

Tab 3	SB 200 by Hukill; (Similar to CS/H 0329) Animals Confined in Unattended Motor Vehicles					
237038	D	S	RCS	CJ, Gibson	Delete everything after	02/01 07:50 PM
Tab 4	SB 356 by Hutson; (Similar to H 0387) Mental or Physical Disabilities					
Tab 5	SB 418 by Smith; (Similar to H 0093) Law Enforcement Officer Body Cameras					
Tab 6	CS/SB 582 by GO, Gaetz; (Identical to 1ST ENG/H 7071) Public Corruption					
243190	D	S	WD	CJ, Brandes	Delete everything after	02/01 07:50 PM
Tab 7	SB 612 by Hays; (Identical to H 4009) Slungshot					
Tab 8	SB 634 by Benacquisto; (Identical to H 0725) Sexual Offense Victim or Witness Testimony					
Tab 9	SB 700 by Soto; (Similar to CS/H 0293) Public Records/Juvenile Criminal History Information					
Tab 10	SB 714 by Joyner; (Identical to H 1145) Theft					
Tab 11	SB 850 by Bradley; (Similar to H 0549) Offenses Concerning Racketeering and Illegal Debts					
748982	A	S	WD	CJ, Brandes	Delete L.292 - 294:	02/01 07:50 PM
Tab 12	SB 862 by Legg; (Similar to CS/H 0769) Mental Health Treatment					
161052	A	S	RCS	CJ, Bradley	btw L.137 - 138:	02/01 07:50 PM
Tab 13	SB 930 by Evers; (Similar to H 0757) Trust Funds/State-Operated Institutions Inmate Welfare Trust Fund/DOC					
Tab 14	SB 932 by Evers; (Compare to H 0755) Inmate Welfare and Employee Benefit Trust Funds					
836554	A	S	RCS	CJ, Evers	Delete L.108 - 109:	02/01 07:50 PM
Tab 15	SB 936 by Ring; (Compare to CS/H 1043) Criminal Justice System Interviews of Persons with Autism, an Autism Spectrum Disorder, or a Related Developmental Disability					
390296	A	S	RCS	CJ, Clemens	Delete L.31 - 45:	02/01 07:50 PM
Tab 16	SB 1256 by Brandes; (Similar to CS/H 1149) Alternative Sanctioning					
704748	A	S	RCS	CJ, Brandes	Delete L.42:	02/01 07:50 PM
688244	A	S	WD	CJ, Brandes	Delete L.45:	01/29 03:32 PM
Tab 17	SB 1294 by Grimsley; (Identical to H 1367) Offenses Involving Minors and Vulnerable Persons					
Tab 18	SPB 7022 by CJ; OGSR/Agency Photograph, Video, or Audio Recording/Killing of a Person					
753234	D	S	FAV	CJ, Bradley	Delete everything after	02/01 07:50 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Evers, Chair
Senator Gibson, Vice Chair

MEETING DATE: Monday, February 1, 2016
TIME: 4:00—6:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Evers, Chair; Senator Gibson, Vice Chair; Senators Bradley, Brandes, and Clemens

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.

Secretary of Corrections

1	Jones, Julie ()	Pleasure of Governor	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	Presentation by Secretary Daly on recent developments and agency activities in juvenile justice.		Presented
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3	SB 200 Hukill (Similar CS/H 329, Compare CS/CS/H 131, CS/CS/S 308)	Animals Confined in Unattended Motor Vehicles; Citing this act as the "Protecting Animal Welfare and Safety Act" or "P.A.W.S. Act"; prohibiting a person from confining an animal in an unattended motor vehicle under certain circumstances; providing a criminal penalty; providing that authorized individuals may use reasonable force to remove animals under certain circumstances; providing an exemption from liability for authorized individuals; providing an exception for the transportation of agricultural animals, etc. CJ 02/01/2016 Fav/CS JU RC	Fav/CS Yeas 5 Nays 0
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4	SB 356 Hutson (Similar H 387)	Mental or Physical Disabilities; Citing this act as "Carl's Law"; deleting enhanced penalties for crimes evidencing prejudice based on mental or physical disability; deleting the definition of the term "mental or physical disability"; defining the term "mental or physical disability"; creating enhanced penalties for crimes evidencing prejudice based on mental or physical disability, etc. CJ 02/01/2016 Favorable ACJ AP	Favorable Yeas 5 Nays 0
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COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, February 1, 2016, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 418 Smith (Similar H 93)	Law Enforcement Officer Body Cameras; Requiring a law enforcement agency that authorizes its law enforcement officers to wear body cameras to establish policies and procedures addressing the proper use, maintenance, and storage of body cameras and the data recorded by body cameras; requiring such policies and procedures to include specified information; requiring that data recorded by body cameras be retained in accordance with specified requirements, etc. CJ 02/01/2016 Favorable CA FP	Favorable Yeas 5 Nays 0
6	CS/SB 582 Governmental Oversight and Accountability / Gaetz (Identical H 7071, Compare H 593, CS/S 686)	Public Corruption; Revising the definition of the term "bribery"; revising requirements for prosecution; revising the prohibition against unlawful compensation or reward for official behavior to conform to changes made by the act; revising the prohibition against official misconduct to conform to changes made by the act; revising applicability of the offense to include public contractors, etc. GO 12/01/2015 Temporarily Postponed GO 01/11/2016 Unfavorable CJ 02/01/2016 Favorable RC	Favorable Yeas 5 Nays 0
7	SB 612 Hays (Identical H 4009)	Slungshot; Revising the definition of the term "concealed weapon" to delete its inclusion of a slungshot; deleting provisions prohibiting the manufacture or sale of any instrument or weapon usually known as a slungshot; deleting a provision prohibiting a dealer in arms from selling or transferring a slungshot to a minor, etc. CJ 02/01/2016 Favorable CM RC	Favorable Yeas 5 Nays 0
8	SB 634 Benacquisto (Identical H 725)	Sexual Offense Victim or Witness Testimony; Authorizing a trial court to order the videotaping of the testimony of a victim of sexual battery under certain circumstances; authorizing a trial court to order the use of closed circuit television in proceedings involving a victim of sexual battery under certain circumstances; permitting certain persons to be present in the room during the recording of testimony, etc. CJ 02/01/2016 Favorable JU FP	Favorable Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, February 1, 2016, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	SB 700 Soto (Similar CS/H 293, Compare CS/H 129, S 314, S 558)	Public Records/Juvenile Criminal History Information; Specifying that certain confidential information obtained under chapter 985, F.S., relating to juvenile justice, is exempt from public records requirements; providing for future review and repeal of such applicability provisions; providing an exemption from public records requirements for juvenile information compiled by the Criminal Justice Information Program from intrastate sources; providing for future review and repeal of the exemption; providing a statement of public necessity, etc. CJ 02/01/2016 Favorable ACJ FP	Favorable Yeas 5 Nays 0
10	SB 714 Joyner (Identical H 1145)	Theft; Increasing the minimum monetary value that must be attributed to certain property for the theft of such property to reach the threshold for prosecution as a felony of the third degree or a misdemeanor of the first degree, under specified circumstances; authorizing a state attorney to establish a retail theft diversion program for the purpose of diverting offenders from criminal prosecution if the offender meets certain criteria, etc. CJ 02/01/2016 Temporarily Postponed ACJ AP	Temporarily Postponed
11	SB 850 Bradley (Similar H 549)	Offenses Concerning Racketeering and Illegal Debts; Specifying the earliest date that incidents constituting a pattern of racketeering activity may have occurred; authorizing an investigative agency to institute a civil proceeding for forfeiture in a circuit court in certain circumstances; authorizing a court to order the forfeiture of other property of the defendant up to the value of unavailable property in certain circumstances; deleting the definition of "investigative agency" for purposes of provisions relating to civil investigative subpoenas, etc. CJ 02/01/2016 Favorable ACJ AP	Favorable Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, February 1, 2016, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	SB 862 Legg (Similar CS/H 769)	Mental Health Treatment; Authorizing forensic and civil facilities to order the continuation of psychotropic medications for clients receiving such medication in the jail before admission to those facilities under certain circumstances; requiring a jail physician to provide a current psychotropic medication order under certain circumstances; requiring that a competency and commitment hearing be held within a specified time, etc. CJ 02/01/2016 Fav/CS CF FP	Fav/CS Yeas 5 Nays 0
13	SB 930 Evers (Similar H 757, Compare H 755, Linked S 932)	Trust Funds/State-Operated Institutions Inmate Welfare Trust Fund/DOC; Creating the State-Operated Institutions Inmate Welfare Trust Fund within the Department of Corrections; providing a purpose; providing for the termination of the trust fund, etc. CJ 01/11/2016 Not Considered CJ 01/25/2016 Not Considered CJ 02/01/2016 Favorable ACJ AP	Favorable Yeas 5 Nays 0
14	SB 932 Evers (Compare H 755, H 757, Linked S 930)	Inmate Welfare and Employee Benefit Trust Funds; Requiring that specified proceeds and funds be deposited in the State-Operated Institutions Inmate Welfare Trust Fund or the General Revenue Fund, rather than only the General Revenue Fund; requiring that the State-Operated Institutions Inmate Welfare Trust Fund be a trust held by the Department of Corrections for the benefit and welfare of certain inmates; requiring that deposits in excess of that amount be deposited in the General Revenue Fund; requiring that funds from the trust fund be used exclusively for specified purposes at correctional facilities operated by the department; prohibiting the funds from the trust fund or any other fund from being used for the purchase of weight training equipment, etc. CJ 01/11/2016 Not Considered CJ 01/25/2016 Not Considered CJ 02/01/2016 Fav/CS ACJ AP	Fav/CS Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, February 1, 2016, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	SB 936 Ring (Compare CS/H 1043)	Criminal Justice System Interviews of Persons with Autism, an Autism Spectrum Disorder, or a Related Developmental Disability; Citing this act as the "The Wes Kleinert Fair Interview Act"; encouraging the use of certain state-of-the-art digital devices for the purposes of identification and notification; requiring that certain professionals with experience in treating, teaching, or assisting persons with autism, an autism spectrum disorder, or a related developmental disability be present during an interview of a person with autism, an autism spectrum disorder, or a related developmental disability conducted by specified persons, etc. CJ 02/01/2016 Fav/CS ACJ AP	Fav/CS Yeas 3 Nays 2
16	SB 1256 Brandes (Similar CS/H 1149)	Alternative Sanctioning; Authorizing the chief judge of each judicial circuit, in consultation with specified entities, to establish an alternative sanctioning program; authorizing an offender who allegedly committed a technical violation of supervision to waive participation in or elect to participate in the program, admit to the violation, agree to comply with the recommended sanction, and agree to waive certain rights; authorizing the court to impose the recommended sanction or direct the Department of Corrections to submit a violation report, affidavit, and warrant to the court; specifying that an offender's participation in an alternative sanctioning program is voluntary, etc. CJ 02/01/2016 Fav/CS ACJ AP	Fav/CS Yeas 5 Nays 0
17	SB 1294 Grimsley (Identical H 1367, Compare CS/CS/H 545, H 7075, CS/S 784, S 1382)	Offenses Involving Minors and Vulnerable Persons; Increasing the maximum age at which a victim or witness may be allowed to testify via closed circuit television rather than in a courtroom in certain circumstances; including human trafficking as an underlying felony offense to support a felony murder conviction; providing increased criminal penalties for human trafficking offenses if the victim suffers great bodily harm, permanent disability, or permanent disfigurement, etc. CJ 02/01/2016 Favorable JU FP	Favorable Yeas 5 Nays 0

