

<b>Tab 2</b>	<b>SB 876</b> by <b>Powell</b> ; (Similar to H 01293) Juvenile Justice				
400510	D	S	RCS	CJ, Powell	Delete everything after 04/08 02:34 PM
<b>Tab 3</b>	<b>CS/SB 982</b> by <b>ED, Thurston</b> ; (Compare to CS/H 00259) Human Trafficking Education in Schools				
<b>Tab 4</b>	<b>SB 1238</b> by <b>Mayfield (CO-INTRODUCERS) Baxley, Hutson</b> ; (Compare to H 00403) Safety of Religious Institutions				
<b>Tab 5</b>	<b>SB 1260</b> by <b>Wright</b> ; (Identical to H 06051) Mandatory Direct File				
<b>Tab 6</b>	<b>CS/SB 1530</b> by <b>EN, Rouson</b> ; (Similar to CS/CS/H 01319) Vessels				

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

**CRIMINAL JUSTICE**  
**Senator Perry, Chair**  
**Senator Brandes, Vice Chair**

**MEETING DATE:** Monday, April 8, 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	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
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**Senate Confirmation Hearing:** A public hearing will be held for consideration of the below-named executive appointment to the office indicated.

**Florida Commission on Offender Review**

1	Coonrod, Melinda N. ()	06/30/2024	Recommend Confirm Yeas 5 Nays 0
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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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2	<b>SB 876</b> Powell (Similar H 1293, Compare CS/H 575)	Juvenile Justice; Authorizing a child transferred to adult court under certain provisions, or the child's defense counsel, to request in writing a hearing for a certain determination; requiring a judge to conduct the hearing within a certain timeframe after the filing of the request; requiring the adult court to retain jurisdiction unless the court finds by a preponderance of the evidence that certain factors support returning the child to juvenile court, etc.  CJ 04/08/2019 Fav/CS ACJ AP	Fav/CS Yeas 5 Nays 0
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3	<b>CS/SB 982</b> Education / Thurston (Compare CS/H 259)	Human Trafficking Education in Schools; Revising the required health education in public schools to include information regarding the dangers and signs of human trafficking; requiring the Department of Legal Affairs to develop human trafficking awareness campaigns, etc.  ED 04/02/2019 Fav/CS CJ 04/08/2019 Favorable AP	Favorable Yeas 5 Nays 0
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**COMMITTEE MEETING EXPANDED AGENDA**

Criminal Justice

Monday, April 8, 2019, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 1238</b> Mayfield (Compare H 403)	Safety of Religious Institutions; Authorizing a church, a synagogue, or other religious institution to allow a concealed weapons or concealed firearms licensee to carry a firearm on the property of that church, synagogue, or other religious institution for certain purposes; authorizing a private school or a religious school to designate a person to carry a firearm on that school's property, etc.  JU 03/25/2019 Favorable CJ 04/08/2019 Temporarily Postponed RC	Temporarily Postponed
5	<b>SB 1260</b> Wright (Identical H 6051, Compare H 339, CS/H 575, S 850)	Mandatory Direct File; Repealing provisions requiring the mandatory direct filing of charges in adult court against juveniles in certain circumstances, etc.  CJ 04/08/2019 Favorable JU AP	Favorable Yeas 4 Nays 0
6	<b>CS/SB 1530</b> Environment and Natural Resources / Rouson (Similar CS/CS/H 1319)	Vessels; Requiring vessel operators to reduce speed in specified hazardous situations; revising civil penalties relating to certain at-risk vessels and prohibited anchoring or mooring; providing civil penalties relating to vessels that fail to reduce speed for special hazards, etc.  EN 04/02/2019 Fav/CS CJ 04/08/2019 Favorable RC	Favorable Yeas 4 Nays 1
Other Related Meeting Documents			

1705

**STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections**

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

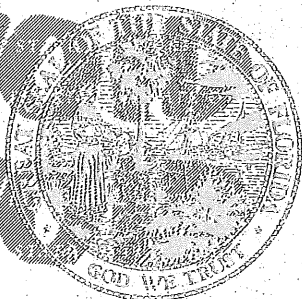
***Melinda N. Coonrod***

is duly appointed a member of the

**Florida Commission on Offender Review**

for a term beginning on the Thirtieth day of June, A.D., 2018,  
until the Thirtieth day of June, A.D., 2024 and is subject to be  
confirmed by the Senate during the next regular session of the  
Legislature.

*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Sixth day of November, A.D., 2018.*



*Ken Detzner*  
Secretary of State





**RICK SCOTT**  
GOVERNOR

**RECEIVED**

**2018 AUG -3 AM 10:15**

**DIVISION OF ELECTIONS  
TALLAHASSEE, FL**

June 30, 2018

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

Dear Secretary Detzner:

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

Melinda N. Coonrod

as a member of the Commission on Offender Review, for a term beginning June 30, 2018, and ending June 30, 2024.

Please prepare the necessary papers and mail to:

Mrs. Melinda N. Coonrod

Thank you for your assistance in this matter.

Sincerely,

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

Rick Scott  
Governor

RS/tj

HAND DELIVERED

# OATH OF OFFICER RECEIVED

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

2018 NOV -6 PM 12:05

County of Leon

FLORIDA DEPARTMENT OF  
CORRECTIONS  
TALLAHASSEE, FL

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

Commissioner - Florida Commission on Offender  
(Title of Office)

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

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

Melinda N. Coonrod  
Signature

Sworn to and subscribed before me this 5th day of November, 2018.

Ryan C. Schenck  
Signature of Officer Administering Oath or of Notary Public

Ryan C. Schenck  
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR Produced Identification ☐

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



RYAN C. SCHENCK  
MY COMMISSION # FF 233714  
EXPIRES: May 21, 2019  
Bonded Thru Budget Notary Services

## ACCEPTANCE

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

Mailing Address: ☒ Home ☐ Office

\_\_\_\_\_  
Street or Post Office Box

\_\_\_\_\_  
City, State, Zip Code

Melinda N. Coonrod

\_\_\_\_\_  
Print Name

Melinda N. Coonrod  
Signature

**The Florida Senate**  
**Committee Notice Of Hearing**

IN THE FLORIDA SENATE  
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of  
Melinda N. Coonrod  
Florida Commission on Offender Review


**NOTICE OF HEARING**

TO: Commissioner Melinda N. Coonrod

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Monday, April 8, 2019, in the Mallory Horne Committee Room, 37 Senate Building, commencing at 1:30 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.  
DATED this the 3rd day of April, 2019

Committee on Criminal Justice

  
\_\_\_\_\_  
Senator Keith Perry  
As Chair and by authority of the committee

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

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

**COMMITTEE:** Committee on Criminal Justice  
**MEETING DATE:** Monday, April 8, 2019  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** Mallory Horne Committee Room, 37 Senate Building

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**TO:** The Honorable Bill Galvano, President

**FROM:** Committee on Criminal Justice

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

**Office:** Florida Commission on Offender Review

**Appointee:** Coonrod, Melinda N.

**Term:** 6/30/2018-6/30/2024

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

THE FLORIDA SENATE

# COMMITTEE WITNESS OATH

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**CHAIR:**

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

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

Melinda N. Coonrod

**WITNESS'S NAME:** Florida Commission on Offender Review

**ANSWER:** I do

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

**COMMITTEE NAME:** Senate Criminal Justice Committee

**DATE:** 4/8/19

7061

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

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

04/08/19

Meeting Date

Bill Number (if applicable)

Topic Confirmation Hearing

Amendment Barcode (if applicable)

Name Melinda Conrad

Job Title Commissioner - FL Commission on Offender Review

Address 4070 Esplanade Way Phone 850-487-1980  
Street

Tallahassee FL 32399  
City State Zip

Email melindaconrad@flor.state.fl.us

Speaking: ☐ For ☐ Against ☒ Information

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

Representing FL Commission on Offender Review

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4.8.19

Meeting Date

Bill Number (if applicable)

Topic Confirmation of Melissa Conrad

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tall

City

FL

State

32308

Zip

Email barney@barneybishop.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)



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

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

*Tab 1*

Meeting Date \_\_\_\_\_

Bill Number (if applicable) \_\_\_\_\_

Topic Confirmation - Melinda Coonrod

Amendment Barcode (if applicable) \_\_\_\_\_

Name Lisa Henning

Job Title Legislative Director

Address 242 Office Plaza Dr

Phone 850-766-8808

Street

Tallahassee

FL

32301

City

State

Zip

Email lplegislative@aol.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Fraternal Order of Police

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

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

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

11.8.19  
Meeting Date

7061  
Bill Number (if applicable)

Topic Confirmation: Melinda Conrad

Amendment Barcode (if applicable)

Name Ken "cop-CHEN-ski" Kopczynski

Job Title lobbyist

Address 300 East Brevard St  
Street

Phone 222-3329

Tallah FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLA PBA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

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

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

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

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BILL: CS/SB 876

INTRODUCER: Criminal Justice Committee and Senator Powell

SUBJECT: Direct Filing of an Information

DATE: April 9, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Storch	Jones	CJ	<b>Fav/CS</b>
2.			ACJ	
3.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 876 requires the court to hold an evidentiary hearing to determine whether a child transferred to adult court pursuant to discretionary direct file should remain in adult court or be transferred back to juvenile court.

The bill provides that the purpose of the hearing is to determine whether it is necessary for the community's protection that the child is prosecuted in adult court. The bill requires the judge to conduct the hearing within 30 days of the filing of the information and consider a number of factors in making its determination regarding which court should have jurisdiction over the case.

The bill also provides that a child who has been transferred for prosecution as an adult pursuant to discretionary direct file cannot be held in a jail or other facility intended or used for the detention of adults prior to an evidentiary hearing required by the bill and a subsequent finding that the child should be prosecuted as an adult.

The bill also repeals all provisions relating to mandatory direct file, the process in which a state attorney is required to file an information charging a child in adult court.

The fiscal impact of the bill is indeterminate at this time. However, the bill requires the judge to consider a number of factors at the hearing, including evaluations and assessments completed by the Department of Juvenile Justice (DJJ). As a result, the DJJ may incur costs associated with

such documents. Additionally, the bill eliminates mandatory direct file, which may result in more children being held in the custody of the DJJ. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2019.

## **II. Present Situation:**

### **Transfer of a Child to Adult Court**

There are three methods of transferring a child to adult court for prosecution: judicial waiver,<sup>1</sup> indictment,<sup>2</sup> or direct filing an information.

#### ***Direct File***

Direct file describes the process whereby a state attorney files an information charging a child in adult court. Pursuant to s. 985.557, F.S., direct file can be either discretionary or mandatory and is accomplished exclusively by the state attorney without requiring the court's approval. Direct file is the predominant transfer method to adult court, accounting for 96.2 percent (870 children) of the transfers in FY 2017-18.<sup>3</sup>

#### **Discretionary Direct File**

Section 985.557(1), F.S., provides the state attorney with discretion to file a case in adult court for certain cases when he or she believes the offense requires that adult sanctions be considered or imposed. Specifically, the state attorney may direct file a child when he or she is:

- 14 or 15 years of age and is charged with the commission of, attempt to commit, or conspiracy to commit, one of the following felony offenses:
  - Arson;
  - Sexual battery;
  - Robbery;
  - Kidnapping;
  - Aggravated child abuse;
  - Aggravated assault;
  - Aggravated stalking;
  - Murder;
  - Manslaughter;
  - Unlawful throwing, placing, or discharging of a destructive device or bomb;
  - Armed burglary in violation of s. 810.02(2)(b), F.S.;
  - Burglary of a dwelling or structure in violation of s. 810.02(2)(c), F.S.;
  - Burglary with an assault or battery in violation of s. 810.02(2)(a), F.S.;
  - Aggravated battery;

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<sup>1</sup> Judicial waiver is the process in which a child or a state attorney may, or in some cases must, waive the jurisdiction of the juvenile courts and have the case transferred to adult court for prosecution. The three types of judicial waiver are voluntary, involuntary discretionary, and involuntary mandatory. *See* s. 985.556, F.S.

<sup>2</sup> A grand jury can indict a child of any age who is charged with an offense punishable by death or life imprisonment. Upon indictment, the child's case must be transferred to adult court for prosecution. *See* s. 985.56, F.S.

<sup>3</sup> SB 1260 (2019) addresses mandatory direct file and therefore, is similar to SB 876. *See* Department of Juvenile Justice, 2019 Legislative Bill Analysis for SB 1260, (March 13, 2019) (on file with the Senate Criminal Justice Committee).

- Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age;
- Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony;
- Grand theft in violation of s. 812.014(2)(a), F.S.;
- Possessing or discharging any weapon or firearm on school property in violation of s. 790.115, F.S.;
- Home invasion robbery;
- Carjacking;
- Grand theft of a motor vehicle in violation of s. 812.014(2)(c)6., F.S.; or
- Grand theft of a motor vehicle valued at \$20,000 or more in violation of s. 812.014(2)(b), F.S., if the child has a previous adjudication for grand theft of a motor vehicle in violation of s. 812.014(2)(c)6. or (2)(b), F.S.<sup>4</sup>
- 16 or 17 years of age and is charged with any felony offense;<sup>5</sup> or
- 16 or 17 years of age and is charged with a misdemeanor, provided the child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which was a felony.<sup>6</sup>

If a child who has been transferred to adult court pursuant to discretionary direct file is found to have committed a violation of state law or a lesser included offense for which he or she was charged as part of the criminal episode, the court may sentence the child as an adult, pursuant to ch. 958, F.S., or as a juvenile.<sup>7</sup>

#### Mandatory Direct File

Section 985.557(2), F.S., requires the state attorney to file a case in adult court when the child is:

- 16 or 17 years of age at the time of the alleged offense and:
  - Is charged with a second or subsequent violent crime against a person and has been previously adjudicated delinquent for an enumerated felony;<sup>8</sup>
  - Is charged with a forcible felony<sup>9</sup> and has been previously adjudicated delinquent or had adjudication withheld for three felonies that each occurred at least 45 days apart from each other;<sup>10</sup> or

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<sup>4</sup> Section 985.557(1)(a)1.-19., F.S.

<sup>5</sup> Section 985.557(1)(b), F.S.

<sup>6</sup> *Id.*

<sup>7</sup> Section 985.565(4)(a)2., F.S.

<sup>8</sup> The enumerated felonies include: murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault. *See* s. 985.557(2)(a), F.S.

<sup>9</sup> Section 776.08, F.S., defines “forcible felony” as treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the threat of physical force or violence against any individual.

<sup>10</sup> Section 985.557(2)(b), F.S., provides that this provision does not apply when the state attorney has good cause to believe that exceptional circumstances exist which preclude the just prosecution of the child in adult court.

- Is charged with committing or attempting to commit an offense listed in s. 775.087(2)1.a.-p., F.S.,<sup>11</sup> and during the commission of the offense the child actually possessed or discharged a firearm or destructive device;<sup>12</sup> or
- Any age and is alleged to have committed an act that involves stealing a vehicle in which the child, while possessing the vehicle, caused serious bodily injury or death to a person who was not involved in the underlying offense.

If the state attorney is required to direct file a child, the court must impose adult sanctions. Any sentence imposing adult sanctions is presumed appropriate and the court is not required to specify findings or criteria as the basis for its decision to impose such sanctions.<sup>13</sup>

Following the transfer of a child to adult court pursuant to direct file, the court must order the child to be delivered to a jail or other facility intended or used for the detention of adults.<sup>14</sup>

### III. Effect of Proposed Changes:

Current law does not permit the court to review a decision made by a state attorney to direct file a child. The bill requires the court to hold an evidentiary hearing to determine whether a child transferred to adult court pursuant to discretionary direct file should remain in adult court or be transferred back to juvenile court.

The purpose of the hearing is to determine whether it is necessary for the community's protection that the child is prosecuted in adult court. The bill requires the judge to conduct the hearing within 30 days of the filing of the information, excluding weekends and legal holidays, unless good cause is shown for a delay. The judge must consider all of the following:

- Evaluations and assessments completed by the DJJ;
- The sophistication and maturity of the child, including:
  - The effect, if any, of immaturity, impetuosity, or failure to appreciate risks and consequences on the child's participation in the alleged offense;
  - The child's age, maturity, intellectual capacity, and mental and emotional health at the time of the alleged offense; and
  - The effect, if any, of characteristics attributable to the child's youth on the child's judgment.

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<sup>11</sup> The offenses include murder; sexual battery; robbery; burglary; arson; aggravated battery; kidnapping; escape; aircraft piracy; aggravated child abuse; aggravated abuse of an elderly person or disabled adult; unlawful throwing, placing, or discharging of a destructive device or bomb; carjacking; home-invasion robbery; aggravated stalking; 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 any other violation of s. 893.135(1), F.S. Section 775.087(2)(a)1.a.-p., F.S.

<sup>12</sup> The terms "firearm" and "destructive device" are defined in s. 790.001, F.S.

<sup>13</sup> Section 985.565(4)(a)3. and 4., F.S.

<sup>14</sup> However, the court may not order or allow a child alleged to have committed a misdemeanor who is being transferred for criminal prosecution pursuant to direct file to be detained or held in a jail or other facility intended or used for the detention of adults. *See* s. 985.265(5), F.S.

- The record and history of the child, including:
  - Prior contacts with the DJJ, the Department of Corrections (DOC), the Department of Children and Families, other law enforcement agencies, or the courts;
  - Prior periods of probation;
  - Prior adjudications that the child committed a delinquent act or violation of law, with greater weight being given if the child has previously been found by a court to have committed a delinquent act or violation of law involving violence to persons;
  - Prior commitments to institutions of the DJJ, the DOC, or agencies under contract with either department;
  - History of trauma, abuse or neglect, foster care placements, failed adoption, fetal alcohol syndrome, exposure to controlled substances at birth, or below-average intellectual functioning; and
  - Identification of the child as a student requiring exceptional student education or having previously received psychological services.
- The nature of the alleged offense and the child's participation, including:
  - Whether the alleged offense is punishable by death or life imprisonment;
  - Whether the alleged offense was against persons or property;
  - Whether the alleged offense is alleged to have been committed in an aggressive, violent, or premeditated manner;
  - The extent of the child's alleged participation in the alleged offense; and
  - The effect, if any, of familial pressure or peer pressure on the child's actions.
- The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if the child is found to have committed the alleged offense:
  - By the use of procedures, services, and facilities currently available to the juvenile court; and
  - By the use or procedures, services, and facilities currently available to the adult court, including whether the lowest permissible sentence under the Criminal Punishment Code is a nonstate prison sanction.
- Whether the child could obtain habilitative or rehabilitative services available in the juvenile justice system;
- Whether the child could receive a sentence in juvenile court that would provide adequate safety and protection for the community; and
- Whether the child's best interests would be served by prosecuting the child in juvenile court.

The bill permits the judge to consider any reports, including prior pre-disposition reports, psycho-social assessments, individualized educational programs, developmental assessments, school records, abuse or neglect reports, home studies, protective investigations, or psychological or psychiatric evaluations, to assist him or her in reaching a decision of whether to keep the child in adult court. The bill provides the child, the child's parents or legal guardians, the child's defense counsel, and the state attorney with the right to examine such records and question the parties responsible for creating them at the hearing.

