Measure	Placebo (n = 37)	ALZ 2 (n = 40)	THC 10 (n = 39)	THC 30 (n = 40)	CBD 750 (n = 38)	CBD 1500 (n = 39)	CBD4500 (n = 40)
Drug Liking VAS bipolar	55 ± 11	79 ± 16 ^	74 ± 19 ^	87 ± 15 ^	57 ± 14	61 ± 17 *	64 ± 17 *
Overall Drug Liking VAS bipolar	50 ± 17	87 ± 16 ^	75 ± 21 ^	87 ± 19 ^	55 ± 16	57 ± 19	60 ± 26
Take Drug Again VAS	11 ± 25	85 ± 24 ^	65 ± 39 ^	85 ± 27 ^	20 ± 31	28 ± 37 *	42 ± 42 ^
Good Drug Effects VAS	11 ± 26	77 ± 25 ^	55 ± 39 ^	83 ± 22 ^	22 ± 33	29 ± 38 *	38 ± 38 #
High VAS	9 ± 22	55 ± 38 ^	38 ± 40 ^	71 ± 35 ^	10 ± 25	20 ± 35 *	31 ± 38 #
Stoned VAS	6 ± 19	45 ± 39 ^	37 ± 38 ^	78 ± 28 ^	14 ± 27	14 ± 29	24 ± 37 ^
Bad Drug Effects VAS	9 ± 23	23 ± 33 *	16 ± 30	26 ± 35 *	9 ± 21	11 ± 20	15 ± 26
Alert/ Drowsy VAS	55 ± 12 41 ± 17	57 ± 15 10 ± 14 ^	58 ± 15 26 ± 21 ^	65 ± 17 14 ± 14 ^	55 ± 14 33 ± 18 *	54 ± 11 30 ± 20 *	54 ± 11 29 ± 19 #
Agitated/ Relaxed VAS bipolar	50 ± 11 38 ± 19	54 ± 14 9 ± 13 ^	52 ± 14 22 ± 20 ^	58 ± 16 14 ± 16 ^	52 ±12 34 ± 21	52 ± 9 32 ± 21	53 ± 10 29 ± 21 *
Any Drug Effect VAS bipolar	18 ± 31	75 ± 26 ^	55 ± 38 ^	87 ± 17 ^	23 ± 32	34 ± 36 *	46 ± 39 ^
Hallucinations VAS	1 ± 2	18 ± 29 ^	3 ± 11	15 ± 34 *	1 ± 2	1 ± 2	1 ± 3
Bowdle (Internal Perception) VAS	1 ± 0	1 ± 0 ^	1 ± 0 *	1 ± 0 ^	1 ± 0	1 ± 0	1 ± 0
Bowdle (External Perception) VAS	1 ± 0	1 ± 0 ^	1 ± 0	1 ± 1 ^	1 ± 0	1 ± 0	1 ± 0
Drug ID: Benzodiazepine	12 ± 27	88 ± 24	27 ± 39	29 ± 39	21 ± 35	23 ± 36	27 ± 36
Drug ID: THC	9 ± 24	24 ± 35	58 ± 44	91 ± 22	20 ± 33	18 ± 29	28 ±37
Drug ID: Placebo	71 ± 44	2 ± 11	27 ±42	3 ±17	54 ± 46	52 ±48	36 ±44

* $p < 0.05$; #$p < 0.001$, ^ $p < 0.0001$ compared to placebo. All scales are unipolar (0-100 with 0 as neutral) unless marked as bipolar (0-100 with 50 as neutral).

Results from the secondary subjective measures show that:

- The positive control drugs alprazolam (2 mg) and dronabinol (10 and 30 mg) produced statistically significantly increased scores compared to placebo on other positive subjective responses such as the VAS for Overall Drug Liking, Take Drug Again, Good Drug Effects, High, Stoned, and Bowdle (Internal Perception).

- CBD at the high therapeutic and supratherapeutic oral doses (1500 and 4500 mg) produced small but statistically significant increases compared to placebo in positive subjective responses such as VAS for Take Drug Again, Good Drug Effects, and High. The positive subjective responses to CBD were always statistically significantly less than those produced by either alprazolam or dronabinol. Notably, the response to CBD at any dose did not produce Overall Drug Liking that fell outside the placebo range (40-60, bipolar scale). Similarly, the response to CBD for Stoned was either within or just outside the placebo range (0-20, unipolar scale).