Consideration of proposed bill:

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, February 1, 2016, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
18	SPB 7022	OGSR/Agency Photograph, Video, or Audio Recording/Killing of a Person; Amending provisions which provide an exemption from public records requirements for a photograph or video or audio recording held by an agency that depicts or records the killing of a person; removing the scheduled repeal of the exemption, etc.	Submitted as Committee Bill Yeas 5 Nays 0

Other Related Meeting Documents

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Julie Jones
Secretary of Corrections

NOTICE OF HEARING

TO: Ms. Julie Jones

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Monday, February 01, 2016, in the Mallory Horne Committee Room, 37 Senate Office Building, commencing at 4:00 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 27th day of January, 2016

Committee on Criminal Justice



Senator Greg Evers
As Chair and by authority of the committee

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

500

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

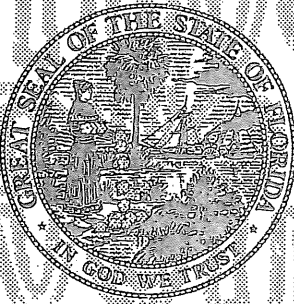
I, Ken Detzner, Secretary of State,
do hereby certify that

Julie L. Jones

is duly appointed

**Secretary,
Department of Corrections**

for a term beginning on the
Fourth day of May, A.D., 2015,
to serve at the pleasure of the Governor
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 Twenty-Ninth day of May, A.D., 2015*

Ken Detzner

Secretary of State

DSDE 99 (3/03)

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

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

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



RICK SCOTT
GOVERNOR

RECEIVED
DEPARTMENT OF STATE
2015 MAY -8 PM 4:17
DIVISION OF ELECTIONS

May 4, 2015

The Honorable 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 I have made the following reappointment under the provisions of Section 20.315, Florida Statutes:

Secretary Julie Jones

as Secretary of the Department of Corrections, subject to confirmation by the Senate. This appointment is effective May 4, 2015, for a term ending at the pleasure of the Governor.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to be "Rick Scott".

Rick Scott
Governor

RS/vh

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of Leon

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DEPARTMENT OF STATE
2015 MAY 22 AM 9:21
DIVISION OF ELECTIONS
TALLAHASSEE, FL

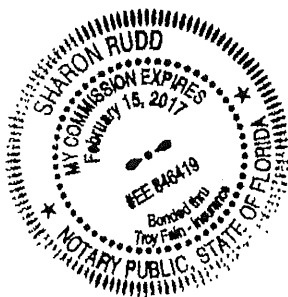
I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Secretary, Department of Corrections

(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.]



Signature

Sworn to and subscribed before me this 19th day of May

Signature of Officer Administering Oath or of Notary Public

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR

Produced Identification ☐

Type of Identification Produced _____

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

Print name as you desire commission issued

Signature

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

May 19, 2015

Date Completed

1. Name: Ms. Jones Julie L
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: _____
Street Office # City

Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: _____
Street City County

Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business ☒ Residence ☐ Fax # _____
(optional)

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To
See above			

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To
None			

5. Date of Birth: _____ Place of Birth: Bloomington, IL

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes ☐ No ☒ If "Yes" Explain

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2015 MAY 22 AM 9:21
DIVISION OF ELECTIONS
TALLAHASSEE, FL

9. Are you a United States citizen? Yes ☒ No ☐ If "No" explain:

If you are a naturalized citizen, date of naturalization:

10. Since what year have you been a continuous resident of Florida? 1968

11. Are you a registered Florida voter? Yes ☒ No ☐ If "Yes" list:

A. County of Registration: Leon

B. Current Party Affiliation: R

12. Education

A. High School: Coconut Creek High School

(Name and Location)

Year Graduated: 1974 (class of 1975)

B. List all postsecondary educational institutions attended:

Name & Location

Dates Attended

Certificates/Degrees Received

FAU, Boca Raton FL

1974-1978

BS Biology

1978-1983

MS Biology (Ecology)

13. Are you or have you ever been a member of the armed forces of the United States? Yes ☐ No ☒ If "Yes" list:

A. Dates of Service:

B. Branch or Component:

C. Date & type of discharge:

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes ☐ No ☒ If "Yes" give details:

Date

Place

Nature

Disposition

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

Employer's Name & Address

Type of Business

Occupation/Job Title

Period of Employment

Department of Corrections

Secretary

January 2015 - present

Department of Hwy Safety and Motor Vehicles

Executive Director

October 2009 - April 2014

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☒ No ☐
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

Position

Employing Agency

Period of Employment

Secretary

DOC

January 2015 - present

Executive Director

DHSMV

October 2009 - April 2014

Director of Law Enforcement

FWC

July 2002 - September 2009

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

Extensive knowledge of the state judicial system, state budget process, and legislative process.

Proven leadership, organizational and change management skills.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ☒ No ☐ If "Yes", list:

Pat Thomas Law Enforcement Academy 1984 LE Certification

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ☒ No ☐ If "Yes", list:

See attached bio.

D. Identify all association memberships and association offices held by you that relate to this appointment:

See attached bio.

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes ☐ No ☒ If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes ☒ No ☐ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
<u>Executive Director</u>	<u>September 29, 2009</u>	<u>None</u>	<u>Cabinet Agency</u>

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: N/A

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

Meetings Attended

Meetings Missed

Reason for Absence

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes ☐ No ☒ If "Yes", give details:

Date

Nature of Violation

Disposition

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ☒ If "Yes", list:

A. Title of office: _____

C. Reason for suspension: _____

B. Date of suspension: _____

D. Result: Reinstated ☐ Removed ☐ Resigned ☐

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ☐ No ☒ If "Yes", list:

A. Title of Office: _____

B. Term of Appointment: _____

C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ☐ No ☒ If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ☐ No ☒ If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

License/Certificate

Original

Title & Number

Issue Date

Issuing Authority

Disciplinary Action/Date

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

Name of Business

Your Relationship to Business

Business' Relationship to Agency

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ☒ No ☐

A. Did you receive any compensation other than reimbursement for expenses? Yes ☐ No ☐

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>
Legislative/Executive Branches	DHSMV

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Jim Brown			
Calvin Adams			
Nick Wiley			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
See attached bio			

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ☒ If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ☐ No ☐

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

☐ Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) Current Law Enforcement Officer

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

CERTIFICATION

RECEIVED

15 MAY 29 PM 12:36

STATE OF FLORIDA

COUNTY OF Leon

DIVISION OF ELECTIONS
SECRETARY OF STATE

Before me, the undersigned Notary Public of Florida, personally appeared

Julie Jones

who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Julie Jones

Signature of Applicant-Affiant

Sworn to and subscribed before me this 29th day of May, 2015.

Sharon Rudd

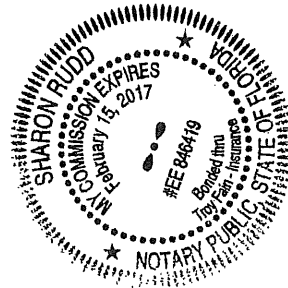
Signature of Notary Public-State of Florida

(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: February 15, 2017

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced _____



(seal)

Julie L. Jones

PROFILE

✦ Proven Leader and Change Agent

✦ Futurist and Visionary

✦ Focused, Flexible, Imaginative

CORE COMPETENCIES

- ✦ Successfully advocates and implements legislative policy.
- ✦ Identifies and promotes talent.
- ✦ Creates an environment of loyal opposition and unity of command.
- ✦ Creates short-term wins to motivate long-term goals.

- ✦ Builds coalitions for optimum success.
- ✦ Establishes measurable accountability from supervisors to get results.
- ✦ Integrates stakeholder input in decision making.
- ✦ Reduces unnecessary interdependencies.
- ✦ Anchors change in newly created culture.

PROFESSIONAL EXPERIENCE

Executive Director

*Florida Department of Highway Safety and Motor Vehicles
Tallahassee, FL*

October 2009 – April 2014

The Department is a Cabinet Agency responsible to the Governor and Cabinet of Florida. The Department has 4619 employees statewide and a \$425 million dollar budget. The Executive Director is responsible for administering and coordinating all activities for one of the nation's largest safety and consumer oriented agency which includes the Florida Highway Patrol, the Division of Motorist Services, a large information technology division and an administrative and business support division.

Accomplishments

- ✦ Reorganized the agency, eliminating one division.
- ✦ Realigned the Florida Highway Patrol's command structure to increase number of Troops patrolling Florida's roads.
- ✦ Created a results based, accountability driven culture.
- ✦ Engaged all levels of the agency to create efficiencies, streamlined processes and cut costs.
- ✦ Set high standards for ethical behavior.
- ✦ Initiated a business strategy for the future driven to make the Agency self-sufficient and profitable.
- ✦ Reduced costs of doing business while improving quality of services.
- ✦ Implemented multiyear financial modeling.