Unless the court finds by a preponderance of the evidence that consideration of the factors listed above support returning the child to juvenile court, the adult court will retain jurisdiction. The adult court must render an order including specific findings of fact and reasons for its decision. The prosecution and defense may seek immediate review of the order through interlocutory



appeal and the order is reviewable on appeal pursuant to the Florida Rules of Appellate Procedure.

Current law requires the court to order a child to be delivered to a jail or other facility intended or used for the detention of adults when he or she has been transferred to adult court pursuant to direct file. In contrast, the bill provides that a child who has been transferred for prosecution as an adult pursuant to discretionary direct file cannot be held in a jail or other facility intended or used for the detention of adults prior to an evidentiary hearing required by the bill and a subsequent finding that the child should be prosecuted as an adult.

The bill also repeals all provisions related to transferring a child to adult court pursuant to mandatory direct file. Further, the bill provides that conspiring to commit one of the enumerated offenses in s. 985.557(1)(a), F.S.,<sup>15</sup> would no longer render a child eligible for transfer to adult court pursuant to discretionary direct file.

Additionally, the bill requires that, in order to be eligible for discretionary direct file, a 16 or 17 year old who committed a misdemeanor must have two previous adjudications for delinquent acts, one of which was a felony. Therefore, such a child with adjudications withheld would no longer meet the criteria for transfer to adult court pursuant to discretionary direct file.

The bill is effective July 1, 2019.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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<sup>15</sup> *Supra*, n 4.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The fiscal impact of the bill is indeterminate at this time. The bill requires the court to hold an evidentiary hearing within 30 days of the filing of an information in adult court to determine whether the case should remain in adult court or be transferred back to juvenile court. As a result, such hearings required by the bill will likely result in additional costs incurred by the courts.

In making a determination as to whether to keep the child's case in adult court or transfer the case back to juvenile court, the bill requires the judge to consider evaluations and assessments completed by the DJJ. Currently, the DJJ does not provide evaluations and assessments, but rather provides recommendations to the court at the sentencing hearing upon request by the judge for such a recommendation.<sup>16</sup> At that point, the recommendations are limited to whether the court should impose adult or juvenile sanctions. In FY 2017-18, 870 children were transferred to adult court pursuant to direct file and thus, would have been eligible for a hearing required by the bill.<sup>17</sup> Therefore, the DJJ is likely to incur costs associated with the production of such evaluations and assessments required by the bill.

Additionally, the bill eliminates mandatory direct file as a method of transferring a child to adult court for prosecution. However, it is likely that a child who would have been eligible for mandatory direct file would meet the criteria for discretionary direct file or judicial waiver. Nonetheless, the repeal of mandatory direct file may result in fewer children being transferred to adult court, which would leave them in the custody of the DJJ. In light of this, the DJJ may incur costs associated with an increase in the number of the children in its custody.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>16</sup> Section 985.565(3)(a), F.S.

<sup>17</sup> *Supra*, n 3.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 985.265, 985.557, and 985.565.

The bill reenacts the following sections of the Florida Statutes: 985.15, 985.26, and 985.556.

**IX. Additional Information:**

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

**CS by Criminal Justice on April 8, 2019:**

The Committee Substitute:

- Provides that conspiring to commit one of the enumerated offenses in s. 985.557(1)(a), F.S., would no longer render a child eligible for transfer to adult court pursuant to discretionary direct file;
- Requires the court to hold an evidentiary hearing within 30 days of the filing of an information in adult court to determine whether the child should remain in adult court or rather, be transferred back to juvenile court;
- Requires the judge to consider a number of factors in making a decision as to where the child should be tried;
- Repeals all provisions related to transferring a child to adult court pursuant to mandatory direct file; and
- Provides that a child who has been transferred to adult court for prosecution cannot be held in a jail or other facility intended or used for the detention of adults prior to the evidentiary hearing required by the bill.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2019	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsections (1) and (2) of section 985.557,  
Florida Statutes, are amended 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



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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, or attempt to commit any of the following ~~, 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.+



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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).

(b) With respect to any child who was 16 or 17 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. However, the state attorney may not file an information on a child charged with a misdemeanor, unless the child has had at least two previous adjudications ~~or adjudications withheld~~ for delinquent acts, one of which involved an offense classified as a felony under state law.

(2) DUE PROCESS HEARING BEFORE A JUDGE.—Notwithstanding any other law, and in all cases, any child charged with a crime shall have an evidentiary hearing, after the state attorney's filing of an information in adult court under this section.

(a) The judge shall conduct the hearing within 30 days, excluding Saturdays, Sundays, and legal holidays, unless good cause is shown for a delay by the child or the child's attorney. The purpose of the hearing is for the court to determine whether it is necessary for protection of the community that the child is prosecuted in adult court. The judge shall consider:

1. Evaluations and assessments completed by the department.
2. The sophistication and maturity of the child, including:



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69        a. The effect, if any, of immaturity, impetuosity, or  
70 failure to appreciate risks and consequences on the child's  
71 participation in the alleged offense.

72        b. The child's age, maturity, intellectual capacity, and  
73 mental and emotional health at the time of the alleged offense.

74        c. The effect, if any, of characteristics attributable to  
75 the child's youth on the child's judgment.

76        3. The record and previous history of the child, including:

77        a. Previous contacts with the department, the Department of  
78 Corrections, the Department of Children and Families, other law  
79 enforcement agencies, and the courts.

80        b. Prior periods of probation.

81        c. Prior adjudications that the child committed a  
82 delinquent act or violation of law, with greater weight being  
83 given if the child has previously been found by a court to have  
84 committed a delinquent act or violation of law involving  
85 violence to persons.

86        d. Prior commitments to institutions of the department, the  
87 Department of Corrections, or agencies under contract with  
88 either department.

89        e. History of trauma, abuse or neglect, foster care  
90 placements, failed adoption, fetal alcohol syndrome, exposure to  
91 controlled substances at birth, and below-average intellectual  
92 functioning.

93        f. Identification of the child as a student requiring  
94 exceptional student education or having previously received  
95 psychological services.

96        4. The nature of the alleged offense and the child's  
97 participation, including:





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a. Whether the alleged offense is punishable by death or life imprisonment.

b. Whether the alleged offense was against persons or property.

c. Whether the alleged offense is alleged to have been committed in an aggressive, violent, or premeditated manner.

d. The extent of the child's participation in the alleged offense.

e. The effect, if any, of familial pressure or peer pressure on the child's actions.

5. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if the child is found to have committed the alleged offense:

a. By the use of procedures, services, and facilities currently available to the juvenile court.

b. By the use of procedures, services, and facilities currently available to the adult court, including whether the lowest permissible sentence under the Criminal Punishment Code is a nonstate prison sanction.

6. Whether the child could obtain habilitative or rehabilitative services available in the juvenile justice system.

7. Whether the child could receive a sentence in juvenile court that would provide adequate safety and protection for the community.

8. Whether the child's best interests would be served by prosecuting the child in juvenile court.

(b) The judge may consider any reports that may assist the court, including prior pre-disposition reports, psycho-social



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assessments, individualized educational programs (IEPs),  
developmental assessments, school records, abuse or neglect  
reports, home studies, protective investigations, and  
psychological and psychiatric evaluations. The child, the  
child's parents or legal guardians, defense counsel, and the  
state attorney may examine these reports and question the  
parties responsible for creating them at the hearing.

(c) The adult court shall retain jurisdiction unless the  
court finds by a preponderance of the evidence that the factors  
listed in paragraph (a) support returning the child to juvenile  
court.

(d) The adult court shall render an order including  
specific findings of fact and the reasons for its decision. The  
prosecution and defense may seek immediate review of the order  
through interlocutory appeal. The order shall be reviewable on  
appeal under the Florida Rules of Appellate Procedure.

~~(2) MANDATORY DIRECT FILE.—~~

~~(a) With respect to any child who was 16 or 17 years of age~~  
~~at the time the alleged offense was committed, the state~~  
~~attorney shall file an information if the child has been~~  
~~previously adjudicated delinquent for an act classified as a~~  
~~felony, which adjudication was for the commission of, attempt to~~  
~~commit, or conspiracy to commit murder, sexual battery, armed or~~  
~~strong-armed robbery, carjacking, home-invasion robbery,~~  
~~aggravated battery, or aggravated assault, and the child is~~  
~~currently charged with a second or subsequent violent crime~~  
~~against a person.~~

~~(b) With respect to any child 16 or 17 years of age at the~~  
~~time an offense classified as a forcible felony, as defined in~~



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~~s. 776.08, was committed, the state attorney shall file an information if the child has previously been adjudicated delinquent or had adjudication withheld for three acts classified as felonies each of which occurred at least 45 days apart from each other. This paragraph does not apply when the state attorney has good cause to believe that exceptional circumstances exist which preclude the just prosecution of the juvenile in adult court.~~

~~(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.~~

~~(d)1. With respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, the state attorney shall file an information if the child has been charged~~



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~~with committing or attempting to commit an offense listed in s. 775.087(2)(a)1.a.-p., and, during the commission of or attempt to commit the offense, the child:~~

~~a. Actually possessed a firearm or destructive device, as those terms are defined in s. 790.001.~~

~~b. Discharged a firearm or destructive device, as described in s. 775.087(2)(a)2.~~

~~c. Discharged a firearm or destructive device, as described in s. 775.087(2)(a)3., and, as a result of the discharge, death or great bodily harm was inflicted upon any person.~~

~~2. Upon transfer, any child who is:~~

~~a. Charged under sub-subparagraph 1.a. and who has been previously adjudicated or had adjudication withheld for a forcible felony offense or any offense involving a firearm, or who has been previously placed in a residential commitment program, shall be subject to sentencing under s. 775.087(2)(a), notwithstanding s. 985.565.~~

~~b. Charged under sub-subparagraph 1.b. or sub-subparagraph 1.c., shall be subject to sentencing under s. 775.087(2)(a), notwithstanding s. 985.565.~~

~~3. Upon transfer, any child who is charged under this paragraph, but who does not meet the requirements specified in subparagraph 2., shall be sentenced under s. 985.565; however, if the court imposes a juvenile sanction, the court must commit the child to a high-risk or maximum-risk juvenile facility.~~

~~4. This paragraph shall not apply if the state attorney has good cause to believe that exceptional circumstances exist that preclude the just prosecution of the child in adult court.~~

~~5. The Department of Corrections shall make every~~



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~~reasonable effort to ensure that any child 16 or 17 years of age who is convicted and sentenced under this paragraph be completely separated such that there is no physical contact with adult offenders in the facility, to the extent that it is consistent with chapter 958.~~

Section 2. Subsection (5) of section 985.265, Florida Statutes, is amended to read

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

(5) The court shall order the delivery of a child to a jail or other facility intended or used for the detention of adults:

(a) When the child has been transferred or indicted for criminal prosecution as an adult under part X, except that:

1. The court may not order or allow a child alleged to have committed a misdemeanor who is being transferred for criminal prosecution pursuant to either s. 985.556 or s. 985.557 to be detained or held in a jail or other facility intended or used for the detention of adults; however, such child may be held temporarily in a detention facility; or

2. A child who has been transferred for criminal prosecution as an adult pursuant to s. 985.557 shall not be held in a jail or other facility intended or used for the detention of adults prior to a court finding as a result of a hearing provided for in s. 985.557(2) that the child should be prosecuted as an adult; or

(b) When a child taken into custody in this state is wanted by another jurisdiction for prosecution as an adult.

The child shall be housed separately from adult inmates to



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prohibit a child from having regular contact with incarcerated adults, including trustees. "Regular contact" means sight and sound contact. Separation of children from adults shall permit no more than haphazard or accidental contact. The receiving jail or other facility shall contain a separate section for children and shall have an adequate staff to supervise and monitor the child's activities at all times. Supervision and monitoring of children includes physical observation and documented checks by jail or receiving facility supervisory personnel at intervals not to exceed 10 minutes. This subsection does not prohibit placing two or more children in the same cell. Under no circumstances shall a child be placed in the same cell with an adult.

Section 3. Paragraphs (a) and (b) of subsection (4) of section 985.565, Florida Statutes, are amended to read

985.565 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.—

(4) SENTENCING ALTERNATIVES.—

(a) *Adult sanctions*.—

1. Cases prosecuted on indictment.—If the child is found to have committed the offense punishable by death or life imprisonment, the child shall be sentenced as an adult. If the juvenile is not found to have committed the indictable offense but is found to have committed a lesser included offense or any other offense for which he or she was indicted as a part of the criminal episode, the court may sentence as follows:

a. As an adult;

b. Under chapter 958; or

c. As a juvenile under this section.



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2. Other cases.—If a child who has been transferred for criminal prosecution pursuant to information or waiver of juvenile court jurisdiction is found to have committed a violation of state law or a lesser included offense for which he or she was charged as a part of the criminal episode, the court may sentence as follows:

- a. As an adult;
- b. Under chapter 958; or
- c. As a juvenile under this section.

3. Notwithstanding any other provision to the contrary, if the state attorney is required to file a motion to transfer and certify the juvenile for prosecution as an adult under s. 985.556(3) and that motion is granted, ~~or if the state attorney is required to file an information under s. 985.557(2)(a) or (b)~~, the court must impose adult sanctions.

4. Any sentence imposing adult sanctions is presumed appropriate, and the court is not required to set forth specific findings or enumerate the criteria in this subsection as any basis for its decision to impose adult sanctions.

5. When a child has been transferred for criminal prosecution as an adult and has been found to have committed a violation of state law, the disposition of the case may include the enforcement of any restitution ordered in any juvenile proceeding.

(b) *Juvenile sanctions*.—For juveniles transferred to adult court but who do not qualify for such transfer under s. 985.556(3) ~~or s. 985.557(2)(a) or (b)~~, the court may impose juvenile sanctions under this paragraph. If juvenile sentences are imposed, the court shall, under this paragraph, adjudge the





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child to have committed a delinquent act. Adjudication of delinquency shall not be deemed a conviction, nor shall it operate to impose any of the civil disabilities ordinarily resulting from a conviction. The court shall impose an adult sanction or a juvenile sanction and may not sentence the child to a combination of adult and juvenile punishments. An adult sanction or a juvenile sanction may include enforcement of an order of restitution or probation previously ordered in any juvenile proceeding. However, if the court imposes a juvenile sanction and the department determines that the sanction is unsuitable for the child, the department shall return custody of the child to the sentencing court for further proceedings, including the imposition of adult sanctions. Upon adjudicating a child delinquent under subsection (1), the court may:

1. Place the child in a probation program under the supervision of the department for an indeterminate period of time until the child reaches the age of 19 years or sooner if discharged by order of the court.

2. Commit the child to the department for treatment in an appropriate program for children for an indeterminate period of time until the child is 21 or sooner if discharged by the department. The department shall notify the court of its intent to discharge no later than 14 days prior to discharge. Failure of the court to timely respond to the department's notice shall be considered approval for discharge.

3. Order disposition under ss. 985.435, 985.437, 985.439, 985.441, 985.45, and 985.455 as an alternative to youthful offender or adult sentencing if the court determines not to impose youthful offender or adult sanctions.



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It is the intent of the Legislature that the criteria and guidelines in this subsection are mandatory and that a determination of disposition under this subsection is subject to the right of the child to appellate review under s. 985.534.

Section 4. 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 direct filing of an information;  
amending s. 985.557, F.S.; deleting references to the  
state attorney's discretion to direct file a juvenile;  
revising discretionary direct file criteria; deleting  
provisions for mandatory direct file; providing for an  
opportunity for a hearing to reverse a direct file;  
amending s. 985.265, F.S.; revising provisions  
concerning the housing of children held in detention;  
prohibiting a child who has been transferred to adult  
court for criminal prosecution pursuant to direct file  
from being held in a jail or other facility used for  
the detention of adults prior to a hearing to  
determine if the child should remain in adult court;  
amending s. 985.565, F.S.; conforming provisions to  
changes made by the act; providing an effective date.

By Senator Powell

30-00879-19

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1 A bill to be entitled  
 2 An act relating to juvenile justice; amending s.  
 3 985.557, F.S.; authorizing a child transferred to  
 4 adult court under certain provisions, or the child's  
 5 defense counsel, to request in writing a hearing for a  
 6 certain determination; requiring a judge to conduct  
 7 the hearing within a certain timeframe after the  
 8 filing of the request; providing an exception;  
 9 requiring the judge to consider specified factors;  
 10 authorizing the judge to consider specified records;  
 11 providing for the right of specified persons at the  
 12 hearing to examine the records and question the  
 13 persons who created the records; requiring the adult  
 14 court to retain jurisdiction unless the court finds by  
 15 a preponderance of the evidence that certain factors  
 16 support returning the child to juvenile court;  
 17 requiring the adult court to render an order on its  
 18 decision; providing for review on appeal; providing an  
 19 effective date.  
 20  
 21 Be It Enacted by the Legislature of the State of Florida:  
 22  
 23 Section 1. Section 985.557, Florida Statutes, is amended to  
 24 read:  
 25 985.557 Direct filing of an information; discretionary and  
 26 mandatory criteria.—  
 27 (1) DISCRETIONARY DIRECT FILE.—  
 28 (a) With respect to any child who was 14 or 15 years of age  
 29 at the time the alleged offense was committed, the state

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

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30 attorney may file an information when in the state attorney's  
 31 judgment and discretion the public interest requires that adult  
 32 sanctions be considered or imposed and when the offense charged  
 33 is for the commission of, attempt to commit, or conspiracy to  
 34 commit any of the following:  
 35 1. Arson.+  
 36 2. Sexual battery.+  
 37 3. Robbery.+  
 38 4. Kidnapping.+  
 39 5. Aggravated child abuse.+  
 40 6. Aggravated assault.+  
 41 7. Aggravated stalking.+  
 42 8. Murder.+  
 43 9. Manslaughter.+  
 44 10. Unlawful throwing, placing, or discharging of a  
 45 destructive device or bomb.+  
 46 11. Armed burglary in violation of s. 810.02(2)(b) or  
 47 specified burglary of a dwelling or structure in violation of s.  
 48 810.02(2)(c), or burglary with an assault or battery in  
 49 violation of s. 810.02(2)(a).+  
 50 12. Aggravated battery.+  
 51 13. Any lewd or lascivious offense committed upon or in the  
 52 presence of a person less than 16 years of age.+  
 53 14. Carrying, displaying, using, threatening, or attempting  
 54 to use a weapon or firearm during the commission of a felony.+  
 55 15. Grand theft in violation of s. 812.014(2)(a).+  
 56 16. Possessing or discharging any weapon or firearm on  
 57 school property in violation of s. 790.115.+  
 58 17. Home invasion robbery.+

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

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18. Carjacking.~~7-08~~

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).

(b) With respect to any child who was 16 or 17 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. However, the state attorney may not file an information on a child charged with a misdemeanor, unless the child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which involved an offense classified as a felony under state law.