- When Take Drug Again was evaluated for CBD (750-4500 mg) on an individual basis, 46-66% of subjects reported a score of 0 out of 100, indicating the subject would never be inclined to take CBD again. In contrast, the positive control drugs would be taken again by 83% of those who received 2 mg alprazolam and 60-77% of those who received 10 and 30 mg THC.

On the Drug Identification question, alprazolam (2 mg) was identified as a benzodiazepine (88 out of 100). Dronabinol (10 and 30 mg) was identified as dronabinol (58 and 91 out of 100). Placebo was identified as placebo (71 out of 100). CBD did not produce a strong signal for any substance except for placebo in response to the 750 and 1500 mg doses (54 and 52 out of 100). The 4500 mg dose of CBD was not identified as any substance (<36 out of 100 on any scale) and was notably not identified as dronabinol. This lack of identification of CBD as similar to THC by human subjects parallels the animal drug discrimination data, where animals did not indicate that CBD produced THC-like sensations.

Although these subjective data produced some statistically significant signals of abuse potential at the two higher doses of CBD (1500 and 4500 mg), these responses were either inside or just outside of the placebo range and had large standard deviations. Most importantly, any positive subjective response to CBD was always much lower than that produced by the positive control drugs, alprazolam and dronabinol. Additionally, CBD was never identified as dronabinol.

Abuse-Related AEs

CBD (750, 1500, and 4500 mg) produced reports of the AE euphoria in a few subjects (5.3% (2 of 38 subjects); 5.1% (2 of 39 subjects); and 7.5% (3 of 40 subjects),

respectively). Alprazolam (2 mg) produced a similarly low level of euphoria (7.5%, 3 of 40 subjects) while placebo produced no reports of euphoria (0%, 0 of 37 subjects). In contrast, dronabinol (10 and 30 mg) produced higher levels of euphoria (30.8% (12 of 39 subjects) and 62.5% (25 of 40 subjects)).

When an individual analysis was conducted on CBD responses, a euphoria-related response for most subjects either did not predict whether the individual reported positive responses on the subjective measures, or the positive subjective response was equivalent to that reported following placebo. Conversely, a high rating on a positive subjective response by any subject did not predict a report of a euphoria-related AE. Thus, although two of the nine subjects who reported euphoria as an AE following 4500 mg CBD also reported a high degree of positive subjective response on Drug Liking or Take Drug Again, seven of the nine subjects did not. Thus, the small degree of euphoria signals following CBD administration were not consistent with any other reports of positive subjective responses to the drug.

Residual THC Levels

The CBD product studied in all clinical investigations under the GW Pharmaceuticals NDA contained <0.15% residual THC. In the HAP study, the CBD batches used contained 0.03% and 0.06% residual THC. This means that the amount of THC present in the test doses ranged from 0.3-0.45 mg (750 mg CBD) to 0.45-0.90 mg (1500 mg CBD) to 1.35-2.70 mg (4500 mg CBD). The lowest FDA-approved dose of dronabinol in the Marinol drug product (Schedule II) is 2.5 mg. Thus, it is possible that THC may have contributed to the subjective responses following CBD administration.

However, when plasma concentrations of THC from subjects in the HAP study were evaluated following administration of CBD, they were low compared to the plasma levels produced in the same subjects following administration of the two doses of dronabinol. Following administration of CBD, the Cmax levels of residual THC were 0.30 ng/ml (750 mg CBD), 0.44 ng/ml (1500 mg CBD), and 0.48 ng/ml (4500 mg CBD), which demonstrates a nonlinear pharmacokinetics. These concentrations are much lower than the Cmax reported following administration of 10 mg dronabinol in the HAP study (Cmax = 7.90 ng/ml).

Thus, it is unlikely that THC contributed to the slight positive responses on some of the subjective measures or contributed to the euphoric AE responses reported following the higher doses of CBD.

Overall Conclusions

The 750 mg dose of CBD (the low 10 mg/kg therapeutic dose) did not produce abuse potential signals. Although the two higher doses of CBD tested in this study (1500 and 4500 mg, representing the 20 mg/kg therapeutic dose and a supratherapeutic dose)

produced some signals of abuse potential, they were small and often inside or just outside the acceptable placebo range. Additionally, these signals were always statistically significantly less than those produced by dronabinol or alprazolam. In a drug identification test, CBD at any dose was not identified as dronabinol and was most frequently identified as placebo. The low degree of the AE of euphoria produced by the higher doses of CBD did not predict reports of positive subjective responses. Thus, these data show that although CBD is a cannabinoid, it is not producing dronabinol-like responses that are indicative of abuse potential.