*Director of Law Enforcement, Colonel
Florida Fish and Wildlife Conservation Commission
Tallahassee, FL*

July 2002 – September 2009

The Director of Law Enforcement is responsible for setting policy for over 900 members of the agency, plans, administers, directs and organizes Commission law enforcement response to the protection of the state's natural resources, civil disturbances, natural and manmade disasters, mass migration, dangerous wildlife escapes and other public safety emergencies, including search and rescue operations with aircraft, vessels and specialized vehicles, to protect human life and property. The Director serves as the Commission's mutual aid coordinator. The Director assists Commission constituents to resolve questions or problems they may have in matters related to the Commission, its programs and fish and wildlife conservation in general and seeks to garner public support for agency objectives and programs by serving

Florida's citizens in a positive and pro-active manner. This position was the culmination of 25+ years of law enforcement experience with this agency:

<i>Regional Law Enforcement Investigations Supervisor (Capt.)</i>	1993 – 1997
<i>Regional Environmental Investigations Supervisor (Lt.)</i>	1989 – 1993
<i>Legislative Liaison, State Law Enforcement Officers Chapter</i>	1986 – 1995
<i>Wildlife Law Enforcement Supervisor (Sgt.)</i>	1986 – 1989
<i>Wildlife Officer</i>	1983 – 1986

Accomplishments

- ✦ Successfully completed the merger of the Florida Marine Patrol and the Game and Fish Division of Law Enforcement.
- ✦ Reorganized the Division of Law Enforcement eliminating one layer of supervision.
- ✦ Developed a maritime teaming strategy for waterborne domestic security response. This is now a national model.
- ✦ Co-located intelligence gathering/fusing offices with the Navy, Coast Guard and FBI.
- ✦ Developed an innovative protocol to embed FWC officers with urban search and rescue teams for disaster response.
- ✦ Integrated stakeholder feedback into decision making processes.

Regional Director

1997 - 2002

Florida Fish and Wildlife Conservation Commission

North Central Region

Lake City, FL

The Regional Director's responsibilities include the development of program philosophy; formulation and execution of operational strategies; implementation of agency priority issues; acting as a liaison to various public and private agencies and constituents; and serving as liaison to local governmental officials, state and federal legislative members and their staffs. Acting through the regional staff (100+ FTEs), the Regional Director provides administrative review and coordination of agency programs which include land acquisition, fish and wildlife management, restoration and research projects, information and education programs, and law enforcement functions. Regional Directors are responsible for implementing and maintaining preeminent customer service standards.

Accomplishments

- ✦ Worked with legislators, local agencies and members of the public to make informed decisions about the use and protection of the state natural resources.
- ✦ Empowered supervisors to make decisions and be accountable to our constituents.

Professional Scientific Positions

Before entering into a law enforcement career, numerous positions were held related to scientific research, biological inquiry and colligate level instruction.

OPS Biologist, Game and Fish Commission Office of Environmental Services	1982-1983
Field Biologist (Part-Time) Florida Department of Natural Resources	1979-1982
Instructor (Part-time) Palm Beach Junior College	1980-1981
Consultant (Part-time) Envicon, Inc. Boca Raton, Florida	1980-1981
Research Assistant, United States Department of the Interior	1979-1980
Graduate Assistant, Florida Atlantic University, Department of Biology	1979-1980
Research Assistant, Everglades National Park	1979
Research Assistant, Florida Atlantic University/Department of Natural Resources	1978-1979
Research Assistant, Florida Atlantic University, Department of Chemistry	1978

Graduate Assistant, Florida Atlantic University, Department of Chemistry
Student Assistant, Florida Atlantic University, Department of Chemistry

1978-1979
1976-1978

Detailed Professional Experience available upon request.

EDUCATION

Graduate

Coconut Creek High School
Coconut Creek, FL

1974 (Class of 1975)

Bachelor of Science Degree

Florida Atlantic University
Boca Raton, FL

1978

Masters of Science Degree (an Ecological Study of *Roystonea elata*)

Florida Atlantic University
Boca Raton, FL

1983

PROFESSIONAL ASSOCIATIONS/TRAINING/AWARDS

American Association for the Advancement of Science, 2011 to Present
American Association of Motor Vehicle Administrators, 2009 to 2014
Airborne Law Enforcement Association, 2005 to Present
Association of Midwest Fish and Game Law Enforcement Officers, 2003 to 2009, President, 2007
Chief Executive Seminar, Fellow 2003
FBI Law Enforcement Executive Development Association, 2008 to 2014, Fellow 2008
Florida Boating Advisory Council, Chair 2002 to 2009
Florida Commission for Law Enforcement Accreditation, 2007 to 2013, Chair 2013
Florida Criminal Justice Executive Institute Associates, Inc., 2005 to 2014
Florida Sheriff's Association, 2002 to Present
Florida Police Chiefs Association, 2002 to Present
Florida's Domestic Security Oversight Council, Ex-Officio Member, 2004 to 2014
Florida Wildlife Federation, Law Enforcement Officer of the Year, 2003
Florida Marine Intelligence Unit, 1995 to 2009
FirstNet/FloridaNet, Governor's Point of Contact for Public Safety Broadband, 2012 to 2014
Humane Society of the United States, Law Enforcement Advisory Board, 2014
International Association of Chiefs of Police, 2005 to Present
International Association of Chiefs of Police Excellence in Police Aviation, 2006
Joint Forces Reserve Orientation (JFROC) Course, 2007
Governor's Law Enforcement Consolidation Task Force Chairman, 2011
Louise Ireland Humphrey Achievement Award for Outstanding Leadership In Managing The State's Fish and Wildlife Resources, 2009
National Association of Conservation Law Enforcement Chiefs, 2002 to 2009, President, 2006 to 2009
Secretary, 2004-2006
National Conservation Leadership Institute, 2006 Fellow

National Association of Women Law Enforcement Executives, 2006 to 2013

Robert L. Comer Memorial Award for Outstanding Achievement In The Advancement Of Aircraft In Public Service, 2010

Southeastern Association of Fish and Wildlife Agencies, 1983 to 2009, Law Enforcement Secretary, 2004-2006

State Law Enforcement Chiefs Association, 2002 to Present

State Law Enforcement Chiefs Association Excellence in Leadership Award, 2012

World Futurist Society, 2003 to Present

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

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

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

WITNESS'S NAME: Julie Jones

ANSWER:

yes

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

COMMITTEE NAME: Senate Criminal Justice Committee

DATE: 02/01/16

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

COMMITTEE: Committee on Criminal Justice
MEETING DATE: Monday, February 01, 2016
TIME: 4:00—6:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

TO: The Honorable Andy Gardiner, President

FROM: Committee on Criminal Justice

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

Office: Secretary of Corrections

Appointee: Jones, Julie

Term: 5/4/2015-Pleasure of Governor

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

Tsb 1

2/1/16

Meeting Date

Bill Number (if applicable)

Topic Confirmation Hearing.

Amendment Barcode (if applicable)

Name Julie Jones

Job Title Secretary.

Address 501 S. Calhoun ST.

Phone 850.717.3030.

Street

Tallahassee

City

FL.

State

32399

Zip

Email Jones.Julie@mail.dc.state.fl.us

Speaking: ☐ For ☐ Against ☒ Information

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

Representing FL Dept. of Corrections (FDC).

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)

APPEARANCE RECORD

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

1 FEB 2016
Meeting Date

Bill Number (if applicable)

Topic FL DEPT OF CORRECTIONS

Amendment Barcode (if applicable)

Name DEANNA BODKER

Job Title CORRECTIONS OFFICER

Address 1838 BAY OAKS BLVD
Street
MILTON, FL. 32583
City State Zip

Phone (850) 530-1211

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing ~~staff~~ myself (ADA C.O.)

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2.1.16

Meeting Date

Tab 1

Bill Number (if applicable)

Topic Confirmation of Sec. Julie Jones

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Pres & CEO

Address 204 S. Monroe St., Ste. 201

Phone 577.3032

Street

Tall

City

FL

State

32301

Zip

Email barney@smartjusticealliance.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Fla. 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)

APPEARANCE RECORD

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

2-1-16
Meeting Date

Bill Number (if applicable)

Topic Confirmation of Doc Sec Jones

Amendment Barcode (if applicable)

Name Bill Cervone

Job Title State Attorney - 8 Cir

Address 120 W University Ave
Street
Gainesville TX 32601
City State Zip

Phone 352-374-3686

Email cervone@sa08.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing The Prosecuting Attorneys Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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FLORIDA DEPARTMENT OF JUVENILE JUSTICE

PART OF THE COMMUNITY, PART OF THE SOLUTION

System Reform and Initiatives

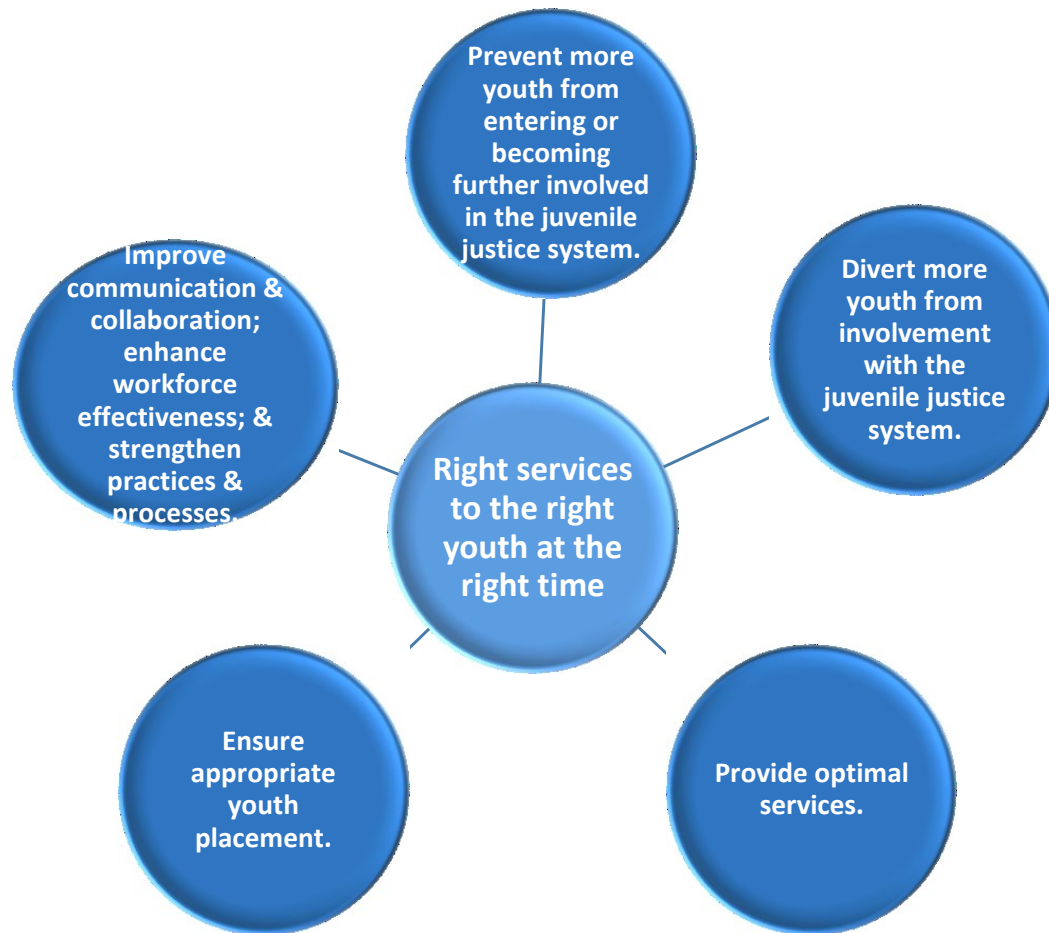
Senate Criminal Justice Committee
Monday, February 1, 2016