(2) MANDATORY DIRECT FILE.—

(a) With respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, the state attorney shall file an information if the child has been previously adjudicated delinquent for an act classified as a felony, which adjudication was for the commission of, attempt to commit, or conspiracy to commit murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault, and the child is currently charged with a second or subsequent violent crime against a person.

(b) With respect to any child 16 or 17 years of age at the time an offense classified as a forcible felony, as defined in

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s. 776.08, was committed, the state attorney shall file an information if the child has previously been adjudicated delinquent or had adjudication withheld for three acts classified as felonies each of which occurred at least 45 days apart from each other. This paragraph does not apply when the state attorney has good cause to believe that exceptional circumstances exist which preclude the just prosecution of the juvenile in adult court.

(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.

(d)1. With respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, the state attorney shall file an information if the child has been charged

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117 with committing or attempting to commit an offense listed in s.  
 118 775.087(2)(a)1.a.-p., and, during the commission of or attempt  
 119 to commit the offense, the child:

120 a. Actually possessed a firearm or destructive device, as  
 121 those terms are defined in s. 790.001.

122 b. Discharged a firearm or destructive device, as described  
 123 in s. 775.087(2)(a)2.

124 c. Discharged a firearm or destructive device, as described  
 125 in s. 775.087(2)(a)3., and, as a result of the discharge, death  
 126 or great bodily harm was inflicted upon any person.

127 2. Upon transfer, any child who is:

128 a. Charged under sub-subparagraph 1.a. and who has been  
 129 previously adjudicated or had adjudication withheld for a  
 130 forcible felony offense or any offense involving a firearm, or  
 131 who has been previously placed in a residential commitment  
 132 program, shall be subject to sentencing under s. 775.087(2)(a),  
 133 notwithstanding s. 985.565.

134 b. Charged under sub-subparagraph 1.b. or sub-subparagraph  
 135 1.c., shall be subject to sentencing under s. 775.087(2)(a),  
 136 notwithstanding s. 985.565.

137 3. Upon transfer, any child who is charged under this  
 138 paragraph, but who does not meet the requirements specified in  
 139 subparagraph 2., shall be sentenced under s. 985.565; however,  
 140 if the court imposes a juvenile sanction, the court must commit  
 141 the child to a high-risk or maximum-risk juvenile facility.

142 4. This paragraph shall not apply if the state attorney has  
 143 good cause to believe that exceptional circumstances exist that  
 144 preclude the just prosecution of the child in adult court.

145 5. The Department of Corrections shall make every

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146 reasonable effort to ensure that any child 16 or 17 years of age  
 147 who is convicted and sentenced under this paragraph be  
 148 completely separated such that there is no physical contact with  
 149 adult offenders in the facility, to the extent that it is  
 150 consistent with chapter 958.

151 (3) EFFECT OF DIRECT FILE.—

152 (a) Once a child has been transferred for criminal  
 153 prosecution pursuant to an information and has been found to  
 154 have committed the presenting offense or a lesser included  
 155 offense, the child shall be handled thereafter in every respect  
 156 as if an adult for any subsequent violation of state law, unless  
 157 the court imposes juvenile sanctions under s. 985.565.

158 (b) When a child is transferred for criminal prosecution as  
 159 an adult, the court shall immediately transfer and certify to  
 160 the adult circuit court all felony cases pertaining to the  
 161 child, for prosecution of the child as an adult, which have not  
 162 yet resulted in a plea of guilty or nolo contendere or in which  
 163 a finding of guilt has not been made. If a child is acquitted of  
 164 all charged offenses or lesser included offenses contained in  
 165 the original case transferred to adult court, all felony cases  
 166 that were transferred to adult court as a result of this  
 167 paragraph shall be subject to the same penalties to which such  
 168 cases would have been subject before being transferred to adult  
 169 court.

170 (c) When a child has been transferred for criminal  
 171 prosecution as an adult and has been found to have committed a  
 172 violation of state law, the disposition of the case may be made  
 173 under s. 985.565 and may include the enforcement of any  
 174 restitution ordered in any juvenile proceeding.

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(4) CHARGES INCLUDED ON INFORMATION.—An information filed pursuant to this section may include all charges that are based on the same act, criminal episode, or transaction as the primary offenses.

(5) HEARING BEFORE JUDGE.—A child who is transferred to adult court under this section or s. 985.56, or the child's defense counsel, may request in writing a hearing to determine whether the child must remain in adult court.

(a) The judge shall conduct the hearing within 30 days, excluding weekends and legal holidays, after the filing of the request, unless good cause is shown for a delay. The purpose of the hearing is for the court to determine whether it is necessary for protection of the community that the child is prosecuted in adult court. The judge shall consider all of the following:

1. The recommendation of the department, through review and consideration of the recommendations of the department's caseworker.

2. The sophistication and maturity of the child, including:

a. The effect, if any, of immaturity, impetuosity, or failure to appreciate risks and consequences on the child's participation in the offense.

b. The child's age, maturity, intellectual capacity, and mental and emotional health at the time of the offense.

c. The effect, if any, of characteristics attributable to the child's youth on the child's judgment.

3. The record and history of the child, including:

a. Prior contacts with the department, the Department of Corrections, the Department of Children and Families, other law

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

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enforcement agencies, or the courts.

b. Prior periods of probation.

c. Prior adjudications that the child committed a delinquent act or violation of law, with greater weight being given if the child has previously been found by a court to have committed a delinquent act or violation of law involving violence to persons.

d. Prior commitments to institutions of the department, the Department of Corrections, or agencies under contract with either department.

e. Patterns of criminality or patterns of escalation.

f. History of trauma, abuse or neglect, foster care placements, failed adoption, fetal alcohol syndrome, exposure to controlled substances at birth, or below-average intellectual functioning.

g. Identification of the child as a student requiring exceptional student education or having previously received psychological services.

h. Whether the child has previously been convicted and sentenced as an adult.

4. The nature of the alleged offense and the child's participation, including:

a. Whether the offense is punishable by death or life imprisonment.

b. Whether the offense was against persons or property.

c. Whether the offense is alleged to have been committed in an aggressive, violent, or premeditated manner.

d. The extent of the child's alleged participation in the offense.

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233 e. The effect, if any, of familial pressure or peer  
 234 pressure on the child's actions.  
 235 5. The prospects for adequate protection of the public and  
 236 the likelihood of reasonable rehabilitation of the child, if the  
 237 child is found to have committed the alleged offense:  
 238 a. By the use of procedures, services, and facilities  
 239 currently available to the juvenile court.  
 240 b. By the use of procedures, services, and facilities  
 241 currently available to the adult court, including whether the  
 242 lowest permissible sentence under the Criminal Punishment Code  
 243 is a nonstate prison sanction.  
 244 6. Cost-effective alternatives available to divert the  
 245 child from the criminal justice system and the juvenile justice  
 246 system and offer rehabilitative services for the child.  
 247 7. Whether the child could obtain habilitative or  
 248 rehabilitative services available in the juvenile justice  
 249 system.  
 250 8. Whether the child could receive a sentence in juvenile  
 251 court that would provide adequate safety and protection for the  
 252 community.  
 253 9. Whether the child's best interests would be served by  
 254 prosecuting the child in juvenile court.  
 255 (b) The judge may consider any reports that may assist him  
 256 or her, including prior pre-disposition reports, psycho-social  
 257 assessments, individualized educational programs, developmental  
 258 assessments, school records, abuse or neglect reports, home  
 259 studies, protective investigations, or psychological or  
 260 psychiatric evaluations. The child, the child's parents or legal  
 261 guardians, the child's defense counsel, and the state attorney

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262 have the right to examine these records and to question the  
 263 parties responsible for creating them at the hearing.  
 264 (c) The adult court shall retain jurisdiction unless the  
 265 court finds by a preponderance of the evidence that the factors  
 266 listed in subsection (a) support returning the child to juvenile  
 267 court.  
 268 (d) The adult court shall render an order including  
 269 specific findings of fact and the reasons for its decision. The  
 270 order is reviewable on appeal under s. 985.534 and the Florida  
 271 Rules of Appellate Procedure.  
 272 Section 2. This act shall take effect July 1, 2019.

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



## 2019 AGENCY LEGISLATIVE BILL ANALYSIS

**AGENCY: Department of Juvenile Justice**

### BILL INFORMATION

<b>BILL NUMBER:</b>	SB 1260
<b>BILL TITLE:</b>	Mandatory Direct File
<b>BILL SPONSOR:</b>	Senator Wright
<b>EFFECTIVE DATE:</b>	July 1, 2019

### COMMITTEES OF REFERENCE

1) Criminal Justice
2) Judiciary
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

### CURRENT COMMITTEE

Criminal Justice
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### SIMILAR BILLS

<b>BILL NUMBER:</b>	SB 850
<b>SPONSOR:</b>	Senator Powell

### PREVIOUS LEGISLATION

<b>BILL NUMBER:</b>	SB 392
<b>SPONSOR:</b>	Senator Bracy
<b>YEAR:</b>	2018
<b>LAST ACTION:</b>	Died in committee

### IDENTICAL BILLS

<b>BILL NUMBER:</b>	HB 6051
<b>SPONSOR:</b>	Rep. Sirois

### **Is this bill part of an agency package?**

No

### BILL ANALYSIS INFORMATION

<b>DATE OF ANALYSIS:</b>	3.13.19 for more information please contact Rachel Moscoso, Legislative Affairs Director, (850) 717-2716
<b>LEAD AGENCY ANALYST:</b>	Sam Kerce, Deputy Legislative Affairs Director
<b>ADDITIONAL ANALYST(S):</b>	Sherry Jackson, Research and Data
<b>LEGAL ANALYST:</b>	John Mila, Asst. General Counsel
<b>FISCAL ANALYST:</b>	Click or tap here to enter text.



## POLICY ANALYSIS

### 1. EXECUTIVE SUMMARY

This bill removes language related to the process of mandatory direct file. Effective Date: July 1, 2019

### 2. SUBSTANTIVE BILL ANALYSIS

#### 1. PRESENT SITUATION:

##### Methods of Transfer (FY 2017-18):

1. Voluntary: .3% of youth (3 youth)
2. Direct file: 96.2% (870 youth)
3. Involuntary waiver: 2.4% (22 youth)
4. Indictment: 1% (9 youth)

“Direct file” is by far the most common means of transfer, accounting for more 98% of transfers over the past 5 years (96.2% in FY 2017-18).

The various methods of transfer are distinct, and recognizing their differences is critical.

**INDICTMENT:** The narrowest form of transfer, it applies to children of any age who are accused of committing an offense for which an adult could receive death or life imprisonment. The decision to seek indictment rests entirely with the state attorney. Over the past 5 years, there has only been an average of 7 cases per year.

**VOLUNTARY WAIVER:** A child of any age charged with any offense can voluntarily transfer his or her case to adult court; it is rare and only applied to 3 youth in the last fiscal year.

**INVOLUNTARY DISCRETIONARY WAIVER:** Any child 14 years of age or older at the time of any offense may be subject to involuntary waiver where the state attorney files information with the court requesting transfer and the judge must review and either approve or deny the transfer.

**INVOLUNTARY MANDATORY WAIVER:** When a youth meets certain requirements under this section a state attorney must put in a request to the court to transfer the youth for adult prosecution or the state attorney must provide written reason to the court as to why the youth should not be transferred. If the state attorney does request transfer, then a judge must review and approve or deny the transfer. Criteria are:

- a. The child was 14 years of age or older and has previously been adjudicated delinquent for a felony offense for commission, attempt to commit, or conspiracy to commit murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, aggravated assault, or burglary with an assault or battery, and the youth is currently charged with a second violent crime.
- b. The youth is 14 years of age or older at the time of commission of a fourth alleged felony and the child was previously adjudicated delinquent or adjudicated withheld for three offenses that are felony offenses if committed by an adult, and at least one of those felony offenses involved the use of a firearm or violence against a person.

**DISCRETIONARY DIRECT FILE:** Unlike waiver, which requires the participation and approval of the court, discretionary direct file is accomplished exclusively by the state attorney. Discretionary direct file is extremely broad, and comes in two forms, depending upon the youth’s age at the time of the offense. For 14- or 15-year-olds, a wide range of violent or serious felony offenses are subject to direct file, including arson, sexual battery, robbery, aggravated assault / battery, most forms of first-degree burglary, lewd or lascivious offenses, first-degree grand theft, home invasion, carjacking, carrying a weapon or firearm during the commission of a felony, and a second grand theft of a motor vehicle. A 16- or 17-year-old may be direct filed for any felony offense, or a misdemeanor if the youth has at least two previous adjudications or withholds, at least one of which involved a felony. Under Discretionary Direct File a state attorney only needs to file information to transfer the youth to adult court. A judge or court is not involved in this decision.

**MANDATORY DIRECT FILE:** When a youth meets certain requirements under this section a state attorney must file information to transfer the youth to adult court unless the state attorney has good cause to believe that exceptional circumstances exist that preclude the youth’s prosecution in adult court. Criteria are:

- A 16 or 17-year-old with a prior adjudication for a felony. Those felonies include attempted murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, aggravated assault. The child must also be charged with a second or subsequent violent crime against a person.
- A 16 or 17-year-old who has been charged for a "forcible felony" and has had three previous felony adjudications delinquent or withheld, each of which must have occurred 45 days apart. The State attorney can decide not to transfer in this case.
- Information must be filed regardless of age if a child steals a car and causes serious bodily injury or death to a person who was not involved in the underlying crime.
- Information must be filed if a youth is charged with one of the following offenses and while committing this offense they possessed or discharged a firearm: Murder, sexual battery, robbery, burglary, arson, aggravated battery, kidnapping, escape, aircraft piracy, aggravated child abuse, aggravated abuse of an elderly person or disabled adult, unlawful throwing/placing/discharging of a destructive device or bomb, carjacking, aggravated stalking, various types of drug trafficking, and possession of a firearm by a felon.

The following chart addresses **only the discretionary forms of these transfers**. The mandatory forms of waiver and direct file are narrowly prescriptive, and depend upon a combination of the youth's age, presenting offense and delinquency history which are hard to capture in the below chart.

Method of Transfer	Exclusive SA Discretion?	Age	Offense
Indictment	Yes	Any	Capital or punishable by life (if adult)
Involuntary Discretionary Waiver	No	14+	Any
Discretionary Direct File	Yes	14-15	Violent or serious felony
		16-17	Any felony (or misdemeanors with priors)
Waiver (Voluntary)	N/A	Any	Any

\*\*State attorney is abbreviated SA in the above table.

The method of transfer is significant because it impacts the type of sentence that may be imposed by the adult court. A 16- or 17-year-old who receives a mandatory direct file under section 985.557(2)(a) or (2)(b), F.S., (emphasized above) must receive adult sanctions under section 985.565(4)(a)3., F.S.

## 2. EFFECT OF THE BILL:

### Section 1:

The bill strikes subsection (2) of s. 985.557, F.S., which relates to mandatory direct file. If this bill were to become law, no youth could be mandatory direct filed. Youth would still be eligible for discretionary direct file, waiver, or indictment.

### Section 2:

The bill removes references to mandatory direct file in s. 985.565, F.S. that relate to the sentencing of youth.

### Section 3:

Provides for an implementation date of July 1, 2019.

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

If yes, explain:	Click or tap here to enter text.
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

**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:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

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

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

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

Revenues:	Click or tap here to enter text.
Expenditures:	Fiscal impact is indeterminate. Any additional youth that come into contact with the Department and spend time in secure detention will add to the cost of detention which is split with non-fiscally constrained counties in accordance with Detention Cost Share.
Does the legislation increase local taxes or fees? If yes, explain.	No.
If yes, does the legislation provide for a local referendum or local governing body public vote	Click or tap here to enter text.

prior to implementation of the tax or fee increase?	
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**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?**Y ☒ N ☐

Revenues:	Click or tap here to enter text.
Expenditures:	Fiscal impact is indeterminate.  In FY 2017-18, 302, or 33% of youth that were transferred to adult court met the criteria for mandatory direct file. Under the bill, these youth would still be eligible for discretionary direct file, waiver, or indictment. The Department cannot predict how state attorneys or judges might decide to handle these cases.
Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	Click or tap here to enter text.

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

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Other:	Click or tap here to enter text.

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

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

**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.	Click or tap here to enter text.
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**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.	Click or tap here to enter text.
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**ADDITIONAL COMMENTS**

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**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

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Issues/concerns/comments:	Click or tap here to enter text.
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## 2019 AGENCY LEGISLATIVE BILL ANALYSIS

### AGENCY: Department of Juvenile Justice

#### BILL INFORMATION

<b>BILL NUMBER:</b>	SB 876
<b>BILL TITLE:</b>	Juvenile Justice
<b>BILL SPONSOR:</b>	Senator Powell
<b>EFFECTIVE DATE:</b>	July 1, 2019

#### COMMITTEES OF REFERENCE

1) Criminal Justice
2) Criminal & Civil Justice Appropriations Subcommittee
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

#### CURRENT COMMITTEE

Criminal Justice
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#### SIMILAR BILLS

<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.

#### PREVIOUS LEGISLATION

<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.
<b>YEAR:</b>	Click or tap here to enter text.
<b>LAST ACTION:</b>	Click or tap here to enter text.

#### IDENTICAL BILLS

<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.

#### **Is this bill part of an agency package?**

No

#### BILL ANALYSIS INFORMATION

<b>DATE OF ANALYSIS:</b>	2.19.19
<b>LEAD AGENCY ANALYST:</b>	Rachel Moscoso, Legislative Affairs Director, (850) 717-2716
<b>ADDITIONAL ANALYST(S):</b>	Sam Kerce, Deputy Legislative Affairs Director
<b>LEGAL ANALYST:</b>	John Mila, Asst. General Counsel
<b>FISCAL ANALYST:</b>	Marti Harness, Chief of Budget

## POLICY ANALYSIS

### 1. EXECUTIVE SUMMARY

Creates a process where a child who is transferred to adult court, or their defense attorney, can request a hearing in front a judge who will decide if the youth should proceed in adult court. The judge is given a list of factors and assessments to consider when deciding what is in the best interest of public safety.

### 2. SUBSTANTIVE BILL ANALYSIS

#### 1. **PRESENT SITUATION:**

Currently, when a youth is transferred to adult court through indictment, discretionary direct file or mandatory direct file, a judge does not have the authority to weigh in and approve or disapprove of these transfers. Instead the judge must hear the case as it was filed by the state attorney. Currently, the Department does not provide assessments or recommendations on these youth until *after* they have been sentenced. At which point a judge may request a recommendation from the Department as to whether the youth should be given adult sanctions or juvenile sanctions. This adult sentencing recommendation by the Department typically consist of a comprehensive evaluation and commitment staffing to develop the recommendation.