AEs in Clinical Studies with CBD

Phase 1 Clinical Safety Studies (Excluding HAP Study)

Abuse-related AEs were evaluated from the Phase 1 studies with CBD, which included studies investigating pharmacokinetics, hepatically-impaired patients, renally-impaired patients, impact on sleep, and physical dependence.

None of the individuals in these Phase 1 studies with CBD reported that they experienced "euphoria"-related AEs, which are the key AEs in determining whether there are abuse-related signals from clinical studies.

There was a high rate of "somnolence" in the two pharmacokinetic studies. In one study, 750 and 1500 mg CBD produced "somnolence" in 2-4 of 9 subjects (22-44%) compared to 2 of 9 subjects (33%) from placebo. In the other study, 750 and 4500 mg CBD produced "somnolence" in 5-11 of 49 subjects (10-22%) compared to 4 of 50 subjects (8%) from placebo. However, in the absence of "euphoria"-like AEs, "somnolence" is not interpreted as producing an abuse-related signal. Interestingly, no subjects in the sleep study (n = 18) reported "somnolence" in response to CBD or placebo. No other AEs that can be indicative of abuse were reported in any of these studies.

In conclusion, the AE data in Phase 1 studies conducted with CBD do not have any signals suggesting that CBD has abuse potential.

Phase 2/3 Clinical Efficacy Studies

Three Phase 2/3 clinical studies were conducted to support the efficacy and safety claim for CBD as an adjunct treatment of two epilepsy conditions in children: Dravet syndrome (also known as severe myoclonic epilepsy of infancy; for ages 4-10) and Lennox-Gastaut syndrome (for ages 2-18).

It is not possible to evaluate these Phase 2/3 studies for abuse signals related to CBD because of the underlying neurological impairment of patients and the confounding effects of other medications. Specifically, the children in the studies are too ill or too young to volunteer accurate information regarding psychiatric or neurological AEs

indicative of abuse potential. Additionally, since CBD is proposed as an adjunctive treatment, children in these studies remained on their current antiepileptic medications.

In conclusion, AE data from the Phase 2/3 clinical efficacy studies cannot be evaluated for abuse-related AEs directly related to CBD.

3. THE STATE OF CURRENT SCIENTIFIC KNOWLEDGE REGARDING THE DRUG OR OTHER SUBSTANCE

The third factor the Secretary must consider is the state of current scientific knowledge regarding CBD. This knowledge includes information on the chemistry and pharmacokinetics of CBD.

Chemistry

Cannabidiol (USAN name) is a new molecular entity identified by CAS registry number: 13956-29-1. It is chemically known as 2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol. It has a molecular formula of $C_{21}H_{30}O_2$ and a molecular weight of 314.5. It is a white to pale yellow crystalline solid with a melting point of 65-67 °C. It is soluble in methanol, ethanol, acetone, dichloromethane, sesame oil, and other oils, but insoluble in water.

The drug product is a 100 mg/ml oral solution of CBD (b) (4) sesame oil, (b) (4) (sucralose (b) (4)), and flavoring agent. It is available in (b) (4) mL amber glass bottles with child-resistant screw caps.

Manufacturing of CBD for the Drug Product

The manufacturing of CBD for the drug product is described by the Sponsor in the NDA.

(b) (4)

(b) (4)

Stability studies conducted by the Sponsor confirm that the drug product will remain within specification limits up to 24 months when stored at the conditions tested (25 °C/60% relative humidity, and 30°C/ 75 % relative humidity). Additionally, no evident degradation was observed during the photostability study.

Pharmacokinetics

Following a single oral dose (1500, 3000, 4500, and 6000 mg), CBD appeared rapidly in the plasma, with maximum plasma concentrations (Cmax) typically occurring within 3-5 hours post dosing and remaining detectable up to 72 hours post-dose. CBD has an elimination half-life of 30 hours.

Based on data from a human abuse potential study in which a lower-range therapeutic dose (750 mg = 10 mg/kg), higher-range therapeutic dose (1500 mg = 20 mg/kg), and a supratherapeutic dose (4500 mg = 3-6X) were tested, the pharmacokinetics of CBD (and residual dronabinol) are nonlinear (see Table 2, below).