Rick Scott, Governor

Christina K. Daly, Secretary



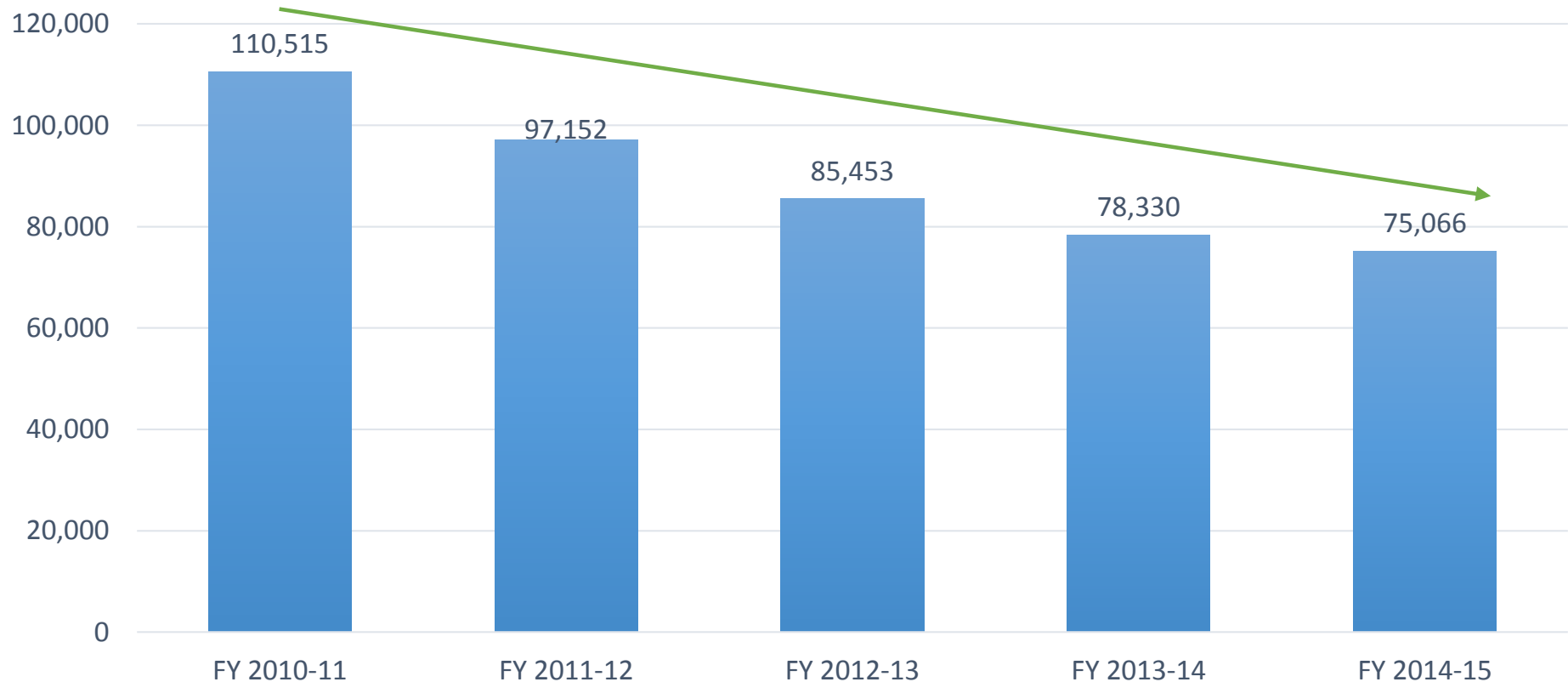
Roadmap to System Excellence





Florida Delinquency Declines

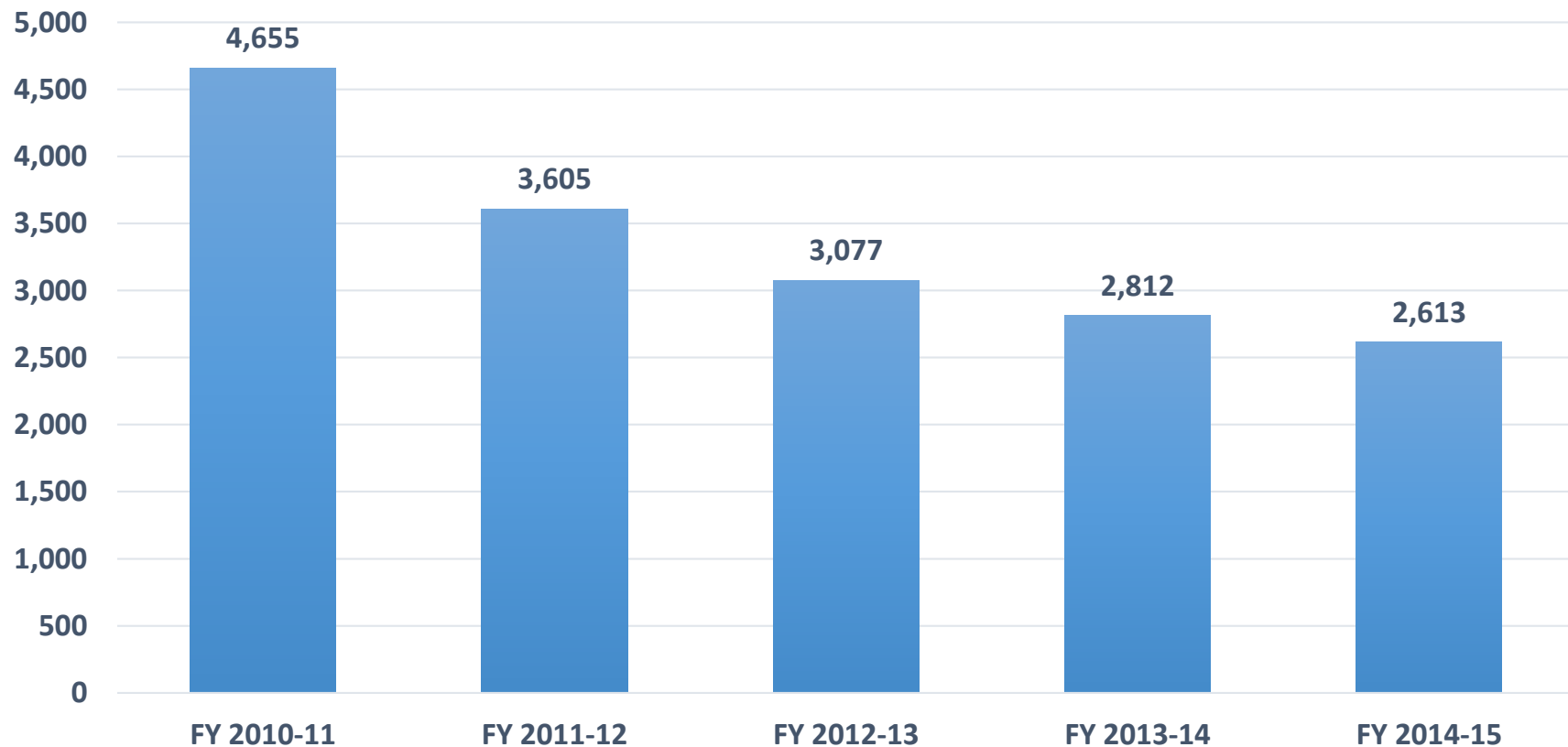
5-Year Trend: Delinquency Arrests Lowest in 30 years