#### 2. **EFFECT OF THE BILL:**

##### Section 1:

The bill creates s. 985.557(5), F.S., to define a process where a youth who is direct filed can request a hearing in front of an adult court judge who will decide if the youth should proceed in adult court or be sent back to juvenile court. When determining if a youth should remain in adult court, the judge shall conduct the hearing within 30 days, excluding weekends and holidays, after the filing of the request by the child or the child's defense counsel. The hearing can be delayed if good cause is shown. The hearing should determine whether it is necessary for protection of the community that the child is prosecuted in adult court. The judge will need to consider the following:

- 1) The recommendation of the Department, through review and consideration of the recommendations of the Department's caseworker.
- 2) The sophistication and maturity of the child, including:
  - a) The effect, if any, of immaturity, impetuosity, or failure to appreciate risks and consequences on the child's participation in the offense.
  - b) The child's age, maturity, intellectual capacity, and mental and emotional health at the time of the offense.
  - c) The effect, if any, of characteristics attributable to the child's youth on the child's judgment.
- 3) The record and history of the child, including:
  - a) Prior contacts with the Department, the Department of Corrections, the Department of Children and Families, other law enforcement agencies, or the courts.
  - b) Prior periods of probation.
  - c) Prior adjudications that the child committed a delinquent act or violation of law, with greater weight being given if the child has previously been found by a court to have committed a delinquent act or violation of law involving violence to persons.
  - d) Prior commitments to institutions of the Department, the Department of Corrections, or agencies under contract with either Department.
  - e) Patterns of criminality or patterns of escalation.
  - f) History of trauma, abuse or neglect, foster care placements, failed adoption, fetal alcohol syndrome, exposure to controlled substances at birth, or below-average intellectual functioning.

(\*Note: The Department does not have access to information on exposure to controlled substances).

- g) Identification of the child as a student requiring exceptional student education or having previously received psychological services.
- h) Whether the child has previously been convicted and sentenced as an adult.
- 4) The nature of the alleged offense and the child's participation, including:
  - a) Whether the offense is punishable by death or life imprisonment.  
*(\*Note: The supreme court has ruled that a person under 18 is not subject to the death penalty).*
  - b) Whether the offense was against persons or property.
  - c) Whether the offense is alleged to have been committed in an aggressive, violent, or premeditated manner.
  - d) The extent of the child's alleged participation in the offense.
  - e) The effect, if any, of familial pressure or peer pressure on the child's actions.
- 5) The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if the child is found to have committed the alleged offense:
  - a) By the use of procedures, services, and facilities currently available to the juvenile court.
  - b) By the use of procedures, services, and facilities currently available to the adult court, including whether the lowest permissible sentence under the Criminal Punishment Code is a nonstate prison sanction.
- 6) Cost-effective alternatives available to divert the child from the criminal justice system and the juvenile justice system and offer rehabilitative services for the child.  
*(Note: Youth who are considered for transfer are historically charged with serious offenses and have a long track record of offending, which would not make them well suited for diversion).*
- 7) Whether the child could obtain habilitative or rehabilitative services available in the juvenile justice system.
- 8) Whether the child could receive a sentence in juvenile court that would provide adequate safety and protection for the community.
- 9) Whether the child's best interests would be served by prosecuting the child in juvenile court.

Additionally, the judge may consider any reports that may assist him or her, including prior pre-disposition reports, psycho-social assessments, individualized educational programs, developmental assessments, school records, abuse or neglect reports, home studies, protective investigations, or psychological or psychiatric evaluations.

For FY 17-18, the Department provided adult sentencing recommendations for 156 cases *after* the judge already decided that the youth was guilty. DJJ's recommendation includes whether the youth should receive adult sanctions or juvenile sanctions, which is based off evaluations and assessments. The Department does not feel it would be appropriate to provide adult sentencing recommendations *prior* to a judge deciding whether a youth is guilty. However, DJJ could provide a comprehensive evaluation and much of the required information in the bill, for the judge to consider when making their decision on whether the child should remain in adult court. The Department recommends the following change to lines 190-192 of the bill: ~~The recommendation of the department, through review and consideration of the recommendations of the department's caseworker~~ *Evaluations and assessments completed by the department.*

The Department would have to increase its existing resources to perform the number of evaluations that may be requested as a result of this bill. More information can be found in the fiscal section of this analysis.

The bill also allows the child, child's parent, defense, and state attorney to examine any records and to question the parties responsible for creating them.

After the hearing, the judge will render an order including specific findings of fact and the reasons for their decision. This decision can also be appealed under the Florida Rules of Appellate Procedure.

## Section 2:

The bill provides for an implementation date of July 1, 2019.



**1) 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:	Click or tap here to enter text.
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

**2) WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

Proponents and summary of position:	Unknown.
Opponents and summary of position:	Unknown.

**3) ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?** Y ☐ N ☒

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

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

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

## FISCAL ANALYSIS

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

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.

Does the legislation increase local taxes or fees? If yes, explain.	Click or tap here to enter text.
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?	Click or tap here to enter text.

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

Revenues:	Click or tap here to enter text.
Expenditures:	<p>Currently, the Department does not provide recommendations to the court, in the case of adult transfer, until <i>after</i> the youth has been found guilty and only if the judge request our recommendation. This happened 156 times in FY 2017-18.</p> <p>The bill requires the Department's recommendation <i>before</i> the judge makes any decision on the charge itself. The Department, if requested by the judge, would complete a comprehensive evaluation on the youth and submit a recommendation to the judge that would help them decide whether the youth should remain in adult court or be sent back to juvenile court. The Department can absorb this process in current resources for the operational aspect of filing paperwork and information collecting. However, additional funds would be needed for the increase in comprehensive evaluations that are completed by a contracted professional.</p> <p>The Department estimates the following fiscal impact to state government:</p> <p>879 youth transferred in FY 2017-18 would have been eligible to request a hearing from the judge. Of those, the Department already completed a comprehensive evaluation on 156 of them. Although these were completed later in the process, moving when they are completed would not cost any additional money. For this analysis, we assume 723 youth could still need an evaluation.</p> <p>Every youth (723) would receive a Standard Comprehensive Evaluation at \$450.00 per youth = \$325,350</p> <p>Many Standard Comprehensive Evaluations have add-on evaluations for youth who warrant such an add on. The Department assumes that most of the additional 723 youth would receive one or more add-on evaluations.</p> <p>95% (687) would get a Psychological Addon at 275.00 = \$188,925  10% (72) would get the Psychosexual Add on at 300.00 = \$21,600  25% (181) would get the Psychiatric Add on at 275.00 = \$ 49,775</p> <p><b>The total cost for all 723 additional Standard Comprehensive Evaluations and add-on evaluations would be \$585,650.</b></p>

Does the legislation contain a State Government appropriation?	Click or tap here to enter text.
If yes, was this appropriated last year?	Click or tap here to enter text.

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

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Other:	Click or tap here to enter text.

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

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

### 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.	Click or tap here to enter text.
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### 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.	Click or tap here to enter text.
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### ADDITIONAL COMMENTS

## LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	
Lines 191-92:	The reference to "the department's caseworker" should be eliminated in favor of "the department's juvenile probation officer."
Lines 181-89, 264-71:	<p>The bill is, for the most part, sufficiently specific on its procedural mechanisms, with provision made for a written motion, a hearing within a specified time, a defense burden of proof by preponderance of the evidence, detailed criteria, a written order, and appellate review. Some minor concerns are as follows:</p> <p>1) No window is provided for the child's written motion. Although the defense is unlikely to delay, the bill might at least specify the latest point at which the motion may be filed, even if it is only "any time before trial."</p> <p>2) Although the information needed to address the criteria will likely take some time to assemble, the "hearing within 30 days, excluding weekends and legal holidays . . . unless good cause is shown for a delay," may be excessive. Unless the youth bonds out, he or she will be held in jail (or under the reauthorized JJDP, in secure detention) for at least six weeks before a hearing is held. Also, since the burden is on the defense, and the State should be ready to defend its direct file decision (or concede the matter if direct file was mandatory or by indictment) the "good cause" for delay should probably be limited to a defense request.</p> <p>3) It is not immediately apparent why an appeal of an adult court order should proceed under section 985.534, F.S., which provision governs appeals in juvenile court.</p>
Lines 185-88:	If "[t]he purpose of the hearing is for the court to determine <b>whether it is necessary for protection of the community</b> that the child is prosecuted in adult court," then one might ask how sub-subparagraphs 3.f. and 3.g., and in particular subparagraph 9, are relevant to the inquiry. Assessment of the child's "best interests" and the challenging circumstances of his or her upbringing would certainly be relevant and mitigating at sentencing, but their existence doesn't seem pertinent to the necessity of protecting the community. If these are included as a means of determining whether the child may be "fixed," then they are already addressed elsewhere (see lines 247-49). If they are included for some other reason – for example, that a youth with fetal alcohol syndrome or one requiring ESE services, may be deemed irremediably broken and that the community can only be protected by lengthy incarceration – then their inclusion could be even more problematic.
Lines 194-98:	These criteria, which address the sophistication and maturity of the child, reference the child's emotional state at the time of "the offense." As noted later in the bill (line 224), these considerations should only address the offense "as alleged."
Lines 222-223:	Asking whether the child "has previously been <b>convicted and sentenced</b> as an adult" appears to be inconsistent with current sections 985.557(3)(a) and 985.56(4)(a), F.S., which specify that once a child has been transferred by direct file or indictment, respectively, the child "shall be handled thereafter in every respect as if an adult for any subsequent violation of state law, <b>unless</b> the court imposes juvenile sanctions." In other words, if a child was previously convicted and sentenced as an adult, he or she could never again be subject to juvenile court jurisdiction so as to be eligible for the type of "reverse waiver" proceeding provided for in the bill.

Lines 244-46:	<p>This item seems unnecessary and adds nothing to the relevant criteria. If the availability of diversion options is one of the criteria, then one must wonder how direct file or indictment could ever have occurred in the first place. Ordinarily the decision should be turning on whether a high- or maximum-risk commitment would be sufficient to protect the community, or whether protection can only come in the form of an adult jail or prison sentence. If diversion options are still on the table, then we should have no business in adult court, and it should be unnecessary to address multiple criteria before promptly returning the youth to the juvenile division.</p>
Lines 255-60:	<p>Does paragraph (5)(b) or the bill as a whole require (and thus authorize) the creation of <b>new</b> assessments and evaluations, or is it only referencing existing documentation? From context it appears that paragraph (5)(b) allows the judge to consider “<b>prior</b> pre-disposition reports, psycho-social assessments, . . . school records, abuse or neglect reports, home studies, protective investigations, or psychological or psychiatric evaluations.” If it is intended that new evaluations may be ordered by the court, then clarifying language should be included, and consideration should be given to the additional time and expense needed to conduct them.</p>

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

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

4/8/2019

Meeting Date

876

Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name James Herzog

Job Title Associate Director for Education

Address 201 West Park Ave  
Street

Phone (850) 222-3803

Tallahassee FL 32301  
City State Zip

Email jherzog@fiaccb.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4/8/19

Meeting Date

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

876

Bill Number (if applicable)

Topic Direct File

Amendment Barcode (if applicable)

Name Ida V. Eskaman

Job Title Public Policy

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City

State

Zip

Email ida.eskaman@

Speaking: ☐ For ☐ Against ☐ Information

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

Representing New Florida Majority

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/19

Meeting Date

SB 876

Bill Number (if applicable)

Topic Protective Juvenile Justice

Amendment Barcode (if applicable)

Name Linda Alexenko

Job Title Executive Director

Address 111 S. Magnolia

Street

Phone 425-2600

Tall. FL.

City

State

Zip

Email lalexenko@iamfotkids.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The Children's Campaign

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)



THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/19  
Meeting Date

876

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Candice K. Brower

Job Title

Address  
Street

Phone 352-681-0293

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Bar Public Interest Law Section

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-8-2019

Meeting Date

876

Bill Number (if applicable)

Topic JJ

Amendment Barcode (if applicable)

Name DAWN STEWARD

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City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

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

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

4.8.19

876

*Meeting Date*

*Bill Number (if applicable)*

Topic Juvenile Justice

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

*Street*

Tallahassee

FL

32308

Email barney@barneybishop.com

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

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

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

4/8/2019

*Meeting Date*

SB 876

*Bill Number (if applicable)*

Topic Juvenile Justice

*Amendment Barcode (if applicable)*

Name Scott D. McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

Phone 850-521-3042

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FL

32302

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*City*

*State*

*Zip*

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Southern Poverty Law Center Action Fund

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)



The Florida Senate

## Committee Agenda Request

**To:** Senator Keith Perry, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** February 21, 2019

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I respectfully request that **Senate Bill #876**, relating to Juvenile Justice, be placed on the:

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

A handwritten signature in dark ink, appearing to read "Bobby Powell", is written over a horizontal line.

---

Senator Bobby Powell  
Florida Senate, District 30

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

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

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

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BILL: CS/SB 982

INTRODUCER: Education Committee and Senator Thurston

SUBJECT: Human Trafficking Education in Schools

DATE: April 5, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bouck</u>	<u>Sikes</u>	<u>ED</u>	<b>Fav/CS</b>
2.	<u>Storch</u>	<u>Jones</u>	<u>CJ</u>	<b>Favorable</b>
3.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 982 requires that information regarding the dangers and signs of human trafficking be included in the comprehensive health education instruction that is required to be administered in the public school system. The bill permits a student to opt out of such human trafficking educational instruction by providing the school with a written note from his or her parent.

The bill also requires the Department of Legal Affairs (DLA), subject to appropriations, to develop campaigns to increase awareness of human trafficking.

The fiscal impact of the bill is indeterminate. However, school districts that do not currently have human trafficking education as part of their comprehensive health education may incur costs associated with the addition of such instruction into their curriculum. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2019.

**II. Present Situation:**

**Human Trafficking**

Human trafficking is a form of modern-day slavery. Young children, teenagers, and adults can be victims of human trafficking, subjected to force, fraud, or coercion for the purpose of sexual

exploitation or forced labor.<sup>1</sup> Human trafficking is the third-largest international crime industry, generating a profit of an estimated \$32 billion every year.<sup>2</sup> In 2016, there were an estimated 40.3 million victims of human trafficking.<sup>3</sup>

Forced labor and sex trafficking are the most common types of human trafficking. Labor trafficking is “all work or service which is extracted from any person under the threat of penalty and for which the person has not offered himself or herself voluntarily.”<sup>4</sup> Sex trafficking “occurs when someone uses force, fraud or coercion to cause a commercial sex act with an adult or causes a minor to commit a commercial sex act.”<sup>5</sup> Sex trafficking accounted for 6,244 of the reported cases of human trafficking in 2017.<sup>6</sup>

### ***Human Trafficking in Florida***

Florida ranks third in the nation for reported cases of human trafficking.<sup>7</sup> From January through June of 2018, the National Human Trafficking Hotline had 367 human trafficking cases reported in Florida.<sup>8</sup> Children are often those targeted in trafficking operations, with 12-14 being the average age that a trafficked victim is first used for commercial sex.<sup>9</sup>

Florida law defines “human trafficking” to mean the transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining of another person for the purpose of exploitation of that person.<sup>10</sup> In Florida, any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking commits the crime of human trafficking.<sup>11</sup> Such an offense is punishable as a first degree felony,<sup>12</sup> unless the person being sex trafficked is a child under the

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<sup>1</sup> Section 787.06(1)(a), F.S.

<sup>2</sup> DoSomething.org, *11 Facts About Human Trafficking*, available at <https://www.dosomething.org/us/facts/11-facts-about-human-trafficking> (last visited April 4, 2019).

<sup>3</sup> International Labour Organization, *Forced labour, modern slavery and human trafficking*, available at <http://www.ilo.org/global/topics/forced-labour/lang--en/index.htm> (last visited April 4, 2019).

<sup>4</sup> Polaris, *What is forced labour, modern slavery and human trafficking*, available at <http://www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm> (last visited April 4, 2019).

<sup>5</sup> Sharedhope International, *What is Sex Trafficking*, available at <https://sharedhope.org/the-problem/what-is-sex-trafficking/> (last visited April 4, 2019).

<sup>6</sup> Polaris, *Growing Awareness. Growing Impact. 2017 Statistics from the National Human Trafficking Hotline and BeFree Textline*, available at <http://polarisproject.org/sites/default/files/2017NHTHStats%20%281%29.pdf> (last visited April 4, 2019).

<sup>7</sup> National Human Trafficking Hotline, *Hotline Statistics*, available at <https://humantraffickinghotline.org/states> (last visited April 4, 2019).

<sup>8</sup> National Human Trafficking Hotline, *Florida: Statistics*, available at <https://humantraffickinghotline.org/state/florida> (last visited April 4, 2019).

<sup>9</sup> Office of the Attorney General, *Statewide Council on Human Trafficking*, available at <http://myfloridalegal.com/pages.nsf/Main/8AEA5858B1253D0D85257D34005AFA72> (last visited April 4, 2019).

<sup>10</sup> Section 787.06(2)(d), F.S.

<sup>11</sup> Section 787.06(3), F.S.

<sup>12</sup> A first degree felony is punishable by a state prison term not exceeding 30 years, a fine not exceeding \$10,000, or both. Sections 775.082 and 775.083, F.S.

age of 18, mentally defective, or mentally incapacitated, then such an offense is punishable as a life felony.<sup>13</sup>

In 2014, the Statewide Council on Human Trafficking was created within the DLA, for the purposes of enhancing the development and coordination of state and local law enforcement and social services responses to fight commercial sexual exploitation as a form of human trafficking and supporting victims.<sup>14</sup> The Attorney General chairs the 15-member council, which is tasked with:

- Developing recommendations for comprehensive programs and services for victims of human trafficking, including recommendations for certification criteria for safe houses and safe foster homes;
- Making recommendations for apprehending and prosecuting traffickers and enhancing coordination of responses;
- Holding an annual statewide policy summit with an institution of higher learning;
- Working with the Department of Children and Families (DCF) to create and maintain an inventory of human trafficking programs and services in each county; and
- Developing policy recommendations that advance the duties of the council and further the efforts to combat human trafficking in Florida.<sup>15</sup>

### **Required Educational Instruction in Schools**

Current law requires specific coursework and instruction for students at public schools. Specifically, each district school board must provide all courses required for middle grades promotion, high school graduation, and appropriate instruction designed to ensure that students meet State Board of Education (SBE) adopted standards in the following subject areas: reading and other language arts, mathematics, science, social studies, foreign languages, health and physical education, and the arts.<sup>16</sup>

Instructional staff of public schools, subject to the rules of the SBE and the district school board, must provide instruction in specified areas. Among those areas is comprehensive health education that must address the following concepts:

- Community health;
- Consumer health;
- Environmental health;
- Family life, including an awareness of the benefits of sexual abstinence as the expected standard and the consequences of teenage pregnancy;
- Mental and emotional health;
- Injury prevention and safety;
- Internet safety;
- Nutrition;
- Personal health;

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<sup>13</sup> Section 787.06(3)(a)-(g), F.S. A life felony is punishable by a state prison term for life, by a term of imprisonment not exceeding 40 years, a fine not exceeding \$15,000, or both. Sections 775.082 and 775.083, F.S.

<sup>14</sup> Section 16.617(1), F.S.

<sup>15</sup> Section 16.617(4), F.S.

<sup>16</sup> Section 1003.42(1), F.S.