Table 2: Cmax of CBD and Residual Dronabinol After Oral Administration of CBD in a Human Abuse Potential Study

	750 mg CBD	1500 mg CBD	4500 mg CBD
CBD levels	372 ng/ml	608 ng/ml	619 ng/ml
dronabinol levels	0.30 ng/ml	0.44 ng/ml	0.48 ng/ml

A 2-fold increase in an oral dose of CBD (from 750 mg to 1500 mg) produced a 1.5-fold increase in plasma levels of CBD (from 372 ng/ml to 608 ng/ml) and residual dronabinol (from 0.30 ng/ml to 0.44 ng/ml). Most critically, a 3-fold increase in an oral dose of CBD (from 1500 mg to 4500 mg) produced no meaningful change in plasma levels of either CBD (from 608 ng/ml to 619 ng/ml) and residual THC (from 0.44 ng/ml to 0.48 ng/ml). These data show that increasing the oral dose of CBD does not produce proportional increases in plasma concentrations of CBD and residual THC.

Medical Use in the United States

In the Sponsor's submitted NDA, CBD is proposed as an oral treatment of two epilepsy conditions in children who remain on their current antiepileptic medication: Dravet syndrome and Lennox-Gastaut syndrome. If this NDA is approved by FDA, CBD will for the first time have a currently accepted medical use in the United States.

CBD has also been available in the United States under an expanded access program (EAP) established by the Sponsor. Over (b) (4) treatment-resistant epilepsy patients have gained access to CBD through investigational new drug (IND) applications submitted to FDA by independent physician investigators, as well as by state governments to support CBD access programs in several U.S. states. An analysis of 214 of these individuals enrolled in a 1-year period during 2014-2015 was recently published (Devinsky et al., 2016). According to this evaluation, AEs were reported in 128 (79%) of the 162 patients within the safety group. AEs reported in >5% of patients were somnolence (n=41 [25%]), decreased appetite (n=31 [19%]), diarrhea (n=31 [19%]), fatigue (n=21 [13%]), and convulsion (n=18 [11%]). Notably, none of these AEs included euphoria or other abuse-related AEs.

4. ITS HISTORY AND CURRENT PATTERN OF ABUSE

The fourth factor the Secretary must consider is the history and current pattern of abuse of CBD.

CBD as a single active ingredient in a drug product formulation has not been approved for therapeutic use in any country, so such information pertaining to a well-characterized formulation of CBD as the only or predominant active ingredient is limited. However, there is widespread availability and use of CBD-containing products, which are illicit under federal law, that are marketed in various states under the laws of those states. While these products typically contain other psychoactive substances such as THC, which limits our ability to assess the effects of CBD alone, we considered any available epidemiology data stemming from use of CBD-containing products in various states. With these limitations, no signal for abuse of CBD was identified from these data.

The FDA/CDER Office of Surveillance and Epidemiology (OSE) performed a formal assessment of all AEs associated with CBD use available in the FDA Adverse Event Reporting System (FAERS) database and AEs relating to abuse potential in the medical literature. OSE also evaluated the . Their evaluation and conclusions follow below.

AE reports for CBD-containing products are entered into the FAERS database when received by FDA. Importantly, the FAERS database is designed to capture AE reports for FDA-approved products. Since CBD is not an FDA-approved product, FAERS reports may instead be received from manufacturers of approved co-suspect products, or from health professionals or consumers with unapproved CBD as the primary suspect drug. It is not known if FAERS would capture serious, rare, or new toxicity of CBD, given that it is not an FDA-approved product. Other general FAERS limitations include the lack of certainty that the reported event was caused by the product. FDA does not require that a causal relationship between a product and event be proven, and reports do not always contain sufficient detail to properly evaluate an event. Further, FDA does not receive reports for every AE or medication error that occurs with a product. Many factors can influence whether an event will be reported, such as the time a product has been marketed and publicity about an event.

OSE identified 83 FAERS cases in which AEs were reported with CBD as a suspect drug. Most of these cases were reported in 2017. The source of CBD was reported in 34 of the cases, where in all 34 cases CBD was provided in clinical trials, while for the remaining 49 cases the exact source could not be determined. The most frequently reported reason for use of CBD was treatment of epilepsy/seizure conditions and the most frequently reported concomitant medications were anticonvulsants, which are often recognized drugs of abuse that are controlled in Schedules II, IV, and V.

The most frequently reported AE preferred term (PT) was drug interaction. Clobazam (Schedule IV) was the most frequently reported concomitant medication used with CBD, and increased plasma levels of clobazam was the most frequently reported drug-drug interaction outcome.

OSE identified 55 cases reporting specific abuse-misuse PTs with CBD use, but none appear to provide convincing evidence of abuse potential. There were no euphoria-related terms in the review, except for one patient with pre-existing schizoaffective disorder who experienced visual hallucinations after using a product reportedly containing a mixture of CBD and dronabinol. Since dronabinol (Schedules I, II, and III) can produce hallucinations, it is not possible to attribute this event to CBD.