Management of the At-Risk Youth Population

5-Year Trend: Youth Committed to DJJ Residential Programs

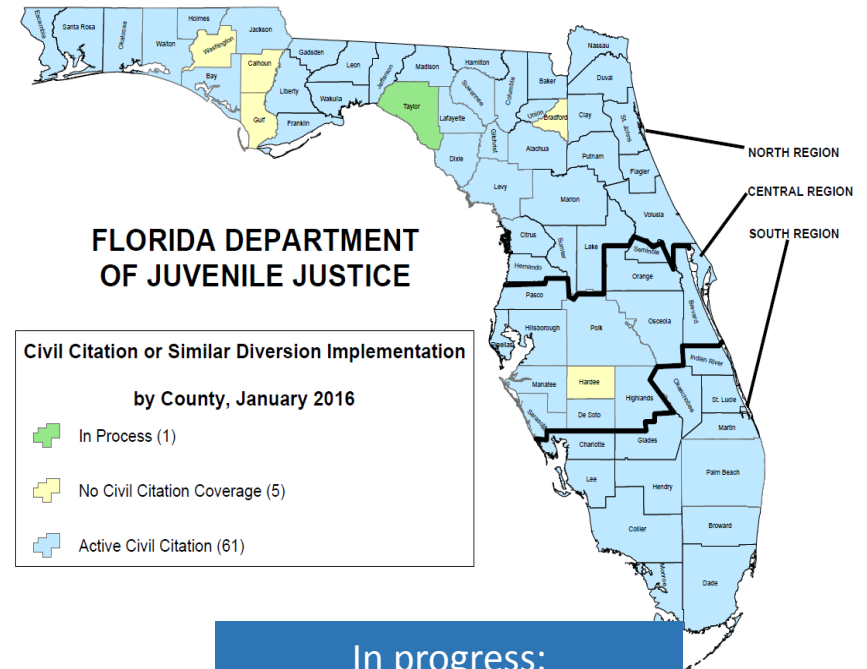
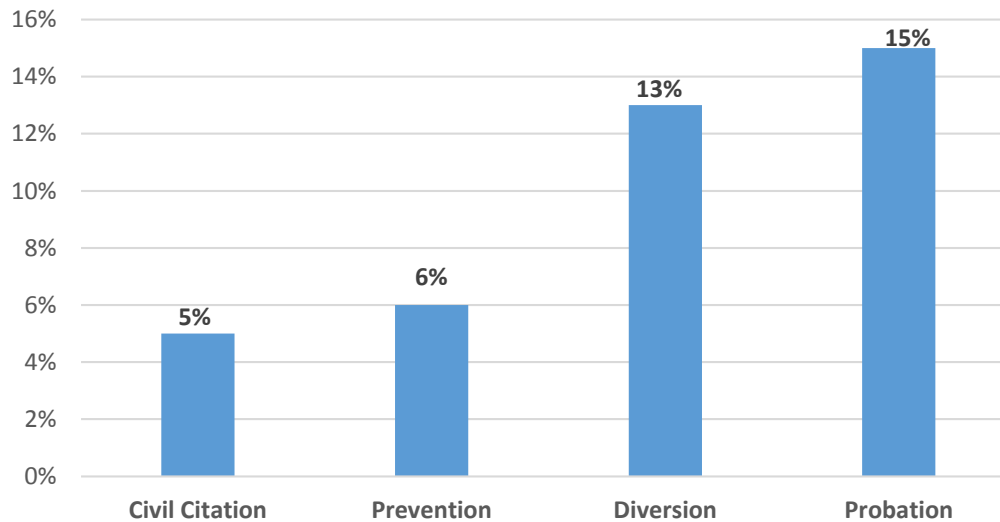




Civil Citation Process

Civil Citation process increased from 11 to 61 counties since 2011

12-Month Recidivism Rates

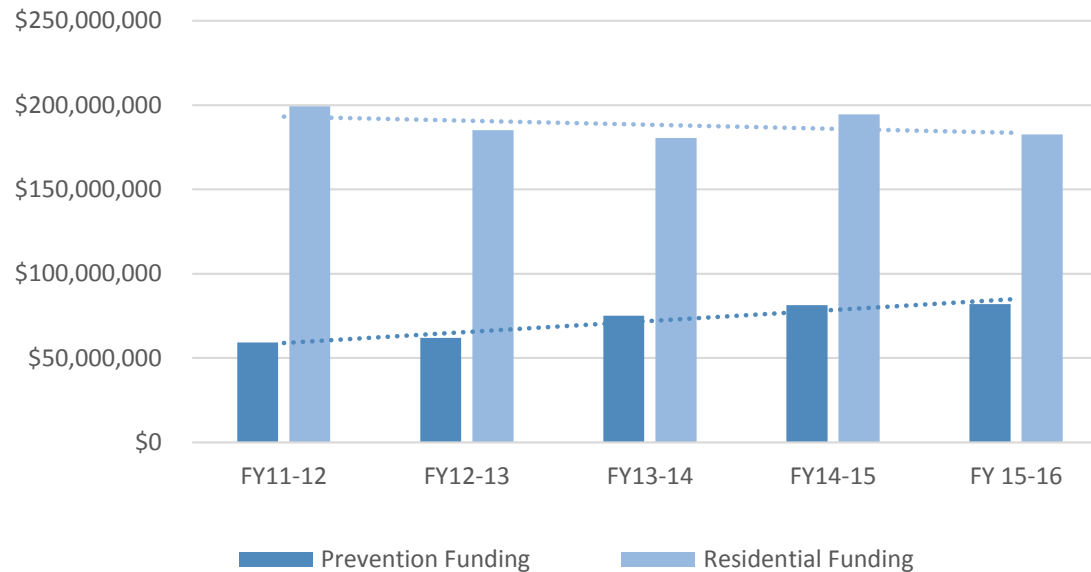


In progress:
Taylor

No Civil Citation:
Bradford, Calhoun, Gulf, Hardee, Washington



Resource Realignment and Increase in Prevention Services

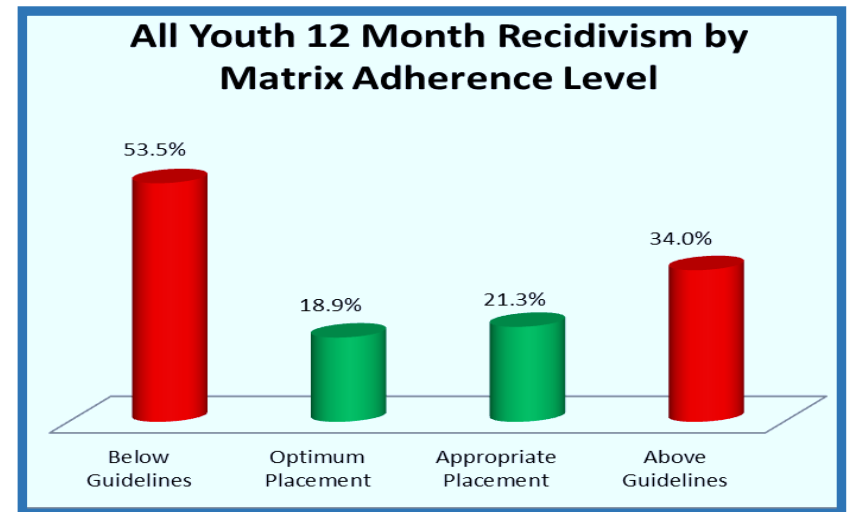


	Prevention Funding	Residential Funding	
FY11-12	\$ 59,213,098	\$ 199,335,353	
FY12-13	\$ 61,938,161	\$ 184,999,720	
FY13-14	\$ 74,982,973	\$ 180,465,618	
FY14-15	\$ 81,432,425	\$ 194,426,507	
FY 15-16	<u>\$ 81,980,003</u>	<u>\$ 182,603,529</u>	July 1 Data
	38%	25%	



Juvenile Justice System Improvement Project

- In 2014, Florida was one of four states selected by Georgetown University
- Created Framework for implementing system-wide best practices
- Developed and validated a structured decision making tool





Other Initiatives

- Community Engagement
 - Faith Community Network
 - Circuit Advisory Boards and State Advisory Group
 - Community Conversations
- Trauma Informed Care
 - Juvenile Justice Reform Bill – HB 7055 (2014)
 - Academy and in-service training
 - PAWS for Justice program
 - Therapeutic activities, soft rooms, comfort items
 - Trauma responsive practices
- Culture of Care/ Normalization



Probation and Community Intervention

- Juvenile Probation Officer (JPO) Transformation
 - Delivering higher levels of service to youth and families
- Effective Practices in Community Supervision (EPICS)
 - Cognitive behavioral model to build relationship skills, address prescribed issues, and provide the youth and family with prescribed dosage of treatment interventions
- Family Engagement
 - Improved strategies by JPOs to involve families in the rehabilitation of youth



Human Trafficking Screening Tool

- Human trafficking screening tool
 - Developed to be used by both DJJ intake staff and DCF child protective investigators
 - Utilized in all DJJ juvenile assessment and intake centers with youth who have certain risk factors
 - Objectives:
 - Better identify trafficking victims
 - Inform service development within DJJ
 - Gather data on aggregate level



Procurement and Monitoring

- Procurement Transformation
- Quality Improvement
- Monitoring Prioritization Tool
 - Risk-based assessment
 - Updated quarterly
 - Maximizes monitoring resources
- Governor's Recommended Budget
 - Includes funding to increase contract monitoring



What's Next?

- Strengthening education in DJJ programs
- Expansion of what's working
- Strengthening workforce
- Workforce partnerships
- Evening reporting centers
- Strengthening family support to enhance successful re-entry
- Transitional housing
- Collaboration with state and national experts



FLORIDA DEPARTMENT OF JUVENILE JUSTICE

PART OF THE COMMUNITY, PART OF THE SOLUTION

System Reform and Initiatives

Senate Criminal Justice Committee
Monday, February 1, 2016

Rick Scott, Governor

Christina K. Daly, Secretary

APPEARANCE RECORD

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

2/1/16

Meeting Date

Bill Number (if applicable)

Topic Department Reform Initiatives

Amendment Barcode (if applicable)

Name Christina K. Daly

Job Title Secretary

Address 2737 Centerview Dr.

Street

Tallahassee, FL 32399

City

State

Zip

Phone 850-413-7313

Email Christy.Daly@djj.
state.fl.usSpeaking: ☐ For ☐ Against ☒ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Department of Juvenile Justice

Appearing at request of Chair: ☒ Yes ☐ NoLobbyist registered with Legislature: ☒ Yes ☐ No

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 200

INTRODUCER: Criminal Justice Committee and Senator Hukill

SUBJECT: Animals Confined in Unattended Motor Vehicles

DATE: February 2, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 200 creates a new first degree misdemeanor offense applicable when a person intentionally, knowingly, or recklessly confines an animal in an unattended motor vehicle under conditions that endanger the health or well-being of the animal due to:

- Heat;
- Cold;
- Lack of adequate ventilation;
- Lack of food or water; or
- Other circumstances that could reasonably be expected to cause suffering, disability, or death of the animal.

A first degree is punishable by up to a year imprisonment and a \$1,000 fine.¹

The act is called the “Protecting Animal Welfare and Safety Act” or “P.A.W.S. Act.” It becomes effective on July 1, 2016.

¹ 775.082 and 775.083, F. S.