- Prevention and control of disease; and
- Substance use and abuse.<sup>17</sup>

These components of comprehensive health education are delivered to students in kindergarten through grade 12. Additionally, the health education curriculum for students in grades 7-12 also includes a teen dating violence and abuse component that provides information to students regarding the definition of dating violence and abuse, the warning signs of dating violence and abusive behavior, and community resources available to victims of dating violence and abuse.<sup>18</sup>

### **Human Trafficking Instruction and Awareness in Schools**

Training for teachers regarding human trafficking is provided as part of ongoing health education provided free-of-charge by the DCF and other state agencies.<sup>19</sup> Additionally, the Department of Education (DOE) has developed partnerships with bureaus such as the DOE Human Trafficking Workgroup and the Human Trafficking Interagency Workgroup to assist in achieving some of its training initiatives.<sup>20</sup> In efforts to train students on the issue of human trafficking, Brevard, Broward, Miami-Dade, Duval, Hillsborough, Orange, Palm Beach, and Pinellas county school districts piloted human trafficking education lessons that were integrated into health education during the 2017-18 school year.<sup>21</sup> As of September 2018, 22 school districts throughout the state had human trafficking training and education as part of their comprehensive health education.<sup>22</sup>

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

Current law requires that public schools administer comprehensive health education instruction. The bill requires that the dangers and signs of human trafficking be included in such instruction. The human trafficking education must include, but is not limited to:

- Information on the warning signs of human trafficking;
- Terms used by traffickers;
- Red flags that would indicate a trafficker's malicious intent toward a student;
- Websites that are popular with traffickers; and
- Details on how a student may get help.

The bill permits a student to opt out of the human trafficking portion of health education instruction by providing the school with a written note from his or her parent.

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<sup>17</sup> Section 1003.42(2)(n), F.S.

<sup>18</sup> *Id.*

<sup>19</sup> CS/HB 259 (2019) addresses human trafficking education in the public school system. See Florida Department of Education, *2019 Agency Analysis of HB 259* (January 22, 2019) (on file with the Senate Criminal Justice Committee).

<sup>20</sup> Statewide Council on Human Trafficking, *Annual Report 2018, Florida: An All Hands On Deck Approach To Combat Trafficking*, (January 18, 2019), pg. 22, available at [http://myfloridalegal.com/webfiles.nsf/WF/MVIS-B8JT3C/\\$file/HTAnnualReport2018Web.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MVIS-B8JT3C/$file/HTAnnualReport2018Web.pdf) (last visited April 4, 2019).

<sup>21</sup> *Id.* at 23-24.

<sup>22</sup> *Id.* at 24.

The bill also requires the DLA, subject to legislative appropriations, to develop campaigns to increase awareness of human trafficking, particularly among children and other potentially vulnerable populations. The bill specifies that such campaigns may include information concerning:

- Approaches used by traffickers;
- Warning signs of trafficking; and
- Inappropriate behaviors that should be reported.

The bill is effective July 1, 2019.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The fiscal impact of the bill is indeterminate. However, the school districts that do not currently have human trafficking education as part of their comprehensive health education may incur costs associated with the integration of such instruction into their curriculum. Additionally, the DLA may incur costs associated with developing human trafficking awareness campaigns.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 1003.42 of the Florida Statutes.

This bill creates an unnumbered section of law.

**IX. Additional Information:**

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

**CS by Education on April 2, 2019.**

The committee substitute removes from the bill the requirement for the Department of Legal Affairs to:

- Develop and operate a toll-free hotline to receive reports of potential human trafficking incidents; and
- Promptly provide all such reports deemed to be credible to appropriate law enforcement agencies for investigation and disposition.

- B. **Amendments:**

None.

By the Committee on Education; and Senator Thurston

581-03744-19

2019982c1

A bill to be entitled

An act relating to human trafficking education in schools; amending s. 1003.42, F.S.; revising the required health education in public schools to include information regarding the dangers and signs of human trafficking; authorizing a student to opt out of a specified portion of the health education under certain circumstances; requiring the Department of Legal Affairs to develop human trafficking awareness campaigns; providing an effective date.

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

Section 1. Paragraph (n) of subsection (2) of section 1003.42, Florida Statutes, is amended to read:

1003.42 Required instruction.—

(2) Members of the instructional staff of the public schools, subject to the rules of the State Board of Education and the district school board, shall teach efficiently and faithfully, using the books and materials required that meet the highest standards for professionalism and historical accuracy, following the prescribed courses of study, and employing approved methods of instruction, the following:

(n) Comprehensive health education that addresses concepts of community health; consumer health; environmental health; family life, including an awareness of the benefits of sexual abstinence as the expected standard and the consequences of teenage pregnancy; mental and emotional health; injury prevention and safety; Internet safety; the dangers and signs of

581-03744-19

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human trafficking; nutrition; personal health; prevention and control of disease; and substance use and abuse. The health education curriculum for students in grades 7 through 12 shall include a teen dating violence and abuse component that includes, but is not limited to, the definition of dating violence and abuse, the warning signs of dating violence and abusive behavior, the characteristics of healthy relationships, measures to prevent and stop dating violence and abuse, and community resources available to victims of dating violence and abuse. The human trafficking education portion of the health curriculum must include, but is not limited to, information on the warning signs of human trafficking, terms used by traffickers, red flags that would indicate a trafficker's malicious intent toward a student, websites that are popular with traffickers, and details on how a student may get help. A student may elect to opt out of the instruction of the human trafficking portion of the health education by providing the school with a written note from his or her parent.

The State Board of Education is encouraged to adopt standards and pursue assessment of the requirements of this subsection. A character development program that incorporates the values of the recipients of the Congressional Medal of Honor and that is offered as part of a social studies, English Language Arts, or other schoolwide character building and veteran awareness initiative meets the requirements of paragraphs (s) and (t).

Section 2. Human trafficking awareness campaigns.—The Department of Legal Affairs shall, subject to legislative appropriations, develop campaigns to increase awareness of human

581-03744-19

2019982c1

59 trafficking, particularly among children and other potentially  
60 vulnerable populations. Such campaigns may include information  
61 concerning approaches used by traffickers, warning signs of  
62 trafficking, and inappropriate behaviors that should be  
63 reported.

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



## 2019 AGENCY LEGISLATIVE BILL ANALYSIS

### Florida Department of Education

#### **BILL INFORMATION**

<b>BILL NUMBER:</b>	House Bill 259
<b>BILL TITLE:</b>	Human Trafficking
<b>BILL SPONSOR:</b>	Representative Williams
<b>EFFECTIVE DATE:</b>	July 1, 2019

#### **COMMITTEES OF REFERENCE**

1) PreK-12 Quality Subcommittee
2) Criminal Justice Subcommittee
3) Appropriations Committee
4)
5)

#### **CURRENT COMMITTEE**

PreK-12 Quality Subcommittee
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#### **SIMILAR BILLS**

<b>BILL NUMBER:</b>	N/A
<b>SPONSOR:</b>	

#### **PREVIOUS LEGISLATION**

<b>BILL NUMBER:</b>	Senate Bill 96
<b>SPONSOR:</b>	Senator Steube
<b>YEAR:</b>	2018
<b>LAST ACTION:</b>	Died in Appropriations

#### **IDENTICAL BILLS**

<b>BILL NUMBER:</b>	N/A
<b>SPONSOR:</b>	

#### **Is this bill part of an agency package?**

No.
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#### **BILL ANALYSIS INFORMATION**

<b>DATE OF ANALYSIS:</b>	January 22, 2019
<b>LEAD AGENCY ANALYST:</b>	Jacob Oliva
<b>ADDITIONAL ANALYST(S):</b>	Penny Taylor
<b>LEGAL ANALYST:</b>	Jamie Braun
<b>FISCAL ANALYST:</b>	Suzanne Pridgeon

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## POLICY ANALYSIS

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### 1. EXECUTIVE SUMMARY

#### **Section 1. amends s. 1003.42, F.S., to:**

- Include required instruction regarding the dangers and signs of human trafficking.
- Allow students to opt out of instruction regarding human trafficking with written permission from parents.

#### **Section 2.**

- Requires the Department of Legal Affairs to develop human trafficking awareness campaigns.
- Requires the Department of Legal Affairs to develop and operate a toll-free hotline for reporting potential human trafficking incidents.

#### **Section 3. provides an effective date of July 1, 2019.**

### 2. SUBSTANTIVE BILL ANALYSIS

#### 1. **PRESENT SITUATION:**

##### **Section 1.**

- Comprehensive health education currently addresses 12 component areas. Eleven of the components are delivered in kindergarten through grade 12, and teen dating violence is delivered in grades 7-12 only.
- Although comprehensive health education is required instruction, there is no monitoring authority or funding to assure implementation at the district level.
- Less than 2.5 percent of secondary students are enrolled in a stand-alone health education course.
- Health education benchmarks are integrated in seven other content area courses, including: English Language Arts, Fine Arts, JROTC, Peer Counseling, Physical Education, Science and Social Studies.

##### **Section 2.**

- There is currently a national human trafficking hotline available at [humantraffickinghotline.org](https://humantraffickinghotline.org) or by phone at 1-888-373-7888.

#### 2. **EFFECT OF THE BILL:**

##### **Section 1.**

- Each district school board and/or school would need to provide human trafficking education training for teachers responsible for the delivery of this content or enlist the expertise of outside agencies to provide the specific instruction for students.
- Instruction would include:
  - Dangers and signs of human trafficking;
  - Terms used by traffickers;
  - Websites popular with traffickers; and
  - Details about getting help.
- If districts decide to require parents to sign a permission form as consent for students to receive instruction about human trafficking as opposed to assuming consent unless districts receive a written request for a student to opt out of this instruction, schools could incur increased paperwork.

##### **Section 2.**

- The Department of Legal Affairs must create a human trafficking awareness campaign, which could include:
  - Information concerning approaches used by traffickers;
  - Warning signs of human trafficking; and
  - Inappropriate behavior that could be a sign of trafficking and should be reported.
- The Department of Legal Affairs must:
  - Develop and operate a human trafficking toll-free hotline; and
  - Report all credible reports to law enforcement.

**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:	
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
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:	
Opponents and summary of position:	Unknown.

**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. FISCAL IMPACT TO LOCAL GOVERNMENT**Y ☒ N ☐

Revenues:	None.
Expenditures:	Training for teachers regarding human trafficking is provided as part of ongoing health education training provided free of charge by the Department of Children and Families (DCF) and other state agencies. In addition, the Florida Department of Education (FDOE) has established fact sheets and a webpage with training materials and other resources that can be used by educators. Posters can be downloaded from the Florida Attorney General's website. No textbooks or curricula are necessary to teach this component.



	Health education teachers are encouraged to attend the annual Statewide Human Trafficking Summit, for which registration is free. Depending on the location, an overnight stay may be required for some teachers. If districts pay for the travel expenses, they could incur costs for hotel rooms, rental cars and other travel related expenses. These costs would vary, depending on the number of teachers attending per district and whether overnight accommodations would be necessary.
Does the legislation increase local taxes or fees? If yes, explain.	No.
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?	N/A

**2. FISCAL IMPACT TO STATE GOVERNMENT**Y ☒ N ☐

Revenues:	None.
Expenditures:	<p>The Department of Legal Affairs will incur costs associated with developing additional awareness campaigns and a toll-free hotline. This may require hiring additional staff to operate the hotline and providing the credible reports to law enforcement agencies. There would also be costs for the telephone line and training for the hotline operators.</p> <p>DCF, as well as other state agencies, provides free health education training to health education teachers. Minimal costs could be incurred for preparing training materials related to human trafficking education for teachers.</p>
Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	N/A

**3. FISCAL IMPACT TO THE PRIVATE SECTOR**Y ☒ N ☐

Revenues:	The development of the hotline and the awareness campaigns may generate revenues for the private sector.
Expenditures:	<p>Health education teachers may choose to attend training and the annual Human Trafficking Summit. If districts do not pay for the travel expenses, the teachers would personally incur these costs.</p> <p>Private schools choosing to send health education teachers to the annual Human Trafficking Summit may incur travel costs.</p>
Other:	N/A

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

If yes, explain impact.	N/A
Bill Section Number:	N/A

### 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.	At this time, this bill does not appear to impact State Board of Education technology.
--	--

### 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

### LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	No legal concerns.
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Jamie Braun  
Legal Analyst Signature

2/5/19  
Date

### APPROVALS

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**Lead Program Policy Analyst**

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**Date**

---

**Phone Number**

---

**Chancellor/Director/Direct Report**

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**Date**

---

Suzanne Pridgeon  
**Fiscal Analyst**

---

2/4/19  
**Date**

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Bethany Swonson

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3/4/2019

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**Governmental Relations**

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**Date**

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/17

Meeting Date

SB 982

Bill Number (if applicable)

Topic HT Education + Training

Amendment Barcode (if applicable)

Name Linda Alexiuk

Job Title Ex. Director

Address 111 S. Magnolia

Phone 425-2702

Street

City

Tallah.

State

Zip

FL

Email lalex@californiaforkids.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The Children's Campaign

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-8-2019

Meeting Date

982

Bill Number (if applicable)

Topic HUMAN TRAFFICKING

Amendment Barcode (if applicable)

Name DAXEN STEWARD

Job Title

Address 2130 Blossom Lane

Phone 407-645-0273

Street

Winter Park FL 32789

City

State

Zip

Email stu2130@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/8/19

Meeting Date

982

Bill Number (if applicable)

Topic Human Trafficking Education in Schools

Amendment Barcode (if applicable)

Name Daphnee Sainvil

Job Title Legislative Policy Advisor

Address 100 S. Andrews Ave., Main Library 8th Fl.

Phone 954-253-7320

Street

Ft. Lauderdale

FL

33301

City

State

Zip

Email dsainvil@broward.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Broward County Bd. of County Comrs.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-8-19

Meeting Date

982

Bill Number (if applicable)

Topic

Human Trafficking Education

Amendment Barcode (if applicable)

Name

Barbara DeHane

Job Title

Ms

Address

625 E. Bernard St

Phone

850-251-4280

Street

Tallahassee FL 32308

Email

barbaradehane1@gmail.com

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

FL NOW

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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S-001 (10/14/14)

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

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

4.8.19

*Meeting Date*

982

*Bill Number (if applicable)*

Topic Human Trafficking Education in Schools

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

*Street*

Tallahassee

FL

32308

*City*

*State*

*Zip*

Email barney@barneybishop.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

S-001 (10/14/14)



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

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

4/8/19

Meeting Date

982

Bill Number (if applicable)

Topic Human Trafficking Ed. in Schools

Amendment Barcode (if applicable)

Name FELY CURVA, Ph.D.

Job Title Senior Partner, Curva & Associates LLC

Address 1212 Piedmont Dr.  
Street

Phone (850) 508-2252

Tallahassee FL 32312  
City State Zip

Email fely.curva@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing SHAPE Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

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

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

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: SB 1238

INTRODUCER: Senator Mayfield and others

SUBJECT: Safety of Religious Institutions

DATE: April 5, 2019

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

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Stallard	Cibula	JU	<b>Favorable</b>
2. Cellon	Jones	CJ	<b>Pre-meeting</b>
3. _____	_____	RC	_____

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**I. Summary:**

SB 1238 enables a church, synagogue, or other religious institution to authorize a person who has a license to carry a concealed weapon or firearm to carry a firearm on property owned, rented, or otherwise lawfully used by the religious institution.

The bill also enables a private or religious school to designate a person to carry a firearm on the school's property. If a school exercises this option, its governing board or body must create policies and procedures that the designee must meet.

Under current law, a person who has a concealed weapons or firearms license is authorized to carry a concealed handgun on the property of a religious institution, as long as the property is not also home to a school. A license does not authorize a person to possess a firearm on the property of a school, whether public or private, from preschool through college unless an exception applies.

The bill is effective July 1, 2019.

**II. Present Situation:**

**Overview**

Current law allows a person who holds a concealed weapons or firearms license to carry a concealed firearm on the property of a religious institution unless:

- The religious institution's property is also home to a school.
- The religious institution which owns the property prohibits firearms.

Further, the owner of any property rented or leased to or borrowed by a religious institution is free to set and enforce parameters as a condition of the rental, lease, or borrowing agreement, which could include firearm restrictions.

### **Property Owner's Right to Exclude Anyone Possessing a Firearm**

A property owner, including a religious institution, is free to prohibit firearm possession on its property. The Florida Constitution declares that every person has the right to “acquire, possess, and protect property.”<sup>1</sup> The right to exclude others is “one of the most essential sticks in the bundle of rights that are commonly characterized as property.”<sup>2</sup>

A person who enters the property of another without authorization commits the crime of trespass to property. The elements of trespass are set forth in s. 810.08(1), F.S., which states:

Whoever, without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance, or, having been authorized, licensed, or invited, is warned by the owner or lessee of the premises, or by a person authorized by the owner or lessee, to depart and refuses to do so, commits the offense of trespass in a structure or conveyance.

Trespassing with a firearm is a third degree felony,<sup>3</sup> punishable by up to 5 years in prison,<sup>4</sup> and a fine not to exceed \$5,000.<sup>5</sup>

A property owner who enters an agreement with another to lease, rent, or loan his or her property to the other currently has the ability to include certain requirements as part of the agreement. For example, in a standard apartment lease there is nearly always a clause regarding the lessee's responsibility for returning the property undamaged to the lessor.<sup>6</sup>

### **Prohibited Possession of a Firearm on School Property**

Section 790.115, F.S., prohibits a person from possessing a firearm on the property of any school, meaning any preschool through postsecondary school, whether public or nonpublic.<sup>7</sup> As such, property covered by the firearm ban appears to include property that happens to be shared by a religious institution and a school.

There are four exceptions to the general firearm ban on school property. The first allows a person to possess a firearm as authorized in support of school-sanctioned activities.<sup>8</sup> The second exception allows a person to carry a firearm in a case to a firearms training program.<sup>9</sup> The third

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<sup>1</sup> FLA. CONST. art. I, s. 2.

<sup>2</sup> *Nollan v. Cal. Coastal Comm'n*, 483 U.S. 825, 831 (1987) (quoting *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 433 (1982)).

<sup>3</sup> Section 810.08(2)(c), F.S.

<sup>4</sup> Section 775.082, F.S.

<sup>5</sup> Section 775.083, F.S.

<sup>6</sup> See s. 83.52, F.S.

<sup>7</sup> It also means any career center. Section 790.115(2)(a), F.S.

<sup>8</sup> Section 790.115(1) and (2), F.S.

<sup>9</sup> Section 790.115(2)(a)1., F.S.

exception allows a person to carry a firearm in a case to a firearms training range at a career center.<sup>10</sup> The final exception generally allows a person to store a firearm inside a parked car as authorized in s. 790.25(5), F.S.<sup>11</sup>

### **Lawful Concealed Carry of Firearms**

Although the law generally prohibits a person from carrying a firearm on his or her person, this prohibition is subject to several exceptions. Of these exceptions, perhaps the most well-known and broadly applicable is the concealed weapons or firearms license.<sup>12, 13</sup>

The license authorizes a person to carry a concealed handgun throughout the state with limited exceptions. For example, the license does not authorize a concealed carry licensee to carry a firearm into a list of places, including “school facilities and administration buildings” and “college or university facilities.”<sup>14</sup> However, a licensee can carry a firearm on the property of religious institutions as long as that property does not also house a school.