A search of the medical literature by OSE suggest minimal or low abuse potential with CBD.

OSE did not identify any additional cases of abuse with CBD in the AAPCC-NPDS or NEISS-CADES databases. NPDS case records are self-reported mainly from the public (68.9% from a residence vs 23.2% from a Health Care Professional). Although Poison Control Centers perform follow-up calls, they are not able to verify the accuracy of every report made to AAPCC member centers. Although OSE identified 88 cases from these databases that were documented as marijuana (dried plant)-related, it cannot be excluded

that some of these cases may represent exposure to CBD (unapproved product) due to the potential misclassification resulting from patient self-reporting.

The limitation of NEISS-CADES data available from 2004-2015 is that it does not include cases with intentional drug injuries resulting from alcohol, tobacco, and illicit substances. It is likely that the reason OSE did not capture any cases of CBD abuse during 2004-2015 is that the NEISS-CADES database only started to collect information about drug abuse in 2016. The data relating to emergency department visits from drug abuse are not yet available in NEISS-CADES.

To conclude, based on the preclinical and clinical study data (see Factor 2, above), and on available epidemiological data, there is no signal for the development of substance use disorder in individuals consuming CBD-containing products. In addition, there is no signal of abuse of CBD in the available AE reporting data and epidemiology data.

5. The Scope, Duration, and Significance of Abuse

The fifth factor the Secretary must consider is the scope, duration, and significance of abuse of CBD.

As described in Factor 4, CBD as a single entity has not been approved for therapeutic use in any country. Based on the preclinical and clinical study data (see Factor 2, above), and on available epidemiological data, the scope, duration and significance of CBD abuse is too low to quantify.

6. What, if any, risk there is to the public health

The sixth factor the Secretary must consider is what, if any, risk there is to the public health.

The extent to which a drug has abuse potential is considered an indication of its public health risk. However, based on the preclinical and clinical study data (see Factor 2, above), and the available epidemiology data (see Factor 4, above) there is little indication that CBD has abuse potential or presents a significant risk to the public health.

7. Its Psychic or Physiologic Dependence Liability

The seventh factor the Secretary must consider is the psychic or physiologic dependence liability of CBD. This was addressed through a human study evaluating the ability of CBD to produce withdrawal signs after chronic administration and subsequent discontinuation.

Human Physical Dependence

An exploratory outpatient human physical dependence study was conducted to evaluate whether chronic administration of CBD produced signs or symptoms of withdrawal upon drug discontinuation. The Treatment Phase (single blind) consisted of a total of 30 adult subjects (n = 13 female) who received 1500 mg/day (750 mg *bis in die* (b.i.d.)) CBD for 28 days. In the Withdrawal Phase (double blind), subjects who completed the Treatment Phase (n = 21) were randomized to either continue receiving 1500 mg/day (750 mg b.i.d.) CBD for an additional 14 days (n = 9) or to receive placebo (n = 12). There was no positive control to validate the study procedures.

During the 6-week study period, subjects returned to the clinical research center on Days 7, 14, 21, 28, 31, 35, and 42 for evaluations. Compliance was assessed by plasma concentrations of CBD and dronabinol and their major metabolites. Although subjects were tested for drugs and alcohol on weekly visits during the initial 28 days of CBD administration, they were not tested again during the discontinuation period (Days 29-42) until Day 35 (halfway through the Withdrawal Phase).

Physical dependence was evaluated using two scales: the Cannabis Withdrawal Scale (CWS) and the Penn Physician Withdrawal Checklist (PWC-20). These two questionnaires were administered on Days 1, 21, and 28 during CBD administration, as well as Days 31, 35, and 42 after drug discontinuation (e.g., Days 3, 7, and 14 following completion of the 28 days of CBD administration). Subjects were asked to indicate the extent to which each withdrawal symptom was experienced in the last 24 hours and also to rate the negative impact on normal daily activities.

Possible CWS scores range from 0 to 190 points (0-10 points for 19 questions) based on degree of withdrawal symptoms and (separately) for impact on daily living. At the end of the Treatment Phase, the CWS score for all completers (n = 23) was 9.3 on the questionnaire and 5.8 for the daily negative impact. During the Withdrawal Phase, withdrawal scores in both groups decreased: the group that continued to receive CBD had scores on the CWS that decreased from baseline (Day 28) by up to 6 points and the placebo group had scores that decreased by up to 4 points. A similar reduction in scores was seen for the impact on daily living scores, which decreased from baseline (Day 28) for the CBD group by up to 9 points, and the placebo group, which had scores that decreased by up to 6 points.