II. Present Situation:

Data shows that the temperature in an unattended vehicle can rise sharply, even when the weather is relatively cool.² In a study conducted when the outdoor temperature was ninety degrees Fahrenheit or more, 75 percent of the internal temperature rise occurred in an unattended vehicle within *five minutes* of closing the vehicle doors, and the temperature rise was maximized (between 124-153 degrees Fahrenheit) within fifteen minutes.³ In a study conducted when the outside air temperature was seventy-two degrees Fahrenheit, the internal vehicle temperature reached 117 degrees Fahrenheit within sixty minutes, with 80 percent of that temperature rise occurring within the first thirty minutes of shutting the vehicle doors.⁴

There are nineteen states throughout the nation that prohibit leaving an animal unattended and confined in a vehicle under circumstances that pose a risk to the animal's welfare.⁵ Florida law generally prohibits behavior that is cruel to animals;⁶ however, there is no prohibition against leaving an animal unattended and confined in a motor vehicle, even under dangerous conditions.

III. Effect of Proposed Changes:

The bill makes it a first degree misdemeanor⁷ for any person to intentionally, knowingly, or recklessly confine an animal in an unattended motor vehicle under conditions that endanger the health or well-being of the animal due to:

- Heat;
- Cold;
- Lack of adequate ventilation;
- Lack of food or water; or
- Other circumstances that could reasonably be expected to cause suffering, disability, or death of the animal.

The act is called the "Protecting Animal Welfare and Safety Act" or "P.A.W.S. Act." It becomes effective on July 1, 2016.

² Jan Null, *Heatstroke Deaths of Children in Vehicles*, DEPARTMENT OF METEOROLOGY & CLIMATE SCIENCE, SAN JOSE STATE UNIVERSITY, <http://noheatstroke.org/> (last visited November 6, 2015); Catherine McLaren et al., *Heat Stress from Enclosed Vehicles: Moderate Ambient Temperatures Cause Significant Temperature Rise in Enclosed Vehicles*, 116 PEDIATRICS 109, 109 (2005).

³ McLaren, *supra* note 1, at 109.

⁴ McLaren, *supra* note 1, at 111.

⁵ ARIZ. REV. STAT. ANN. §13-2910(A)(7); CAL. PENAL CODE §597.7; DEL. CODE ANN. tit. 11, §1325; ILL. COMP. STAT. 70/7.1; ME. REV. STAT. §4019; MD. CODE ANN. TRANSP. §21-1004.1; MINN. STAT. ANN. §346.57; NEV. REV. STAT. §574.195; N.H. REV. STAT. ANN. §644:8-aa; N.J. STAT. ANN. §4:22-26; N.Y. AGRIC. & MKTS. LAW §353-d; N.C. GEN. STAT. §14-363.3; N.D. CENT. CODE §36-21.2-12; R.I. GEN. LAWS §4-1-3.2; S.D. CODIFIED LAWS §40-1-36; TENN. CODE ANN. §29-34-209; VT. STAT. ANN. tit. 13, §386; WASH. REV. CODE §16.52.340; and W. VA. CODE §61-8-19.

⁶ Section 828.12, F.S.

⁷ A first degree misdemeanor is punishable by up to a year imprisonment and a \$1,000 fine. s. 775.882, s. 775.083, F.S.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill creates a new first degree misdemeanor therefore local jails may experience some fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 828.075 of the Florida Statutes.

IX. Additional Information:

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

CS by Criminal Justice on February 1, 2016:

Deleted language related to:

- Definitions of “authorized individual” and “motor vehicle”;
- Actions expected of, or permitted by, an authorized individual;
- Applications of the bill to agricultural (livestock) animals; and
- The bill’s application to other statutes.

- B. **Amendments:**

None.



237038

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. This act may be cited as the "Protecting Animal Welfare and Safety Act" or "P.A.W.S. Act."

Section 2. Section 828.075, Florida Statutes, is created to read:

828.075 Animals in unattended motor vehicles.—A person who intentionally, knowingly, or recklessly confines an animal in an



237038

unattended motor vehicle under conditions that endanger the
health or well-being of the animal due to heat, cold, lack of
adequate ventilation, lack of food or water, or other
circumstances that could reasonably be expected to cause
suffering, disability, or death of the animal commits a
misdemeanor of the first degree, punishable as provided in s.
775.082 or s. 775.083.

Section 3. This act shall take effect July 1, 2016.

===== 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 animals confined in unattended
motor vehicles; providing a short title; creating s.
828.075, F.S.; prohibiting a person from confining an
animal in an unattended motor vehicle under certain
circumstances; providing a criminal penalty; providing
an effective date.

By Senator Hukill

8-00171-16

2016200__

1 A bill to be entitled
 2 An act relating to animals confined in unattended
 3 motor vehicles; providing a short title; creating s.
 4 828.075, F.S.; defining terms; prohibiting a person
 5 from confining an animal in an unattended motor
 6 vehicle under certain circumstances; providing a
 7 criminal penalty; providing that authorized
 8 individuals may use reasonable force to remove animals
 9 under certain circumstances; providing an exemption
 10 from liability for authorized individuals; providing
 11 an exception for the transportation of agricultural
 12 animals; providing that the act does not preclude
 13 prosecution under any other law; providing an
 14 effective date.
 15
 16 Be It Enacted by the Legislature of the State of Florida:
 17
 18 Section 1. This act may be cited as the "Protecting Animal
 19 Welfare and Safety Act" or "P.A.W.S. Act".
 20 Section 2. Section 828.075, Florida Statutes, is created to
 21 read:
 22 828.075 Animals in unattended motor vehicles.—
 23 (1) As used in this section, the term:
 24 (a) "Authorized individual" means a law enforcement
 25 officer, an animal control officer, a firefighter, or a first
 26 responder or any individual who has contacted the local law
 27 enforcement agency, fire department, or 911 operator and has
 28 been instructed by such entity to use reasonable force to remove
 29 an animal from a motor vehicle pursuant to this section.

Page 1 of 3

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

8-00171-16

2016200__

30 (b) "Motor vehicle" has the same meaning as provided in s.
 31 316.003.
 32 (2) A person who intentionally, knowingly, or recklessly
 33 confines an animal in an unattended motor vehicle under
 34 conditions that endanger the health or well-being of the animal
 35 due to heat, cold, lack of adequate ventilation, lack of food or
 36 water, or other circumstances that could reasonably be expected
 37 to cause suffering, disability, or death of the animal commits a
 38 misdemeanor of the first degree, punishable as provided in s.
 39 775.082 or s. 775.083.
 40 (3) After a reasonable effort to locate the person
 41 responsible for the animal, an authorized individual may use
 42 whatever means are reasonably necessary, including, but not
 43 limited to, breaking into the motor vehicle, to remove the
 44 animal if the animal appears to be in immediate danger from
 45 heat, cold, lack of adequate ventilation, lack of food or water,
 46 or other circumstances that could reasonably be expected to
 47 cause suffering, disability, or death of the animal.
 48 (4) An authorized individual who removes an animal from a
 49 motor vehicle pursuant to this section:
 50 (a) Must leave a written notice in a secure and conspicuous
 51 location on or within the motor vehicle bearing his or her name
 52 and office, and the address of the location where the animal can
 53 be claimed;
 54 (b) Shall take the animal to an animal shelter or other
 55 place of safekeeping or, if deemed necessary, to a veterinary
 56 hospital for treatment; and
 57 (c) May not be held criminally or civilly liable for
 58 actions taken while carrying out the provisions of this section.

Page 2 of 3

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

8-00171-16

2016200__

59 (5) This section does not prohibit the transportation of
60 horses, cattle, pigs, sheep, poultry, or other agricultural
61 animals in motor vehicles designed to transport such animals for
62 agricultural purposes.

63 (6) This section does not preclude prosecution for a
64 criminal act under any other law, including, but not limited to,
65 prosecution under s. 828.12.

66 Section 3. This act shall take effect July 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR DOROTHY L. HUKILL
8th District

COMMITTEES:

Finance and Tax, *Chair*
Communications, Energy, and Public Utilities,
Vice Chair
Appropriations
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Fiscal Policy

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

September 16, 2015

The Honorable Greg Evers
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Senate Bill 200 – Animals Confined in Unattended Motor Vehicles

Dear Chairman Evers:

Senate Bill 200, relating Animals Confined in Unattended Motor Vehicles has been referred to the Criminal Justice Committee. I am requesting your consideration on placing SB 200 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 "Dorothy L. Hukill".

Dorothy L. Hukill, District 8

cc: Amanda Cannon, Staff Director of the Criminal Justice Committee
Sue Arnold, Administrative Assistant of the Criminal Justice Committee

REPLY TO:

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GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16

Meeting Date

200

Bill Number (if applicable)

237038

Amendment Barcode (if applicable)

Topic _____

Name Diana Ferguson

Job Title Attorney

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Taco

City

FL

State

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Zip

Phone 850-481-6788

Email dferguson@nutedge-ecencia.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Animal Control Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2 / 1 / 2016
Meeting Date

Topic _____

Bill Number 200
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☒ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 356

INTRODUCER: Senator Hutson

SUBJECT: Mental or Physical Disabilities

DATE: January 29, 2016

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Erickson	Cannon	CJ	Favorable
2. _____	_____	ACJ	_____
3. _____	_____	AP	_____

I. Summary:

SB 356 removes prejudice based on mental or physical disability as a factor for reclassifying an offense under s. 775.085, F.S., Florida's hate crimes statute. The bill creates a new section of law, s. 775.0851, F.S., which may be cited as "Carl's Law," to establish a separate hate crime statute specifically for crimes evidencing prejudice based on mental or physical disability. This new section's language is substantively identical to the language currently in s. 775.085, F.S., which reclassifies the felony or misdemeanor degree of an offense if the commission of the offense evidences prejudice based on mental or physical disability.

II. Present Situation:

Section 775.085, F.S., Florida's hate crimes statute, reclassifies the felony or misdemeanor degree of an offense if the commission of the offense evidences prejudice based on race, color, ancestry, ethnicity, religion, sexual orientation, national origin, homeless status, *mental or physical disability*,¹ or the advanced age of the victim.² This is commonly referred to as the "hate crime" statute. Offenses are reclassified as follows:

- A second degree misdemeanor³ is reclassified to a first degree misdemeanor.⁴

¹ "Mental or physical disability" means that the victim suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, and has one or more physical or mental limitations that restrict the victim's ability to perform the normal activities of daily living. Section 775.085(1)(b)1., F.S.

² Section 775.08(1), F.S. It is an essential element of this section that the record reflect that the defendant perceived, knew, or had reasonable grounds to know or perceive that the victim was within the class delineated in s. 775.085, F.S. Section. 775.085(3), F.S.