To obtain a concealed firearm license, a person must submit an application to the Department of Agriculture and Consumer Services (Department), and the Department must grant the license to each applicant who:

- Is a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity that prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm by virtue of having been convicted of a felony;
- Has not been committed for the abuse of a controlled substance;
- Has not been found guilty of a crime relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired;
- Desires a legal means to carry a concealed weapon or firearm for lawful self-defense;

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<sup>10</sup> Section 790.115(2)(a)2., F.S.

<sup>11</sup> Section 790.115(2)(a)3., F.S.

<sup>12</sup> As of December 31, 2018, 1,941,180 Floridians held a standard concealed weapons or firearms license. Fla. Dept. of Agriculture and Consumer Services, *Number of Licensees by Type*, available at [http://www.freshfromflorida.com/content/download/7471/118627/Number\\_of\\_Licensees\\_By\\_Type.pdf](http://www.freshfromflorida.com/content/download/7471/118627/Number_of_Licensees_By_Type.pdf) (last viewed April 3, 2019).

<sup>13</sup> Additional exceptions to the prohibition against carrying a concealed firearm or openly carrying a firearm are created by s. 790.25(3), F.S. This statute authorizes an unlicensed individual to openly possess a firearm or to carry a concealed firearm in any of the manners described in the statute. The statute, for example, authorizes law enforcement officers to carry firearms while on duty. Additionally, the statute authorizes a person to carry a firearm while engaged in hunting, fishing, or camping or while traveling to and from these activities. A person may also possess a firearm at his or her home or place of business or in any of the other circumstances set forth in statute.

<sup>14</sup> Section 790.06(12), F.S.

- Demonstrates competency in the use of a firearm;
- Has not been, or is deemed not to have been, adjudicated an incapacitated person in a guardianship proceeding;
- Has not been, or is deemed not to have been, committed to a mental institution;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony, or any misdemeanor crime of domestic violence, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or expunction has occurred;
- Has not been issued an injunction that is currently in force and effect which restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.<sup>15</sup>

### **Federal Law**

The federal Gun-Free School Zones Act prohibits the possession of a firearm that has moved in or otherwise affects interstate or foreign commerce at a place an individual knows, or has reasonable cause to believe, is a school or is within 1,000 feet of a school.<sup>16</sup> However, this prohibition does not apply to a person who is licensed by his or her state to carry a concealed handgun.<sup>17</sup>

Another federal law, the Gun-Free Schools Act, is more-narrowly focused on prohibiting students from possessing firearms at or near schools. This prohibition is also subject to exceptions.<sup>18</sup> The act expressly states that it does not apply to a firearm “that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.”<sup>19</sup>

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

The bill amends s. 790.06, F.S., “notwithstanding *any* other law,” to provide that a church, synagogue, or any other religious institution may authorize a concealed carry licensee to carry a firearm on:

- Property owned by the church, synagogue, or religious institution;
- Property rented by the church, synagogue, or religious institution;
- Property leased by the church, synagogue, or religious institution;
- Property borrowed by the church, synagogue, or religious institution; or
- Property otherwise lawfully used by the church, synagogue, or religious institution.

It is possible that the owner of property rented, leased, borrowed, or otherwise lawfully used by a religious institution may find that his or her property rights are diminished as an effect of the bill

<sup>15</sup> Section 790.06(2), F.S. However, the Department must *deny* a license to an applicant who meets any criterion set forth in s. 790.06(3), F.S, which also sets forth criteria for the mandatory revocation of a license.

<sup>16</sup> 18 U.S.C. s. 922(q)(2)(A).

<sup>17</sup> See 18 U.S.C. s. 922(q)(2)(B)(ii).

<sup>18</sup> See 20 U.S.C. s. 7961.

<sup>19</sup> 20 U.S.C. s. 7961(g).

if he or she, for whatever reason, does not want to allow persons to carry firearms on the property and the lease does not contain the restriction.

The bill also enables a private or religious school to designate a person to carry a firearm on the school's property.<sup>20</sup> The bill does not specify that the person carrying the firearm be licensed under s. 790.06, F.S., to carry a concealed firearm. Under this provision, if a school exercises this option, its governing board or body must create policies and procedures the designee must meet.

Because of the language in the bill, “notwithstanding *any* other law,” it is possible that if the private or religious school is situated on land owned by another, that property owner may find his or her property rights diminished as related to his or her authority to prohibit firearms on the property unless the firearm restriction is included in the lease or other agreement.

The bill provides that the purpose for the licensee or the person to carry the firearm is for safety, security, personal protection, or other lawful purposes.

The bill is effective July 1, 2019.

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

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

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

##### **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.

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<sup>20</sup> Presumably this would create statutory authority for private schools or religious schools to do that which they currently appear to be able to do, provided the school owns the property upon which it sits, and the school declares it is making the designation under one of the exceptions in s. 790.115, F.S.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:****Title**

The title of the bill is “an act relating to the *safety of religious institutions*.” The bill amends the restrictions on carrying a concealed firearm by creating new subparagraphs (c)1. and 2. in s. 790.115(12), F.S. New subparagraph s. 790.115(12)(c)2., F.S., authorizes a private or religious *school* to designate a person to carry a firearm on the property of that *school*. This provision does not appear to fit within the title of the bill, “an act relating to the *safety of religious institutions*.” It is suggested that the title be amended to include “schools” within the title of the bill if the safety of both religious institutions and schools are going to be addressed in the bill.

**Definition**

The term “religious institution” is not defined in the bill. A cross-reference to s. 496.404, F.S., which contains a definition of the term would eliminate any possible confusion about the institutions to which the bill applies.<sup>21</sup>

**VII. Related Issues:**

A property owner, whether a religious institution, a private or religious school, or a person who is the lessor of property to a religious institution or private or religious school, may be open to some degree of liability related to an incident involving the use of a firearm by the designee of the religious institution or school. This, of course, depends on the degree of control the owner has over the property and whether it is found that the property owner owes a duty of care to a person who may be injured or killed during the incident.<sup>22</sup>

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<sup>21</sup> Section 496.404, F.S., defines “religious institution” as a church, ecclesiastical or denominational organization, or established physical place for worship in this state at which nonprofit religious services and activities are regularly conducted and carried on and includes those bona fide religious groups that do not maintain specific places of worship. The term also includes a separate group or corporation that forms an integral part of a religious institution that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code and that is not primarily supported by funds solicited outside its own membership or congregation.

<sup>22</sup> *Brown v. Suncharm Ranch Inc.*, 748 So.2d 1077 (Fla 5th DCA 1999).

**VIII. Statutes Affected:**

This bill substantially amends section 790.06 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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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By Senator Mayfield

17-01433A-19

20191238\_\_

1 A bill to be entitled  
 2 An act relating to the safety of religious  
 3 institutions; amending s. 790.06, F.S.; authorizing a  
 4 church, a synagogue, or other religious institution to  
 5 allow a concealed weapons or concealed firearms  
 6 licensee to carry a firearm on the property of that  
 7 church, synagogue, or other religious institution for  
 8 certain purposes; authorizing a private school or a  
 9 religious school to designate a person to carry a  
 10 firearm on that school's property; requiring the  
 11 governing board or body of such school to create  
 12 certain policies and procedures if it designates such  
 13 person; providing an effective date.  
 14  
 15 Be It Enacted by the Legislature of the State of Florida:  
 16  
 17 Section 1. Subsection (12) of section 790.06, Florida  
 18 Statutes, is amended to read:  
 19 790.06 License to carry concealed weapon or firearm.—  
 20 (12) (a) A license issued under this section does not  
 21 authorize any person to openly carry a handgun or carry a  
 22 concealed weapon or firearm into:  
 23 1. Any place of nuisance as defined in s. 823.05;  
 24 2. Any police, sheriff, or highway patrol station;  
 25 3. Any detention facility, prison, or jail;  
 26 4. Any courthouse;  
 27 5. Any courtroom, except that nothing in this section would  
 28 preclude a judge from carrying a concealed weapon or determining  
 29 who will carry a concealed weapon in his or her courtroom;

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

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30 6. Any polling place;  
 31 7. Any meeting of the governing body of a county, public  
 32 school district, municipality, or special district;  
 33 8. Any meeting of the Legislature or a committee thereof;  
 34 9. Any school, college, or professional athletic event not  
 35 related to firearms;  
 36 10. Any elementary or secondary school facility or  
 37 administration building;  
 38 11. Any career center;  
 39 12. Any portion of an establishment licensed to dispense  
 40 alcoholic beverages for consumption on the premises, which  
 41 portion of the establishment is primarily devoted to such  
 42 purpose;  
 43 13. Any college or university facility unless the licensee  
 44 is a registered student, employee, or faculty member of such  
 45 college or university and the weapon is a stun gun or nonlethal  
 46 electric weapon or device designed solely for defensive purposes  
 47 and the weapon does not fire a dart or projectile;  
 48 14. The inside of the passenger terminal and sterile area  
 49 of any airport, provided that no person shall be prohibited from  
 50 carrying any legal firearm into the terminal, which firearm is  
 51 encased for shipment for purposes of checking such firearm as  
 52 baggage to be lawfully transported on any aircraft; or  
 53 15. Any place where the carrying of firearms is prohibited  
 54 by federal law.  
 55 (b) A person licensed under this section may ~~shall~~ not be  
 56 prohibited from carrying or storing a firearm in a vehicle for  
 57 lawful purposes.  
 58 (c) Notwithstanding any other law, for the purposes of

Page 2 of 3

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59 safety, security, personal protection, or other lawful purposes:

60 1. A church, a synagogue, or any other religious  
61 institution may authorize a person licensed under this section  
62 to carry a firearm on property owned, rented, leased, borrowed,  
63 or otherwise lawfully used by the church, synagogue, or other  
64 religious institution.

65 2. A private school or a religious school may designate a  
66 person to carry a firearm on the property of that school. If a  
67 private school or a religious school chooses to designate a  
68 person, the governing board or body of that school must create  
69 policies and procedures the designee must meet.

70 (d)~~(e)~~ This section does not modify the terms or conditions  
71 of s. 790.251(7).

72 (e)~~(d)~~ Any person who knowingly and willfully violates any  
73 provision of this subsection commits a misdemeanor of the second  
74 degree, punishable as provided in s. 775.082 or s. 775.083.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/19

Meeting Date

1238

Bill Number (if applicable)

Topic Safety of Religious Institutions

Amendment Barcode (if applicable)

Name Both Dumond

Job Title Volunteer

Address 6316 Mallard Trace Dr

Street

Phone (850) 668-4264

Tallahassee

City

FL

State

32312

Zip

Email edumond.fl@comcast.net

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Moms DEMAND ACTION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

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

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

4/8/2019  
Meeting Date

②  
1238  
Bill Number (if applicable)

Topic Safety of Religious Institutions

Amendment Barcode (if applicable)

Name Jamie Ito

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

Address 411 Wilson Ave  
Street

Phone 850 284 9517

Tallahassee FL 32303  
City State Zip

Email jamie.ito@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

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

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

4-8-19

*Meeting Date*

1238

*Bill Number (if applicable)*

Topic Safety of Religious Institutions

*Amendment Barcode (if applicable)*

Name Matt Dunagan

Job Title Deputy Director

Address 2617 Mahan Drive

Phone 850-877-2165

*Street*

Tallahassee

FL

32308

Email mdunagan@flsheriffs.org

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Sheriffs Association

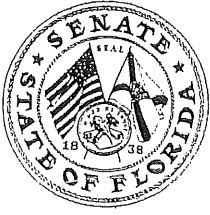
Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR DEBBIE MAYFIELD**  
17th District

**COMMITTEES:**  
Education, *Vice Chair*  
Governmental Oversight and  
Accountability, *Vice Chair*  
Agriculture  
Appropriations Subcommittee on the Environment  
and Natural Resources  
Appropriations Subcommittee on General  
Government  
Judiciary

**JOINT COMMITTEE:**  
Joint Legislative Auditing Committee,  
*Alternating Chair*

March 26, 2019

The Honorable Keith Perry  
Chair, Criminal Justice  
316 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Re: SB 1238

Dear Chair Perry,

I am respectfully requesting Senate Bill 1238, a bill relating to Safety of Religious Institutions, be placed on the agenda for your Criminal Justice Committee.

I appreciate your consideration of this bill and I look forward to working with you and the Criminal Justice Committee. If there are any questions or concerns, please do not hesitate to call my office at 850-487-5017.

Thank you,

A handwritten signature in cursive script, reading "Debbie Mayfield".

Debbie Mayfield  
State Senator, District 17

Cc: Kinley Morgan, Kayla Lott, Robert Vogan, Lauren Jones, Sue Arnold

**REPLY TO:**

- ☐ 900 E. Strawbridge Avenue, Melbourne, Florida 32901 (321) 409-2025 FAX: (888) 263-3815
- ☐ 1801 27th Street, Vero Beach, Florida 32960 (772) 226-1970
- ☐ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**BILL GALVANO**  
President of the Senate

**DAVID SIMMONS**  
President Pro Tempore

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

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

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

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BILL: SB 1260

INTRODUCER: Senator Wright

SUBJECT: Mandatory Direct File

DATE: April 5, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Storch	Jones	CJ	<b>Favorable</b>
2.			JU	
3.			AP	

---

## **I. Summary:**

SB 1260 repeals all provisions relating to mandatory direct file, the process in which a state attorney is required to file an information charging a child in adult court. As a result, the bill effectively eliminates this method of transferring a child to adult court for prosecution.

The bill also amends s. 985.565, F.S., removing references to mandatory direct file for the purposes of sentencing, to conform to changes made by the act.

The fiscal impact of the bill is indeterminate at this time. However, as a result of the repeal of mandatory direct file, there may be an increase in the number of children held in the custody of the Department of Juvenile Justice (DJJ). See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2019.

## **II. Present Situation:**

### **Transfer of a Child to Adult Court**

There are three methods of transferring a child to adult court for prosecution: judicial waiver,<sup>1</sup> indictment,<sup>2</sup> or direct filing an information.

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<sup>1</sup> Judicial waiver is the process in which a child or a state attorney may, or in some cases must, waive the jurisdiction of the juvenile courts and have the case transferred to adult court for prosecution. The three types of judicial waiver are voluntary, involuntary discretionary, and involuntary mandatory. *See* s. 985.556, F.S.

<sup>2</sup> A grand jury can indict a child of any age who is charged with an offense punishable by death or life imprisonment. Upon indictment, the child's case must be transferred to adult court for prosecution. *See* s. 985.56, F.S.

***Direct File***

Direct file is the process whereby a state attorney files an information charging a child in adult court. Pursuant to s. 985.557, F.S., direct file can be either discretionary or mandatory and is accomplished exclusively by the state attorney without requiring the court's approval. Direct file is the predominant method of transfer to adult court, accounting for 96.2 percent (870 children) of the transfers in 2017-18.<sup>3</sup>

**Discretionary Direct File**

Section 985.557(1), F.S., provides the state attorney with discretion to file a case in adult court for certain cases when he or she believes the offense requires that adult sanctions be considered or imposed. Specifically, the state attorney may direct file a child when he or she is:

- 14 or 15 years of age and is charged for the commission of, attempt to commit, or conspiracy to commit one of the following felony offenses:
  - Arson;
  - Sexual battery;
  - Robbery;
  - Kidnapping;
  - Aggravated child abuse;
  - Aggravated assault;
  - Aggravated stalking;
  - Murder;
  - Manslaughter;
  - Unlawful throwing, placing, or discharging of a destructive device or bomb;
  - Armed burglary in violation of s. 810.02(2)(b), F.S.;
  - Burglary of a dwelling or structure in violation of s. 810.02(2)(c), F.S.;
  - Burglary with an assault or battery in violation of s. 810.02(2)(a), F.S.;
  - Aggravated battery;
  - Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age;
  - Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony;
  - Grand theft in violation of s. 812.014(2)(a), F.S.;
  - Possessing or discharging any weapon or firearm on school property in violation of s. 790.115, F.S.;
  - Home invasion robbery;
  - Carjacking;
  - Grand theft of a motor vehicle in violation of s. 812.014(2)(c)6., F.S.; or
  - Grand theft of a motor vehicle valued at \$20,000 or more in violation of s. 812.014(2)(b), F.S., if the child has a previous adjudication for grand theft of a motor vehicle in violation of s. 812.014(2)(c)6. or (2)(b), F.S.;<sup>4</sup>
- 16 or 17 years of age and is charged with any felony offense;<sup>5</sup> or

<sup>3</sup> Department of Juvenile Justice, *2019 Legislative Bill Analysis for SB 1260*, (March 13, 2019) (on file with the Senate Criminal Justice Committee).

<sup>4</sup> Section 985.557(1)(a)1.-19., F.S.

<sup>5</sup> Section 985.557(1)(b), F.S.



- 16 or 17 years of age and is charged with a misdemeanor, provided the child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which was a felony.<sup>6</sup>

If a child who has been transferred to adult court pursuant to discretionary direct file is found to have committed a violation of state law or a lesser included offense for which he or she was charged as part of the criminal episode, the court may sentence the child as an adult, as a juvenile, or pursuant to ch. 958, F.S.<sup>7</sup>

#### Mandatory Direct File

Section 985.557(2), F.S., requires the state attorney to file a case in adult court when the child is:

- 16 or 17 years of age at the time of the alleged offense and:
  - Is charged with a second or subsequent violent crime against a person and has been previously adjudicated delinquent for an enumerated felony;<sup>8</sup>
  - Is charged with a forcible felony<sup>9</sup> and has been previously adjudicated delinquent or had adjudication withheld for three felonies that each occurred at least 45 days apart from each other;<sup>10</sup> or
  - Is charged with committing or attempting to commit an offense listed in s. 775.087(2)1.a.-p., F.S.,<sup>11</sup> and during the commission of the offense the child actually possessed or discharged a firearm or destructive device;<sup>12</sup> or
- Any age and is alleged to have committed an act that involves stealing a vehicle in which the child, while possessing the vehicle, caused serious bodily injury or death to a person who was not involved in the underlying offense.

If the state attorney is required to direct file a child, the court must impose adult sanctions. Any sentence imposing adult sanctions is presumed appropriate and the court is not required to specify findings or criteria as the basis for its decision to impose such sanctions.<sup>13</sup>

<sup>6</sup> *Id.*

<sup>7</sup> Section 985.565(4)(a)2., F.S.

<sup>8</sup> The enumerated felonies include: murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault. *See* s. 985.557(2)(a), F.S.

<sup>9</sup> Section 776.08, F.S., defines “forcible felony” as treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the threat of physical force or violence against any individual.

<sup>10</sup> Section 985.557(2)(b), F.S., provides that this provision does not apply when the state attorney has good cause to believe that exceptional circumstances exist which preclude the just prosecution of the child in adult court.