Possible PWC-20 scores range from 0–60 points (0-3 points for 20 questions) based on degree of withdrawal symptoms. The scores for both groups were close to 0 during and immediately after 28 days of CBD administration. Similar to results on the CWS, withdrawal scores during the second phase decreased from baseline (Day 28) for the CBD group by up to 0.8 points and the placebo group had scores that decreased by up to 1.3 points.

Other Subjective Measures

There were no changes recorded during the Withdrawal Phase in the placebo group compared to CBD maintenance for evaluations on sleep disruption, Epworth Sleepiness Scale (ESS), Columbia-Suicide Severity Rating Scale (C-SSRS), or the Hamilton Depression Rating Scale (HAM-D).

Pharmacokinetics of CBD and THC

As expected, CBD levels in subjects who transitioned to placebo on Day 29 fell steadily over the discontinuation period and reached nearly pre-dose levels by Day 42. In contrast, CBD levels continued to increase for subjects who were maintained on CBD from Days 29-42. However, inter-subject variability was high, with standard deviations of the mean CBD plasma concentrations during the study ranging from 17 to 306 ng/ml. The concentration–time profiles of the major metabolites of CBD showed a similar pattern.

Dronabinol was detected in plasma at only at trace levels, with a mean plasma dronabinol concentration of 0.40 ng/ml at the end of the Withdrawal Phase in subjects who continued to receive 1500 mg CBD. This is similar to the plasma levels of dronabinol (0.44 ng/ml) produced in the human abuse potential study following acute administration of 1500 mg CBD (see Table 2, above).

Adverse Events

AEs were monitored during the Treatment Phase and the Withdrawal Phase (beginning on the third day after CBD was discontinued). As shown in Table 3 (below), few AEs were reported during the Withdrawal Phase in either the CBD or placebo group.

Table 3 All Causality TEAEs Experienced by > 1 Subject

	Treatment Phase	**Withdrawal Phase**	
	1500 mg/day CBD (750 mg b.i.d.) 28 days (n=30)	**1500 mg/day CBD (750 mg b.i.d.) 14 days (n=9)**	**Placebo b.i.d. 14 days (n=12)**
	n (%)	**n (%)**	
Gastrointestinal disorders			
Diarrhea	19 (63.3)	4 (44.4)	2 (16.7)
Abdominal pain	14 (46.7)	0 (0)	1 (8.3)
Nausea	13 (43.3)	2 (22.2)	0 (0)
Dyspepsia	4 (13.3)	0 (0)	0 (0)
Dry mouth	2 (6.7)	0 (0)	0 (0)
Nervous system disorders			

Headache	15 (50.0)	2 (22.2)	7 (58.3)
Somnolence	7 (23.3)	1 (11.1)	0 (0)
Dizziness	7 (23.3)	0 (0)	0 (0)
Disturbance in attention	2 (6.7)	0 (0)	0(0)
Dizziness postural	2 (6.7)	0 (0)	0 (0)
General disorders			
Fatigue	10 (33.3)	0 (0)	0 (0)
Influenza-like illness	2 (6.7)	0 (0)	1 (8.3)
Psychiatric disorders			
Nightmare	2 (6.7)	0 (0)	1 (8.3)
Insomnia	2 (6.7)	0 (0)	0 (0)
Mood altered	1 (3.3)	1 (11.1)	0 (0)

AEs reported during CBD administration included diarrhea (63%), abdominal pain (47%), nausea (43%), headache (50%), somnolence and fatigue (23% and 33%), dizziness (23%), and insomnia (7%). Notably for an abuse potential evaluation, there were no reported incidents of euphoria during the CBD administration phase.

During the drug discontinuation phase, influenza-like illness and nightmare were reported in only 1 of 12 subjects in the placebo group (compared to 0 of 9 subjects in the CBD group) and headache was reported by 7 of 12 subjects in the placebo group (compared to 2 of 9 subjects in the CBD group).

Conclusions

The data above, including the data collected after CBD discontinuation, provide no evidence for a classic drug withdrawal syndrome for CBD and no evidence that CBD causes physical or psychic dependence.

8. WHETHER THE SUBSTANCE IS AN IMMEDIATE PRECURSOR OF A SUBSTANCE ALREADY CONTROLLED

The eighth factor the Secretary must consider is whether CBD is an immediate precursor of a substance that is already controlled under the CSA.