³ 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.

⁴ 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.

- A first degree misdemeanor is reclassified to a third degree felony.⁵
- A third degree felony is reclassified to a second degree felony.⁶
- A second degree felony is reclassified to a first degree felony.⁷
- A first degree felony is reclassified to a life felony.⁸

Reclassification of the degree of an offense increases the minimum and maximum penalties that a judge may impose for an offense.

Section 775.085, F.S., also provides that a person or organization that establishes by clear and convincing evidence that it has been coerced, intimidated, or threatened in violation of this section has a civil cause of action for treble damages, an injunction, or any other appropriate relief in law or in equity. Upon prevailing in such civil action, the plaintiff may recover reasonable attorney's fees and costs.⁹

III. Effect of Proposed Changes:

The bill removes prejudice based on mental or physical disability as a factor for reclassifying an offense under s. 775.085, F.S., Florida's hate crimes statute. The bill creates a new section of law, s. 775.0851, F.S., which may be cited as "Carl's Law," to establish a separate hate crime statute specifically for crimes evidencing prejudice based on mental or physical disability. This new section's language is substantively identical to the language currently in s. 775.085, F.S., which reclassifies the felony or misdemeanor degree of an offense if the commission of the offense evidences prejudice based on mental or physical disability. (See "Present Situation" section of this analysis for a description of the provisions of s. 77.085, F.S.)

The effective date of the bill is October 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁵ A third degree felony is punishable by up to 5 years in state prison and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S. However, if the third degree felony is not a forcible felony (excluding any third degree felony violation under ch. 810, F.S.) and if total sentence points are 22 points or fewer, the court must sentence the defendant to a nonstate prison sanction, unless the court makes written findings that a nonstate prison sanction could present a danger to the public. Section 775.082(10), F.S.

⁶ A second degree felony is punishable by up to 15 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

⁷ A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

⁸ A life felony is generally punishable by life imprisonment or a term of years not exceeding life imprisonment and a fine of up to \$15,000. Sections 775.082 and 775.083, F.S.

⁹ Section 775.085(2), F.S.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, estimates that the bill will not have a prison bed impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the Florida Attorney General's Office, in 2014 (the latest year for which data is reported), there were 2 reported hate crimes in Florida motivated by the victim's mental disability (2.7 percent of reported hate crimes). No hate crimes were reported under the physical disability category.¹⁰

In August 2015, a thirty-six-year-old autistic St. Augustine resident named Carl Starke was followed home and murdered by several individuals who were reportedly looking for cars to steal.¹¹ During the investigation that resulted in the days following Carl Starke's murder, the St. Johns County Sheriff, David Shoar, stated that Starke was victimized because he was seen as a "soft target" by these individuals.¹²

VIII. Statutes Affected:

This bill substantially amends section 775.085 of the Florida Statutes.

This bill creates section 775.0851 of the Florida Statutes.

¹⁰ *Hate Crimes in Florida (January 1, 2014 – December 31, 2014)*, Florida Attorney General's Office, [http://myfloridalegal.com/webfiles.nsf/WF/MNOS-A5QNXL/\\$file/2014HateCrimesinFloridaReport.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MNOS-A5QNXL/$file/2014HateCrimesinFloridaReport.pdf) (last visited on January 20, 2016).

¹¹ Jenna Carpenter, "Shoar: Suspects in Vista Cove Killing Targeted Autistic Man," *The St. Augustine Record* (August 21, 2015), <http://staugustine.com/news/local-news/2015-08-21/two-suspects-identified-tuesday-homicide#.Vk9nSk3ltHh> (last visited on January 20, 2016).

¹² *Id.*

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Hutson

6-00364-16

2016356__

A bill to be entitled

An act relating to mental or physical disabilities; providing a short title; amending s. 775.085, F.S.; deleting enhanced penalties for crimes evidencing prejudice based on mental or physical disability; deleting the definition of the term "mental or physical disability"; creating s. 775.0851, F.S.; defining the term "mental or physical disability"; creating enhanced penalties for crimes evidencing prejudice based on mental or physical disability; creating a cause of action for a person or organization that is threatened with certain violations; providing an essential element for such cause of action; providing an effective date.

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

Section 1. This act may be cited as "Carl's Law."

Section 2. Subsection (1) of section 775.085, Florida Statutes, is amended to read:

775.085 Evidencing prejudice while committing offense; reclassification.—

(1) (a) The penalty for any felony or misdemeanor shall be reclassified as provided in this subsection if the commission of such felony or misdemeanor evidences prejudice based on the race, color, ancestry, ethnicity, religion, sexual orientation, national origin, homeless status, ~~mental or physical disability~~, or advanced age of the victim:

1. A misdemeanor of the second degree is reclassified to a

Page 1 of 4

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

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2016356__

misdemeanor of the first degree.

2. A misdemeanor of the first degree is reclassified to a felony of the third degree.

3. A felony of the third degree is reclassified to a felony of the second degree.

4. A felony of the second degree is reclassified to a felony of the first degree.

5. A felony of the first degree is reclassified to a life felony.

(b) As used in paragraph (a), the term:

~~1. "Mental or physical disability" means that the victim suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, and has one or more physical or mental limitations that restrict the victim's ability to perform the normal activities of daily living.~~

1.2. "Advanced age" means that the victim is older than 65 years of age.

~~2.3.~~ "Homeless status" means that the victim:

a. Lacks a fixed, regular, and adequate nighttime residence; or

b. Has a primary nighttime residence that is:

(I) A supervised publicly or privately operated shelter designed to provide temporary living accommodations; or

(II) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Section 3. Section 775.0851, Florida Statutes, is created to read:

Page 2 of 4

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

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775.0851 Evidencing prejudice while committing offense against persons with mental or physical disabilities; reclassification.-

(1) As used in this section, the term "mental or physical disability" means that the victim suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness and has one or more physical or mental limitations that restrict the victim's ability to perform the normal activities of daily living.

(2) The penalty for any felony or misdemeanor shall be reclassified as provided in this subsection if the commission of the felony or misdemeanor evidences prejudice based on the mental or physical disability of the victim:

(a) A misdemeanor of the second degree is reclassified to a misdemeanor of the first degree.

(b) A misdemeanor of the first degree is reclassified to a felony of the third degree.

(c) A felony of the third degree is reclassified to a felony of the second degree.

(d) A felony of the second degree is reclassified to a felony of the first degree.

(e) A felony of the first degree is reclassified to a life felony.

(3) A person or organization that establishes by clear and convincing evidence that it has been coerced, intimidated, or threatened in violation of this section has a civil cause of action for treble damages, an injunction, or any other appropriate relief in law or in equity. Upon prevailing in such

6-00364-16

2016356

civil action, the plaintiff may recover reasonable attorney fees and costs.

(4) It is an essential element of this section that the record reflect that the defendant perceived, knew, or had reasonable grounds to know or perceive that the victim had a mental or physical disability.

Section 4. This act shall take effect October 1, 2016.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Feb. 1, 2016

Meeting Date

SB 356

Bill Number (if applicable)

Topic Mental or Physical Disabilities

Amendment Barcode (if applicable)

Name Dixie Sansom

Job Title Lobbyist

Address PO Box 98

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32923

Email dixiesansom@aol.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing The Arc of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 418

INTRODUCER: Senator Smith

SUBJECT: Law Enforcement Officer Body Cameras

DATE: January 29, 2016

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Erickson	Cannon	CJ	Favorable
2. _____	_____	CA	_____
3. _____	_____	FP	_____

I. Summary:

SB 418 creates s. 943.1715, F.S., pertaining to body cameras. The bill requires a law enforcement agency that authorizes its law enforcement officers to wear body cameras to establish policies and procedures addressing the proper use, maintenance, and storage of body cameras and the data recorded by body cameras. The bill specifies what must be included in those policies and procedures, such as general guidelines for the proper use, maintenance, and storage of body cameras and limitations on recording law enforcement-related encounters and activities.

The bill also requires these agencies to conduct training, retain audio and video data recorded by body cameras, and perform periodic review of practices.

The bill specifies that ch. 934, F.S. (interception of communications), does not apply to body camera recordings made by law enforcement agencies that elect to use body cameras.

II. Present Situation:

Body-Worn Cameras

Body-Worn Cameras (BWCs) or “body cameras” are currently being used or considered for use by many law enforcement agencies. BWCs are mobile audio and video devices worn by officers to record what they see and hear. They can record officer interactions that previously could only be captured by in-car or interrogation room camera systems.¹

A 2014 recent study of BWCs noted some of the perceived benefits and perceived concerns and problems regarding their use:

¹ National Institute of Justice, A Primer on Body-Worn Cameras for Law Enforcement, p. 5 (September 2012), available at <https://www.justnet.org/pdf/00-Body-Worn-Cameras-508.pdf> (last visited on January 26, 2015).

Perceived Benefits:

- BWCs increase transparency and citizen views of police legitimacy;
- BWCs have a civilizing effect, resulting in improved behavior among both police officers and citizens;
- BWCs have evidentiary benefits that expedite resolution of citizen complaints or lawsuits and that improve evidence for arrest and prosecution; and
- BWCs provide opportunities for police training.²

Perceived Concerns and Problems:

- BWCs create concerns for citizen and police officer privacy;
- BWCs create concerns for officer health and safety;
- BWCs require investments in terms of training and policy development; and
- BWCs require substantial commitment of finances, resources, and logistics.³

Data provided by the Florida Police Chiefs Association in October of 2015 indicated that out of 301 police departments in Florida, 18 police departments used body cameras, and another 10 agencies had pilot body camera programs in place.⁴

Florida law does not currently require agencies to have policies in place that govern the use of such BWCs.

2015 Legislation on Body Cameras

During the 2015 Legislative Session, legislation was passed and signed into law that makes audio or video data recorded by a law enforcement body camera confidential and exempt.⁵ The body camera recording is confidential and exempt if it is taken:

- Within the interior of a private residence;
- Within the interior of a facility that offers health care, mental health care, or social services; or
- In a place that a reasonable person would expect to be private.⁶

² White, Michael D., 2014, *Police Officer Body-Worn Cameras Assessing the Evidence*, Washington, DC: Office of Community Oriented Policing Services, p. 6-7 (2014), available at <https://ojpdiagnosticcenter.org/sites/default/files/spotlight/download/Police%20Officer%20Body-Worn%20Cameras.pdf> (last visited on January 26, 2015).