<sup>11</sup> The offenses include murder; sexual battery; robbery; burglary; arson; aggravated battery; kidnapping; escape; aircraft piracy; aggravated child abuse; aggravated abuse of an elderly person or disabled adult; unlawful throwing, placing, or discharging of a destructive device or bomb; carjacking; home-invasion robbery; aggravated stalking; 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 any other violation of s. 893.135(1), F.S. Section 775.087(2)(a)1.a.-p., F.S.

<sup>12</sup> The terms “firearm” and “destructive device” are defined in s. 790.001, F.S.

<sup>13</sup> Section 985.565(4)(a)3. and 4., F.S.

**III. Effect of Proposed Changes:**

Current law authorizes a state attorney to transfer a child to adult court pursuant to mandatory or discretionary direct file. The bill repeals all provisions relating to mandatory direct file.

The bill also amends s. 985.565, F.S., removing references to mandatory direct file for the purposes of sentencing, to conform to changes made by the act.

The bill is effective July 1, 2019.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The fiscal impact of the bill is indeterminate at this time. In FY 2017-18, there were 302 children transferred to adult court that met the criteria for mandatory direct file.<sup>14</sup> While the bill repeals all provisions related to mandatory direct file, it is unclear how many children would be eligible for transfer to adult court pursuant to one of the other methods

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<sup>14</sup> *Supra*, n 3.

available to prosecutors. However, if there is a reduction in the number of children transferred to adult court as a result of the elimination of mandatory direct file, this is likely to result in a negative prison bed impact (a decrease in the number of prison beds) on the Department of Corrections and a positive residential bed impact (an increase in the number of beds) on the DJJ.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 985.557 and 985.565.

**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.

By Senator Wright

14-01690-19

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A bill to be entitled

An act relating to mandatory direct file; amending s. 985.557, F.S.; repealing provisions requiring the mandatory direct filing of charges in adult court against juveniles in certain circumstances; amending s. 985.565, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsection (2) of section 985.557, Florida Statutes, is amended to read:

985.557 Direct filing of an information; discretionary and mandatory criteria.—

~~(2) MANDATORY DIRECT FILE.—~~

~~(a) With respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, the state attorney shall file an information if the child has been previously adjudicated delinquent for an act classified as a felony, which adjudication was for the commission of, attempt to commit, or conspiracy to commit murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault, and the child is currently charged with a second or subsequent violent crime against a person.~~

~~(b) With respect to any child 16 or 17 years of age at the time an offense classified as a forcible felony, as defined in s. 776.08, was committed, the state attorney shall file an information if the child has previously been adjudicated~~

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~~delinquent or had adjudication withheld for three acts classified as felonies each of which occurred at least 45 days apart from each other. This paragraph does not apply when the state attorney has good cause to believe that exceptional circumstances exist which preclude the just prosecution of the juvenile in adult court.~~

~~(e) 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.~~

~~(d)1. With respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, the state attorney shall file an information if the child has been charged with committing or attempting to commit an offense listed in s. 775.087(2)(a)1.a.-p., and, during the commission of or attempt~~

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to commit the offense, the child:

a. ~~Actually possessed a firearm or destructive device, as those terms are defined in s. 790.001.~~

b. ~~Discharged a firearm or destructive device, as described in s. 775.087(2)(a)2.~~

c. ~~Discharged a firearm or destructive device, as described in s. 775.087(2)(a)3., and, as a result of the discharge, death or great bodily harm was inflicted upon any person.~~

2. ~~Upon transfer, any child who is:~~

a. ~~Charged under sub-subparagraph 1.a. and who has been previously adjudicated or had adjudication withheld for a forcible felony offense or any offense involving a firearm, or who has been previously placed in a residential commitment program, shall be subject to sentencing under s. 775.087(2)(a), notwithstanding s. 985.565.~~

b. ~~Charged under sub-subparagraph 1.b. or sub-subparagraph 1.c., shall be subject to sentencing under s. 775.087(2)(a), notwithstanding s. 985.565.~~

3. ~~Upon transfer, any child who is charged under this paragraph, but who does not meet the requirements specified in subparagraph 2., shall be sentenced under s. 985.565; however, if the court imposes a juvenile sanction, the court must commit the child to a high-risk or maximum-risk juvenile facility.~~

4. ~~This paragraph shall not apply if the state attorney has good cause to believe that exceptional circumstances exist that preclude the just prosecution of the child in adult court.~~

5. ~~The Department of Corrections shall make every reasonable effort to ensure that any child 16 or 17 years of age who is convicted and sentenced under this paragraph be~~

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~~completely separated such that there is no physical contact with adult offenders in the facility, to the extent that it is consistent with chapter 958.~~

Section 2. Paragraphs (a) and (b) of subsection (4) of section 985.565, Florida Statutes, are amended to read:

985.565 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.—

(4) SENTENCING ALTERNATIVES.—

(a) Adult sanctions.—

1. Cases prosecuted on indictment.—If the child is found to have committed the offense punishable by death or life imprisonment, the child shall be sentenced as an adult. If the juvenile is not found to have committed the indictable offense but is found to have committed a lesser included offense or any other offense for which he or she was indicted as a part of the criminal episode, the court may sentence as follows:

a. As an adult;

b. Under chapter 958; or

c. As a juvenile under this section.

2. Other cases.—If a child who has been transferred for criminal prosecution pursuant to information or waiver of juvenile court jurisdiction is found to have committed a violation of state law or a lesser included offense for which he or she was charged as a part of the criminal episode, the court may sentence as follows:

a. As an adult;

b. Under chapter 958; or

c. As a juvenile under this section.

3. Notwithstanding any other provision to the contrary, if

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117 the state attorney is required to file a motion to transfer and  
 118 certify the juvenile for prosecution as an adult under s.  
 119 985.556(3) and that motion is granted, ~~or if the state attorney~~  
 120 ~~is required to file an information under s. 985.557(2)(a) or~~  
 121 ~~(b)~~, the court must impose adult sanctions.

122 4. Any sentence imposing adult sanctions is presumed  
 123 appropriate, and the court is not required to set forth specific  
 124 findings or enumerate the criteria in this subsection as any  
 125 basis for its decision to impose adult sanctions.

126 5. When a child has been transferred for criminal  
 127 prosecution as an adult and has been found to have committed a  
 128 violation of state law, the disposition of the case may include  
 129 the enforcement of any restitution ordered in any juvenile  
 130 proceeding.

131 (b) *Juvenile sanctions.*—For juveniles transferred to adult  
 132 court but who do not qualify for such transfer under s.  
 133 985.556(3) ~~or s. 985.557(2)(a) or (b)~~, the court may impose  
 134 juvenile sanctions under this paragraph. If juvenile sentences  
 135 are imposed, the court shall, under this paragraph, adjudge the  
 136 child to have committed a delinquent act. Adjudication of  
 137 delinquency shall not be deemed a conviction, nor shall it  
 138 operate to impose any of the civil disabilities ordinarily  
 139 resulting from a conviction. The court shall impose an adult  
 140 sanction or a juvenile sanction and may not sentence the child  
 141 to a combination of adult and juvenile punishments. An adult  
 142 sanction or a juvenile sanction may include enforcement of an  
 143 order of restitution or probation previously ordered in any  
 144 juvenile proceeding. However, if the court imposes a juvenile  
 145 sanction and the department determines that the sanction is

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146 unsuitable for the child, the department shall return custody of  
 147 the child to the sentencing court for further proceedings,  
 148 including the imposition of adult sanctions. Upon adjudicating a  
 149 child delinquent under subsection (1), the court may:

150 1. Place the child in a probation program under the  
 151 supervision of the department for an indeterminate period of  
 152 time until the child reaches the age of 19 years or sooner if  
 153 discharged by order of the court.

154 2. Commit the child to the department for treatment in an  
 155 appropriate program for children for an indeterminate period of  
 156 time until the child is 21 or sooner if discharged by the  
 157 department. The department shall notify the court of its intent  
 158 to discharge no later than 14 days prior to discharge. Failure  
 159 of the court to timely respond to the department's notice shall  
 160 be considered approval for discharge.

161 3. Order disposition under ss. 985.435, 985.437, 985.439,  
 162 985.441, 985.45, and 985.455 as an alternative to youthful  
 163 offender or adult sentencing if the court determines not to  
 164 impose youthful offender or adult sanctions.

165

166 It is the intent of the Legislature that the criteria and  
 167 guidelines in this subsection are mandatory and that a  
 168 determination of disposition under this subsection is subject to  
 169 the right of the child to appellate review under s. 985.534.

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



## 2019 AGENCY LEGISLATIVE BILL ANALYSIS

**AGENCY: Department of Juvenile Justice**

### BILL INFORMATION

<b>BILL NUMBER:</b>	SB 1260
<b>BILL TITLE:</b>	Mandatory Direct File
<b>BILL SPONSOR:</b>	Senator Wright
<b>EFFECTIVE DATE:</b>	July 1, 2019

### COMMITTEES OF REFERENCE

1) Criminal Justice
2) Judiciary
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

### CURRENT COMMITTEE

Criminal Justice
------------------

### SIMILAR BILLS

<b>BILL NUMBER:</b>	SB 850
<b>SPONSOR:</b>	Senator Powell

### PREVIOUS LEGISLATION

<b>BILL NUMBER:</b>	SB 392
<b>SPONSOR:</b>	Senator Bracy
<b>YEAR:</b>	2018
<b>LAST ACTION:</b>	Died in committee

### IDENTICAL BILLS

<b>BILL NUMBER:</b>	HB 6051
<b>SPONSOR:</b>	Rep. Sirois

### **Is this bill part of an agency package?**

No

### BILL ANALYSIS INFORMATION

<b>DATE OF ANALYSIS:</b>	3.13.19 for more information please contact Rachel Moscoso, Legislative Affairs Director, (850) 717-2716
<b>LEAD AGENCY ANALYST:</b>	Sam Kerce, Deputy Legislative Affairs Director
<b>ADDITIONAL ANALYST(S):</b>	Sherry Jackson, Research and Data
<b>LEGAL ANALYST:</b>	John Mila, Asst. General Counsel
<b>FISCAL ANALYST:</b>	Click or tap here to enter text.

## POLICY ANALYSIS

### 1. EXECUTIVE SUMMARY

This bill removes language related to the process of mandatory direct file. Effective Date: July 1, 2019

### 2. SUBSTANTIVE BILL ANALYSIS

#### 1. PRESENT SITUATION:

##### Methods of Transfer (FY 2017-18):

1. Voluntary: .3% of youth (3 youth)
2. Direct file: 96.2% (870 youth)
3. Involuntary waiver: 2.4% (22 youth)
4. Indictment: 1% (9 youth)

“Direct file” is by far the most common means of transfer, accounting for more 98% of transfers over the past 5 years (96.2% in FY 2017-18).

The various methods of transfer are distinct, and recognizing their differences is critical.

**INDICTMENT:** The narrowest form of transfer, it applies to children of any age who are accused of committing an offense for which an adult could receive death or life imprisonment. The decision to seek indictment rests entirely with the state attorney. Over the past 5 years, there has only been an average of 7 cases per year.

**VOLUNTARY WAIVER:** A child of any age charged with any offense can voluntarily transfer his or her case to adult court; it is rare and only applied to 3 youth in the last fiscal year.

**INVOLUNTARY DISCRETIONARY WAIVER:** Any child 14 years of age or older at the time of any offense may be subject to involuntary waiver where the state attorney files information with the court requesting transfer and the judge must review and either approve or deny the transfer.

**INVOLUNTARY MANDATORY WAIVER:** When a youth meets certain requirements under this section a state attorney must put in a request to the court to transfer the youth for adult prosecution or the state attorney must provide written reason to the court as to why the youth should not be transferred. If the state attorney does request transfer, then a judge must review and approve or deny the transfer. Criteria are:

- a. The child was 14 years of age or older and has previously been adjudicated delinquent for a felony offense for commission, attempt to commit, or conspiracy to commit murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, aggravated assault, or burglary with an assault or battery, and the youth is currently charged with a second violent crime.
- b. The youth is 14 years of age or older at the time of commission of a fourth alleged felony and the child was previously adjudicated delinquent or adjudicated withheld for three offenses that are felony offenses if committed by an adult, and at least one of those felony offenses involved the use of a firearm or violence against a person.

**DISCRETIONARY DIRECT FILE:** Unlike waiver, which requires the participation and approval of the court, discretionary direct file is accomplished exclusively by the state attorney. Discretionary direct file is extremely broad, and comes in two forms, depending upon the youth’s age at the time of the offense. For 14- or 15-year-olds, a wide range of violent or serious felony offenses are subject to direct file, including arson, sexual battery, robbery, aggravated assault / battery, most forms of first-degree burglary, lewd or lascivious offenses, first-degree grand theft, home invasion, carjacking, carrying a weapon or firearm during the commission of a felony, and a second grand theft of a motor vehicle. A 16- or 17-year-old may be direct filed for any felony offense, or a misdemeanor if the youth has at least two previous adjudications or withholds, at least one of which involved a felony. Under Discretionary Direct File a state attorney only needs to file information to transfer the youth to adult court. A judge or court is not involved in this decision.

**MANDATORY DIRECT FILE:** When a youth meets certain requirements under this section a state attorney must file information to transfer the youth to adult court unless the state attorney has good cause to believe that exceptional circumstances exist that preclude the youth’s prosecution in adult court. Criteria are:



- A 16 or 17-year-old with a prior adjudication for a felony. Those felonies include attempted murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, aggravated assault. The child must also be charged with a second or subsequent violent crime against a person.
- A 16 or 17-year-old who has been charged for a "forcible felony" and has had three previous felony adjudications delinquent or withheld, each of which must have occurred 45 days apart. The State attorney can decide not to transfer in this case.
- Information must be filed regardless of age if a child steals a car and causes serious bodily injury or death to a person who was not involved in the underlying crime.
- Information must be filed if a youth is charged with one of the following offenses and while committing this offense they possessed or discharged a firearm: Murder, sexual battery, robbery, burglary, arson, aggravated battery, kidnapping, escape, aircraft piracy, aggravated child abuse, aggravated abuse of an elderly person or disabled adult, unlawful throwing/placing/discharging of a destructive device or bomb, carjacking, aggravated stalking, various types of drug trafficking, and possession of a firearm by a felon.

The following chart addresses **only the discretionary forms of these transfers**. The mandatory forms of waiver and direct file are narrowly prescriptive, and depend upon a combination of the youth's age, presenting offense and delinquency history which are hard to capture in the below chart.

Method of Transfer	Exclusive SA Discretion?	Age	Offense
Indictment	Yes	Any	Capital or punishable by life (if adult)
Involuntary Discretionary Waiver	No	14+	Any
Discretionary Direct File	Yes	14-15	Violent or serious felony
		16-17	Any felony (or misdemeanors with priors)
Waiver (Voluntary)	N/A	Any	Any

\*\*State attorney is abbreviated SA in the above table.

The method of transfer is significant because it impacts the type of sentence that may be imposed by the adult court. A 16- or 17-year-old who receives a mandatory direct file under section 985.557(2)(a) or (2)(b), F.S., (emphasized above) must receive adult sanctions under section 985.565(4)(a)3., F.S.

## 2. EFFECT OF THE BILL:

### Section 1:

The bill strikes subsection (2) of s. 985.557, F.S., which relates to mandatory direct file. If this bill were to become law, no youth could be mandatory direct filed. Youth would still be eligible for discretionary direct file, waiver, or indictment.

### Section 2:

The bill removes references to mandatory direct file in s. 985.565, F.S. that relate to the sentencing of youth.

### Section 3:

Provides for an implementation date of July 1, 2019.

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

If yes, explain:	Click or tap here to enter text.
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

**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:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

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

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

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

Revenues:	Click or tap here to enter text.
Expenditures:	Fiscal impact is indeterminate. Any additional youth that come into contact with the Department and spend time in secure detention will add to the cost of detention which is split with non-fiscally constrained counties in accordance with Detention Cost Share.
Does the legislation increase local taxes or fees? If yes, explain.	No.
If yes, does the legislation provide for a local referendum or local governing body public vote	Click or tap here to enter text.

prior to implementation of the tax or fee increase?	
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**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?**Y ☒ N ☐

Revenues:	Click or tap here to enter text.
Expenditures:	Fiscal impact is indeterminate.  In FY 2017-18, 302, or 33% of youth that were transferred to adult court met the criteria for mandatory direct file. Under the bill, these youth would still be eligible for discretionary direct file, waiver, or indictment. The Department cannot predict how state attorneys or judges might decide to handle these cases.
Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	Click or tap here to enter text.

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

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Other:	Click or tap here to enter text.

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

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

**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.	Click or tap here to enter text.
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**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.	Click or tap here to enter text.
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**ADDITIONAL COMMENTS**

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**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

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Issues/concerns/comments:	Click or tap here to enter text.
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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

4-8-19

Meeting Date

1260

Bill Number (if applicable)

Topic Mandatory Direct File

Amendment Barcode (if applicable)

Name DAWN STEWARD

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

Address 2130 Blossom Lane

Phone 407-645-0273

Street

Winter Park FL 32789

City

State

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/19

Meeting Date

1260

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Candice K. Brower

Job Title

Address

Street

Phone 352-681-0293

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Bar Public Interest Law Section

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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

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

April 8, 2019

*Meeting Date*

SB 1260

*Bill Number (if applicable)*

Topic Mandatory Direct File

*Amendment Barcode (if applicable)*

Name Hon. Andy Thomas

Job Title Elected Public Defender

Address 301 South Monroe Street

*Street*

Tallahassee

*City*

Florida

*State*

32301

*Zip*

Phone 850-606-1000

Email andy.thomas@flpd2.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Public Defender Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/8/19

Meeting Date

1260

Bill Number (if applicable)

Topic Mandatory Direct File

Amendment Barcode (if applicable)

Name Daphnee Sainvil

Job Title Legislative Policy Advisor

Address 100 S. Andrews Ave, Main Library, 8<sup>th</sup> Fl

Phone 954-253-7320

Street

Ft. Lauderdale

FL

33301

City

State

Zip

Email dsainvil@broward.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Broward County Bd. of County Cmsrs.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)



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

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

4.8.19

1260

*Meeting Date*

*Bill Number (if applicable)*

Topic Mandatory Direct File

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

*Street*

Tallahassee

FL

32308

Email barney@barneybishop.com

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

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

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

4/8/2019

*Meeting Date*

SB 1260

*Bill Number (if applicable)*

Topic Mandatory Direct File

*Amendment Barcode (if applicable)*

Name Scott D. McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

Phone 850-521-3042

*Street*

Tallahassee

FL

32302

*City*

*State*

*Zip*

Email scott.mccoy@splcenter.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Southern Poverty Law Center Action Fund

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

## APPEARANCE RECORD

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

4/8/19

Meeting Date

SUB 1260

Bill Number (if applicable)

Topic Direct File

Amendment Barcode (if applicable)

Name Linda AlexenkoJob Title Ex. DirectorAddress 111 S. MagnoliaPhone 425-2600

Street

City

Tall. FL

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)Representing The Children's ConferenceAppearing at request of Chair: ☐ Yes ☐ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4/8/17

Meeting Date

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

1260

Bill Number (if applicable)

Topic Direct File

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title Public Policy

Address 126 N. Milk Ave

Phone (407) 376-4401

Street

Orlando FL 32801

City

State

Zip

Email ida.eskamani

Speaking: ☐ For ☐ Against ☐ Information

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

Representing New Florida Majority

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/19

Meeting Date

SB 1260

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Greg Pound

Job Title

Address 9166 Sunrise Dr

Street

Phone

Largo

City

FL

State

33773

Zip

Email

Speaking: ☐ For ☐ Against ☒ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/19

Meeting Date

SB 1260

Bill Number (if applicable)

Topic

Mandatory Direct File

Amendment Barcode (if applicable)

Name

Phil Archer

Job Title

State Attorney

Address

2725 Judge Fran Jamieson

Phone

(321) 637-5575

Street

Viera

Fl.