CBD can be converted to both Δ^9-tetrahydrocannabinol (Δ^9-THC) and to Δ^8-tetrahydrocannabinol (Δ^8-THC) through cyclization of CBD under acidic conditions (Adams et al. 1941, Gaoni and Mechoulam 1966, Gaoni and Mechoulam 1971). Although there are no reports that this synthesis takes place in clandestine laboratories, the Sponsor conducted studies to understand the feasibility of converting CBD to Δ^9-THC. Based on Internet drug forum discussions, such as Bluelight.com, the Sponsor attempted the conversion using commercially available acids at various concentrations and volumes, and studied the effects of temperature, agitation, and reaction time. Under the best conditions of reaction identified by the Sponsor, the maximum amount of CBD that could be converted to Δ^9-THC was approximately 40%.

It is important to point out that the conversion appeared to peak at a certain reaction time, after which Δ^9-THC may start to degrade. Isolation of Δ^9-THC from the reaction mixture did not prove difficult when using nonpolar organic solvents. However, the Δ^9-THC formed could not be separated from other cannabinoids (including unchanged CBD) and other components (i.e., sesame oil present in the formulation).

Even though the possibility of converting the CBD present in the product to Δ^9-THC or Δ^8-THC exists, there may be practical reasons, such as knowledge of the best reaction conditions to avoid degradation of the THC product, limited reaction yields, and purity of the THC product upon isolation, among other possible reasons, to deter initiation of this laborious route to obtain the drug.

Conclusions

Given the available data, it is unlikely that CBD would act as an immediate precursor to THC for abuse purposes.

C. Recommendation

Cannabidiol (CBD) is proposed as an oral adjunct treatment of two epilepsy conditions in children who remain on their current antiepileptic medication: Dravet syndrome and Lennox-Gastaut syndrome. Upon consideration of the eight factors determinative of control of a substance under section 201(c) of the CSA, FDA concludes that CBD and its salts, with a limit of (b) (4) % (w/w) residual (−)-trans-Δ^9-tetrahydrocannabinol, could be removed from control under the CSA [21 U.S.C. § 812 (b)(4)].

We reach this conclusion because we find that CBD does not meet the criteria for placement in any of Schedules II, III, IV, or V under the CSA. Specifically, we find that, upon consideration of the eight factors determinative of control of a substance in relation to Schedule V:

1) CBD has negligible potential for abuse relative to the drugs or other substances in Schedule V.

CBD does not bind to cannabinoid receptors or any other receptor associated with abuse potential. It does not produce overt behaviors in rodents that are suggestive of abuse potential. It also does not produce a cannabinoid response in the rodent tetrad test. CBD does not generalize to THC in a rodent drug discrimination study, showing it does not produce cannabinoid effects. It does not produce self-administration in rodents, suggesting it does not have rewarding properties. In a human abuse potential study with CBD, there were slight abuse-related signals, but these were close to the acceptable

placebo range. There were no AEs from clinical studies conducted with CBD in a non-patient population indicative of abuse potential.

Based on the totality of the available scientific data, CBD does not have meaningful abuse potential. In support of this finding, the evidence for any abuse potential is also substantially less than that of all substances currently in Schedule V.

2) CBD has a currently accepted medical use in treatment in the United States.

Upon approval of an NDA by the FDA, CBD will have a currently accepted medical use in treatment in the United States.

3) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule V.

CBD does not produce withdrawal signs or symptoms in a human study 3 days after drug discontinuation. This suggests that CBD does not produce physical dependence. Additionally, there is little evidence that CBD produces rewarding responses in animals or humans, which suggests that the drug does not produce meaningful psychological dependence.

Notwithstanding these three findings, there are international scheduling considerations that also impact our final recommendation. Although CBD is not listed in the schedules of the 1961, 1971, or 1988 United Nations International Drug Control Conventions (Conventions), Schedule I of the 1961 Convention does include "extracts" of cannabis. In a report published following its November 2017 meeting (Report), the Expert Committee on Drug Dependence of the World Health Organization (ECDD) stated that CBD that is produced as an extract of cannabis is currently included in Schedule I of the 1961 Convention.[5] Subsequently, in the April 6, 2018, DEA Letter, DEA asserted that given the controls mandated by the 1961 Convention, the United States would not be able to keep its obligations under the treaty if CBD were decontrolled under the CSA.

The CSA contemplates that scheduling decisions will be made in accordance with treaty obligations. For example, under section 201(d)(1) of the CSA, if control of a substance is required under an international treaty or convention in effect on October 27, 1970, the Attorney General is required to impose controls on such substance by placing it under the schedule he deems most appropriate to carry out such obligations.

[5] The Report went on to say that CBD had not been previously reviewed for international scheduling, and would be the subject of review and discussion at the ECDD meeting in May 2018 (a meeting later moved to June 2018).

Here, DEA has requested that HHS conduct a medical and scientific evaluation and provide a scheduling recommendation for CBD. In responding to this request, FDA will not recommend that DEA take action that will cause the United States to be unable to keep its treaty obligations. Thus, if control of CBD is required under the treaty obligations of the United States, then to continue maintaining such obligations, and reflecting our scientific findings to the extent currently possible, we recommend CBD and its salts, with a limit of (b) (4) % (w/w) residual (−)-*trans*-Δ^9-tetrahydrocannabinol (THC), be placed in the least restrictive CSA schedule, Schedule V.

If treaty obligations do not require control of CBD, or the international controls on CBD under the 1961 Convention are removed at some future time, the above recommendation for Schedule V under the CSA would need be revisited promptly to address the change in a key predicate underlying such recommendation.

As noted in the April 6, 2018, DEA Letter, in the event that FDA approves the NDA submitted by the Sponsor, our recommendation to move CBD from Schedule I to Schedule V of the CSA will "requir[e] DEA to issue an immediately effective interim final rule" in accordance with section 201(j) of the CSA. Specifically, under 201(j), DEA would be required publish an interim final rule scheduling the drug within 90 days of the later of (1) FDA approval or (2) receipt of the scheduling recommendation from the Secretary. The interim final rule would be immediately effective, and the drug could be marketed on the date of publication in the *Federal Register*. Additionally, under section 505(x) of the FD&C Act, the date of issuance of the interim final rule controlling the drug would be the date of approval of the Sponsor's NDA.[6]

In establishing the interim process under section 201(j) of the CSA, Congress ensured that access to drugs approved by FDA, but subject to a scheduling or rescheduling process, would be available more rapidly to patients. The expedited timeframe for this interim process is particularly important here. As noted in the April 6, 2018, DEA Letter, "[g]iven that the CBD drug in question here is intended for a particularly vulnerable pediatric population, any delay in marketing of the drug following FDA approval would seem contrary to the public health and safety." Accordingly, DEA's use of the section 201(j) interim process is consistent with the statutory goal of expanding patient access in the interest of the public health.

[6] This is in contrast to the statutory process by which a drug listed in Schedule I may be decontrolled entirely. Under that process, set forth in section 201(a) of the CSA, a scheduling change would not become effective until after publication of a final rule following notice and comment under the Administrative Procedure Act.

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CERTIFICATION OF

DEPARTMENT OF LEGAL AFFAIRS EMERGENCY RULE

FILED WITH THE DEPARTMENT OF STATE

I hereby certify that an immediate danger to the public health, safety or welfare requires emergency action and that the attached rule is necessitated by the immediate danger. I further certify that the procedures used in the promulgation of this emergency rule were fair under the circumstances and that the rule otherwise complies with subsection 120.54(4), Florida Statutes. The adoption of this rule was authorized by the head of the agency and this rule is hereby adopted upon its filing with the Department of State.

Rule No.

2ER18-1

Under the provision of subparagraph 120.54(4)(d), F.S., this rule takes effect upon filing unless a later time and date less than 20 days from filing is set out below:

Effective: _____
(Month) (Day) (Year)

Pamela Jo Bondi
Signature, Person Authorized
To Certify Rules

Attorney General
Title

/
Number of Pages Certified

FILED
2018 SEP 13 PM 3:10
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

SPB 7082 – Controlled Substances

This bill amends s. 893.03, F.S., adding “a drug product in finished dosage formulation which has been approved by the United States Food and Drug Administration and which contains cannabidiol (2-[1R-3-methyl-6R-(1-79 methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and not more than 0.1 percent (w/w) residual tetrahydrocannabinols.” This new language would impact Epidiolex, removing it from Schedule I substances and moving it to Schedule V substances. Other future products fitting this definition would also be impacted.

Per DOC, in FY 17-18, there were 226 commitments for marijuana/cannabis related offenses. Of these commitments, 113 involved sale/manufacture/delivery, 26 involved sales within 1,000 feet of a church or business, 45 involved possession over 20 grams, and 42 involved trafficking in cannabis between 25 and 2,000 pounds. It is not known how many offenses involved Epidiolex, but it is expected that such offenses would be low in volume.

EDR PROPOSED ESTIMATE: Negative Insignificant

Requested by: Senate