City

State

Zip

Email

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

FPAA

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☐

Yes

☐

No

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

S-001 (10/14/14)



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Military and Veterans Affairs and Space, *Chair*  
Children, Families, and Elder Affairs  
Commerce and Tourism  
Environment and Natural Resources

### JOINT COMMITTEE:

Joint Administrative Procedures Committee

**SENATOR TOM A. WRIGHT**

14th District

March 5, 2019

The Honorable Keith Perry  
316, Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Re: Senate Bill 1260 – Mandatory Direct File

Dear Chairman Perry:

Senate Bill 1260, relating to Mandatory Direct File has been referred to the Committee on Criminal Justice. I am requesting your consideration on placing SB 1260 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Tom A. Wright".

Tom A. Wright, District 14

cc: Lauren Jones, Staff Director of the Committee on Criminal Justice  
Sue Arnold, Administrative Assistant of the Committee on Criminal Justice

### REPLY TO:

- ☐ 4606 Clyde Morris Blvd., Suite 2-J, Port Orange, Florida 32129 (386) 304-7630
- ☐ 312 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**BILL GALVANO**  
President of the Senate

**DAVID SIMMONS**  
President Pro Tempore

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

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

---

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

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BILL: CS/SB 1530

INTRODUCER: Environment and Natural Resources Committee and Senator Rouson

SUBJECT: Vessels

DATE: April 5, 2019

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Rogers	EN	<b>Fav/CS</b>
2.	Erickson	Jones	CJ	<b>Favorable</b>
3.			RC	

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1530 requires a vessel operator to reduce speed to a slow speed with minimum wake upon approaching within 300 feet of any emergency vehicle with its emergency lights activated or any construction vessel or barge under specified conditions. A vessel operator found in violation of this requirement is guilty of a noncriminal infraction.

The bill increases several of the civil penalties for a vessel deemed at risk of becoming derelict and increases several of the maximum civil penalties for anchoring or mooring in a prohibited area. The bill also creates civil penalties for vessels that fail to reduce speed for special hazards as specified in the bill.

There may be a positive fiscal impact on the Florida Fish and Wildlife Conservation Commission due to the new and increased civil penalties provided under the bill. See Section V. Fiscal Impact Statement.

The bill is effective on July 1, 2019.



## II. Present Situation:

### Anchoring or Mooring

Anchoring or mooring has been described as:

[A] boater's practice of seeking and using a safe harbor on the public waterway system for an undefined duration. This may be accomplished utilizing an anchor carried on the vessel,<sup>1</sup> or through the utilization of moorings permanently affixed to the bottom. Anchorages are areas that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not. Mooring fields are areas designated and used for a system of properly spaced moorings.<sup>2</sup>

### Derelict Vessels and Vessels at Risk of Becoming Derelict

A derelict vessel is a vessel that is:

- Left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state;
- At a port in the state without the consent of the agency that has jurisdiction of the port; or
- Docked, grounded, or beached upon the property of another without the consent of the owner of the property.<sup>3</sup>

In 2016, the Legislature prohibited neglected vessels or those in deteriorating conditions from anchoring, mooring, or occupying the waters of the state.<sup>4</sup> Section 327.4107(2), F.S., provides that a vessel is at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor;
- The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, or is listing due to water intrusion, or is sunk or partially sunk; or
- The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives telephonic or written notice stating such from an officer, and the vessel owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having ordered necessary parts for vessel repair.<sup>5</sup>

---

<sup>1</sup> Section 327.02(46), F.S., defines the term "vessel" as including every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

<sup>2</sup> Thomas T. Ankersen and Richard Hamann, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, TP-157 (October 2006), at p. 2, available at <https://www.law.ufl.edu/pdf/academics/centers-clinics/clinics/conservation/resources/anchaway.pdf> (last visited on April 3, 2019).

<sup>3</sup> Section 823.11(1)(b), F.S.

<sup>4</sup> Ch. 2016-108, L.O.F.; s. 327.4107, F.S.

<sup>5</sup> Section 327.4107, F.S., does not apply to a vessel that is moored to a private dock or wet slip with the consent of the owner for the purpose of receiving repairs. Section 327.4107(5), F.S.

**Penalties for Prohibited Acts Relating to Derelict Vessels and Anchoring and Mooring**

It is a first degree misdemeanor to store, leave, or abandon a derelict vessel in Florida.<sup>6</sup> Further, such violation is punishable by a civil penalty of up to \$50,000 per violation per day.<sup>7</sup> Each day during any portion of which the violation occurs constitutes a separate offense.<sup>8</sup>

Section 327.4107(3), F.S., provides that a person who anchors or moors a vessel at risk of becoming derelict on the waters of this state or allows such a vessel to occupy such waters commits a noncriminal infraction,<sup>9</sup> punishable as provided in s. 327.73, F.S.<sup>10</sup>

Section 327.73(1)(aa), F.S., provides that an owner or operator of a vessel at risk of becoming derelict on waters of the state in violation of s. 327.4107, F.S., is subject to a uniform boating citation and civil penalty. The civil penalty provided is:

- \$50 for a first offense;
- \$100 for a second offense occurring 30 days or more after a first offense; and
- \$250 for a third offense occurring 30 days or more after a previous offense.

Section 327.4109, F.S., prohibits anchoring or mooring in certain areas or under certain conditions. Section 327.4109(1)(a), F.S., prohibits the owner or operator of a vessel from anchoring or mooring such that the nearest approach of the anchored or moored vessel is:

- Within 150 feet of any marina, boat ramp, boatyard, or other vessel launching or loading facility;
- Within 300 feet of a superyacht repair facility;<sup>11</sup> or
- Within 100 feet outward from the marked boundary of a public mooring field or a lesser distance if approved by the commission upon request of a local government within which the mooring field is located.<sup>12</sup>

Notwithstanding s. 327.4109(1), F.S., an owner or operator of a vessel may anchor or moor within 150 feet of any marina, boat ramp, boatyard, or other vessel launching or loading facility; within 300 feet of a superyacht repair facility; or within 100 feet outward from the marked boundary of a public mooring field if either of the following apply:

- The vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor for 5 business days or until the vessel is repaired, whichever occurs first.

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<sup>6</sup> Sections 376.15(2) and 823.11(2) and (5), 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.

<sup>7</sup> Sections 376.15(2) and 376.16(1), F.S.

<sup>8</sup> Section 376.16(1), F.S.

<sup>9</sup> Section 775.082(5), F.S., provides that any person who has been convicted of a noncriminal violation may not be sentenced to a term of imprisonment nor to any other punishment more severe than a fine, forfeiture, or other civil penalty, except as provided in ch. 316, F.S., or by ordinance of any city or county.

<sup>10</sup> The penalty under s. 327.4107, F.S., is in addition to any other penalties provided by law. Section 327.4107(4), F.S.

<sup>11</sup> A “superyacht repair facility” is a facility that services or repairs a yacht with a water line of 120 feet or more in length. Section 327.4109(1)(a)2., F.S.

<sup>12</sup> This prohibition does not apply to: a vessel owned or operated by a governmental entity; a construction or dredging vessel on an active job site; a commercial fishing vessel actively engaged in commercial fishing; or a vessel actively engaged in recreational fishing if the persons onboard are actively tending hook and line fishing gear or nets. Section 327.4109(1)(b), F.S.

- Imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor until weather conditions no longer pose such risk. During a hurricane or tropical storm, weather conditions are deemed to no longer pose an unreasonable risk of harm when the hurricane or tropical storm warning affecting the area has expired.

Section 327.4109(3), F.S., prohibits the owner or operator of a vessel from anchoring or mooring within the marked boundary of a public mooring field unless the owner or operator has a lawful right to do so by contractual agreement or other business arrangement.

Section 327.4109(4), F.S., prohibits the owner or operator of a vessel from anchoring, mooring, tying, or otherwise affixing or allowing the vessel to remain anchored, moored, tied, or otherwise affixed to an unpermitted, unauthorized, or otherwise unlawful object that is on or affixed to the bottom of the waters of this state. However, this subsection does not apply to a private mooring owned by the owner of privately owned submerged lands.

A violation of s. 327.4109, F.S., is a noncriminal infraction, and punishable as provided in s. 327.73(1)(bb), F.S.<sup>13</sup> Section 327.73(1)(bb), F.S., provides that an owner or operator who anchors or moors in a prohibited area in violation of s. 327.4109, F.S., is subject to a uniform boating citation and civil penalty. The civil penalty provided is up to a maximum of:

- \$50 for a first offense;
- \$100 for a second offense; and
- \$250 for a third offense.<sup>14</sup>

Finally, s. 327.73(1) F.S., provides that any person who fails to appear or otherwise properly respond to a uniform boating citation must, in addition to the charge relating to the violation of the boating laws of this state, be charged with a second degree misdemeanor.<sup>15</sup>

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

The bill creates s. 327.332, F.S., relating to special hazards requiring slow speeds by vessel operators. This new section requires vessel operators to reduce speed to a slow speed with minimum wake upon approaching certain hazardous conditions and provides that a vessel operator found in violation of this requirement is guilty of a noncriminal infraction. The hazardous conditions are:

- Approaching within 300 feet of any emergency vessel, including but not limited to, a law enforcement vessel, a United States Coast Guard vessel or auxiliary vessel, fire vessel, or tow vessel, with its emergency lights activated; and
- Approaching within 300 feet of any construction vessel or barge actively engaged in operations and displaying an orange flag or yellow flashing light from the tallest portion of the vessel or barge.

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<sup>13</sup> Section 327.4109(5), F.S.

<sup>14</sup> Section 327.73(1)(bb), F.S.

<sup>15</sup> 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.

The bill also amends s. 327.73, F.S., relating to civil penalties for violations of specified vessel laws. The bill increases civil penalties for a violation of s. 327.4107, F.S., relating to vessels at risk of becoming derelict on waters of the state, from:

- \$100 to \$250 for a second offense occurring 30 days or more after a previous offense; and
- \$250 to \$500 for a third or subsequent offense occurring 30 days or more after a previous offense.

The bill increases the maximum civil penalty for a violation of s. 327.4109, F.S., relating to anchoring or mooring in a prohibited area, from:

- \$100 to \$250 for a second offense; and
- \$250 to \$500 for a third or subsequent offense.

Finally, the bill creates civil penalties for a violation of s. 327.332, F.S., the new section relating to vessels failing to reduce speed for special hazards:

- \$50 for a first offense;
- \$250 for a second offense occurring within 12 months after a prior conviction;
- \$500 for a third offense occurring within 36 months after a prior conviction; and
- \$1000 for a fourth or subsequent offense occurring within 72 months after a prior conviction.

The bill is effective on July 1, 2019.

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

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

None.

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

None.

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

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

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

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

There may be a positive fiscal impact on the Florida Fish and Wildlife Conservation Commission due to the new and increased civil penalties provided under the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 327.332 of the Florida Statutes.

This bill substantially amends section 327.73 of the Florida Statutes.

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

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

**CS by Environment and Natural Resources Committee on April 2, 2019:**

- Removes a provision relating to slowing speeds upon seeing a vessel or person in a hazardous or vulnerable position.
- Removes certain provisions relating to derelict vessels.
- Removes a provision relating to transfer of ownership of a vessel.
- Removes the authority to impound derelict vessels after three violations.

**B. Amendments:**

None.

By the Committee on Environment and Natural Resources; and  
Senator Rouson

592-03795-19

20191530c1

A bill to be entitled

An act relating to vessels; creating s. 327.332, F.S.;  
requiring vessel operators to reduce speed in  
specified hazardous situations; providing penalties;  
amending s. 327.73, F.S.; revising civil penalties  
relating to certain at-risk vessels and prohibited  
anchoring or mooring; providing civil penalties  
relating to vessels that fail to reduce speed for  
special hazards; providing an effective date.

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

Section 1. Section 327.332, Florida Statutes, is created to  
read:

327.332 Special hazards requiring slow speed.—

(1) A vessel operator must reduce to slow speed, minimum  
wake upon approaching within 300 feet of any emergency vessel,  
including, but not limited to, a law enforcement vessel, United  
States Coast Guard vessel or auxiliary vessel, fire vessel, or  
tow vessel, with its emergency lights activated.

(2) A vessel operator must reduce to slow speed, minimum  
wake upon approaching within 300 feet of any construction vessel  
or barge when workers are present and actively engaged in  
operations and an orange flag or yellow flashing light is  
displayed from the tallest portion of the vessel or barge.

(3) A vessel operator found in violation of this section is  
guilty of a noncriminal infraction as provided in s. 327.73.

Section 2. Paragraphs (aa) and (bb) of subsection (1) of  
section 327.73, Florida Statutes, are amended, and paragraph

592-03795-19

20191530c1

(cc) is added to that subsection, to read:

327.73 Noncriminal infractions.—

(1) Violations of the following provisions of the vessel  
laws of this state are noncriminal infractions:

(aa) Section 327.4107, relating to vessels at risk of  
becoming derelict on waters of this state, for which the civil  
penalty is:

1. For a first offense, \$50.

2. For a second offense occurring 30 days or more after a  
first offense, \$250 ~~\$100~~.

3. For a third or subsequent offense occurring 30 days or  
more after a previous offense, \$500 ~~\$250~~.

(bb) Section 327.4109, relating to anchoring or mooring in  
a prohibited area, for which the penalty is:

1. For a first offense, up to a maximum of \$50.

2. For a second offense, up to a maximum of \$250 ~~\$100~~.

3. For a third or subsequent offense, up to a maximum of  
\$500 ~~\$250~~.

(cc) Section 327.332, relating to vessels failing to reduce  
speed for special hazards, for which the penalty is:

1. For a first offense, \$50.

2. For a second offense occurring within 12 months after a  
prior conviction, \$250.

3. For a third offense occurring within 36 months after a  
prior conviction, \$500.

4. For a fourth or subsequent offense occurring within 72  
months after a prior conviction, \$1,000.

Any person cited for a violation of any provision of this

592-03795-19

20191530c1

subsection shall be deemed to be charged with a noncriminal  
infraction, shall be cited for such an infraction, and shall be  
cited to appear before the county court. The civil penalty for  
any such infraction is \$50, except as otherwise provided in this  
section. Any person who fails to appear or otherwise properly  
respond to a uniform boating citation shall, in addition to the  
charge relating to the violation of the boating laws of this  
state, be charged with the offense of failing to respond to such  
citation and, upon conviction, be guilty of a misdemeanor of the  
second degree, punishable as provided in s. 775.082 or s.  
775.083. A written warning to this effect shall be provided at  
the time such uniform boating citation is issued.

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

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

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

4/8/14

Meeting Date

CS/SB 1530

Bill Number (if applicable)

Topic VESSLS

Amendment Barcode (if applicable)

Name JEFF SHARKEY

Job Title CEO, CAP

Address 100 E COLLEGE

Street

City TALEA State FL Zip 32801

Phone 850 224 1000

Email JOHN@SHARKEYGROUP.COM

Speaking: ☒ For ☐ Against ☐ Information

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

Representing CITY OF ST PETERSBURG

Appearing at request of Chair: ☐ Yes ☒ No

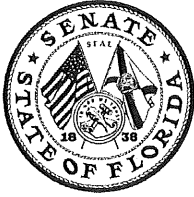
Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)





The Florida Senate

## Committee Agenda Request

**To:** Senator Keith Perry, Chair  
Criminal Justice Committee

**Subject:** Committee Agenda Request

**Date:** April 2, 2019

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I respectfully request that **Senate Bill # 1530**, relating to Vessels, be placed on the:

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

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

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Senator Darryl Rouson  
Florida Senate, District 19



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Transportation, *Vice Chair*  
Agriculture  
Appropriations Subcommittee on Health  
and Human Services  
Appropriations Subcommittee on Pre-K - 12 Education  
Criminal Justice  
Governmental Oversight and Accountability

### SELECT COMMITTEE:

Joint Select Committee on Collective Bargaining

### SENATOR DARRYL ROUSON

19th District

April 8, 2019

Chair Keith Perry,

I am requesting that Senator Brandes present Senate Bill 1530 in the Criminal Justice Committee.

Thank you,

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

Senator Darryl Rouson

### REPLY TO:

- ☐ 535 Central Avenue, Suite 302, St. Petersburg, Florida 33701 (727) 822-6828
- ☐ 212 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5019

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**JOE NEGRON**  
President of the Senate

**ANITERE FLORES**  
President Pro Tempore

# CourtSmart Tag Report

**Room:** LL 37

**Case No.:**

**Type:**

**Caption:** Senate Criminal Justice Committee

**Judge:**

**Started:** 4/8/2019 1:33:14 PM

**Ends:** 4/8/2019 2:09:27 PM **Length:** 00:36:14

1:33:13 PM	Meeting called to order
1:33:16 PM	Roll call
1:33:41 PM	Tab 5- SB 1260 by Senator Wright; Mandatory Direct File
1:34:42 PM	Speaker Gregg Pound
1:36:43 PM	Speakers waive in support
1:37:43 PM	Roll call for SB 1260
1:37:58 PM	Tab 1- Confirmation of Melinda Coonrod to Florida Commission on Offender Review
1:45:35 PM	Speakers waive in support of the confirmation
1:46:35 PM	Senator Flores moves to recommend confirmation of Ms. Coonrod
1:46:48 PM	Roll call on Tab 1
1:46:58 PM	Tab 2- SB 876 by Senator Powell; Juvenile Justice
1:47:21 PM	Amendment Barcode 400510
1:49:08 PM	Back on SB 876 as amended
1:50:31 PM	Speaker Scott McCoy from Southern Poverty Law Center Action Fund
1:56:05 PM	Close on SB 876
1:57:04 PM	Roll call on SB 876
1:57:18 PM	Tab 3- SB 982 by Senator Thurston; Human Trafficking Education in Schools
1:59:52 PM	Speakers waive in support
2:00:01 PM	Roll call on SB 982
2:00:04 PM	SB 1238 is temporarily postponed
2:00:33 PM	Recording Paused
2:06:11 PM	Recording Resumed
2:06:14 PM	Tab 6- SB 1530 by Senator Rouson; Vessels (presented by Sen. Brandes)
2:07:41 PM	Roll call on SB 1530
2:08:41 PM	Meeting adjourned