³ *Id.* at pp. 7-9.

⁴ Telephone communication with staff of the Florida Police Chief Association (FPCA) (January 27, 2015); Analysis of HB 93, House Appropriations Committee (January 21, 2016). Additionally, FPCA staff indicated that in 2015 that there were 262 police departments in Florida, as well as an additional 39 law enforcement agencies that serve university and college campuses and airports. FPCA staff informed Senate Criminal Justice staff that the 2015 data provided may not reflect current data (if collected) but FPCA staff does not believe that any changes in the 2015 data would alter the statement in this analysis that only a small number of Florida law enforcement agencies have elected to use body cameras. Data was also requested from the Florida Sheriffs Association but a response to this request was not received prior to completion of this analysis.

⁵ Ch. 2015-41, L.O.F. Section 119.071(l), F.S. The exemption is also retroactive. Section 119.071(l)6., F.S. “Body camera” means a portable electronic recording device that is worn on a law enforcement officer’s body and that records audio and video data in the course of the officer performing his or her official duties and responsibilities. Section 119.071(l)1a., F.S.

⁶ Section 119.071(l)2., F.S.

A body camera recording may be disclosed by a law enforcement agency:

- In furtherance of its official duties and responsibilities; or
- To another governmental agency in the furtherance of its official duties and responsibilities.⁷

A body camera recording, or a portion thereof, must be disclosed by a law enforcement agency:

- To a person recorded by a body camera; however, a law enforcement agency may disclose only those portions that are relevant to the person's presence in the recording;
- To the personal representative of a person recorded by a body camera; however, a law enforcement agency may disclose only those portions that are relevant to the represented person's presence in the recording;
- To a person not depicted in a body camera recording if the recording depicts a place in which the person lawfully resided, dwelled, or lodged at the time of the recording; however, a law enforcement agency may disclose only those portions that record the interior of such a place.
- Pursuant to a court order.⁸

In addition to any other grounds the court may consider in determining whether to order that a body camera recording be disclosed, the court must consider whether:

- Disclosure is necessary to advance a compelling interest;
- The recording contains information that is otherwise exempt or confidential and exempt under the law;
- The person requesting disclosure is seeking to obtain evidence to determine legal issues in a case in which the person is a party;
- Disclosure would reveal information regarding a person that is of a highly sensitive personal nature;
- Disclosure may harm the reputation or jeopardize the safety of a person depicted in the recording;
- Confidentiality is necessary to prevent a serious and imminent threat to the fair, impartial, and orderly administration of justice;
- The recording could be redacted to protect privacy interests; and
- There is good cause to disclose all or portions of a recording.⁹

A law enforcement agency must retain a body camera recording for at least 90 days.¹⁰

This exemption does not supersede any other public records exemption that existed before or is created after the effective date of this exemption. Those portions of a recording which are protected from disclosure by another public records exemption continue to be exempt or confidential and exempt.¹¹

⁷ Section 119.071(1)3., F.S.

⁸ Section 119.071(1)4., F.S.

⁹ Section 119.071(1)4.d., F.S.

¹⁰ Section 119.071(1)5., F.S.

¹¹ Section 119.071(1)7. For example, an exemption that may apply to information in the recording is the exemption for active criminal intelligence information or active criminal investigative information (s. 119.071(2)(c)1., F.S.).

The General Records Schedule, issued by the Florida Department of State, Division of Library and Information Services, establishes the requirements and timelines for agencies to maintain public records.¹² General Records Schedule GS2 governs the records maintenance and retention requirements for law enforcement, correctional facilities, and district medical examiners.¹³ Schedule GS2 does not currently specify a retention requirement for video or audio recordings from body cameras.¹⁴ However, a recording from a body camera could fall under existing areas of the retention schedule, depending on what is recorded. For example, if a body camera records a criminal incident, retention of the recording for most offenses is governed by Item # 129, Criminal Investigative Records, in the Retention Schedule, and must be retained for four anniversary years after the offense is committed.¹⁵

Interception of Communications

Chapter 934, F.S., governs the security of various types of communications in the state, and limits the ability to intercept, monitor, and record such communications. Chapter 934, F.S., also provides for criminal penalties¹⁶ and civil remedies¹⁷ when communications are intercepted in violation of the chapter. For example, it is a third degree felony¹⁸ to intentionally “intercept”¹⁹ an “oral communication.”²⁰

The statute provides for a number of exceptions to this general prohibition.²¹ For example, it is lawful for:

- A law enforcement officer to intercept an oral communication if the officer is a party to the communication or one of the parties to the communication has given prior consent to the interception and the purpose of the interception is to obtain evidence of a criminal act;²² or
- A person to intercept an oral communication when all of the parties to the communication have given prior consent to the interception.²³

¹² Rule 1B-24.003, F.A.C.

¹³ Florida Department of State, Division of Library and Information Services, General Records Schedule GS2 (2010).

¹⁴ *Id.*

¹⁵ *Id.*, at p. 7.

¹⁶ Sections 934.04, 934.21, 934.215, 934.31, and 934.43, F.S.

¹⁷ Section 934.05, F.S.

¹⁸ A third degree felony is punishable by up to 5 years in state prison and a fine of up to \$5,000. ss. 775.082 and 775.083, F.S. However, if total sentence points scored under the Criminal Punishment Code are 22 points or fewer, the court must impose a nonstate prison sanction, unless the court makes written findings that this sanction could present a danger to the public. s. 775.082(10), F.S.

¹⁹ Section 934.02(3), F.S., defines “intercept” as the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device.

²⁰ Section 934.03(1)(a) and (4)(a), F.S. Section 934.02(2), F.S., defines “oral communication” as any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation and does not mean any public oral communication uttered at a public meeting or any electronic communication.

²¹ Section 934.03(2)(a)-(j), F.S.

²² Section 934.03(2)(c), F.S.

²³ Section 934.03(2)(d), F.S.

The contents of an intercepted communication and any evidence derived from the contents may not be received in evidence in court proceedings and other specified proceedings if the disclosure of the information would violate ch. 934, F.S.²⁴

Florida state courts have not addressed whether a body camera recording that records “oral communications” constitutes an “intercept” within the meaning of that term in s. 934.02, F.S. However, the Florida Supreme Court has previously held that other recordings of “oral communications” constituted an “intercept.”²⁵ Body camera recordings are not expressly addressed in any existing exception in ch. 934, F.S., or otherwise excluded from ch. 934, F.S. Assuming body camera recordings are an “intercept,” some recordings might fall under an existing exception but others might not. Absent the recording falling under a current exception or otherwise being excluded from ch. 934, F.S., it might be in violation of ch. 934, F.S., and therefore inadmissible.

III. Effect of Proposed Changes:

The bill creates s. 943.1718, F.S., pertaining to body cameras.

The bill defines a “body camera” as a portable electronic recording device that is worn on a law enforcement officer’s person that records audio and video data of the officer’s law-enforcement-related encounters and activities.

A “law enforcement agency” is defined as an agency that has a primary mission of preventing and detecting crime and enforcing the penal, criminal, traffic, and motor vehicle laws of the state and in furtherance of that primary mission employs law enforcement officers as defined in s. 943.10, F.S. A “law enforcement officer” is any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.²⁶

The bill requires a law enforcement agency that authorizes its law enforcement officers to wear body cameras to establish policies and procedures addressing the proper use, maintenance, and storage of body cameras and the data recorded by body cameras. The policies and procedures must include:

- General guidelines for the proper use, maintenance, and storage of body cameras.
- Any limitations on which law enforcement officers are permitted to wear body cameras.
- Any limitations on law-enforcement-related encounters and activities in which law enforcement officers are permitted to wear body cameras.
- General guidelines for the proper storage, retention, and release of audio and video data recorded by body cameras.

²⁴ Section 934.06, F.S.

²⁵ For a discussion of relevant Florida Supreme Court cases, see *Guilder v. State*, 899 So.2d 412 (Fla. 4th DCA 2005).

²⁶ Section 943.10(1), F.S. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

The bill requires a law enforcement agency that authorizes its law enforcement officers to wear body cameras to:

- Ensure that all personnel who wear, use, maintain, or store body cameras are trained in the law enforcement agency's policies and procedures concerning them.
- Ensure that all personnel who use, maintain, store, or release audio or video data recorded by body cameras are trained in the law enforcement agency's policies and procedures.
- Retain audio and video data recorded by body cameras in accordance with the requirements of s. 119.021, F.S. (maintenance of public records), except as otherwise provided by law.
- Perform a periodic review of actual agency body camera practices to ensure conformity with the agency's policies and procedures.

The bill provides that ch. 934, F.S. (interception of communications), does not apply to body camera recordings made by law enforcement agencies that elect to use body cameras. This exclusion must be read together with the definition of "body camera" in the bill, which indicates that the device "records audio and video data of the officer's law-enforcement-related encounters and activities." Therefore, if the body camera recording consists of "audio and video data of the officer's law-enforcement-related encounters and activities," it is excluded from ch. 934, F.S. It is not considered an "intercept" and the general prohibition against interception of wire, oral, and electronic communications does not apply to such recording. If the body camera recording does not consist of "audio and video data of the officer's law-enforcement-related encounters and activities," the exclusion does not apply.

The bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18 of the Florida Constitution (the "mandates" provision) restricts the state's ability to: require local governments to spend money; reduce local government authority to raise revenues; and reduce local governments' share of state taxes.

Subsection (d) of Section 18 provides a "criminal law" exemption from the requirements of Section 18, though this subsection does not articulate what is encompassed within the term "criminal law." However, the definition of "body camera" in the bill clearly indicates that the device "records audio and video data of the officer's *law-enforcement-related encounters and activities*." (Emphasis provided.)

The bill requires county or municipal governments (local law enforcement agencies) to develop policies and procedures on body cameras, conduct training on those policies and procedures, retain audio and video data recorded by body cameras, and perform periodic review of practices. If the bill's requirements do not fall under the "criminal law" exemption, an exemption may apply if the bill requirements have an insignificant fiscal impact to county or municipal governments.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

If an agency chooses to use body cameras, the bill may have a minimal impact on state expenditures because the bill creates a new requirement for state law enforcement agencies that use body cameras to establish policies and procedures governing body cameras and to train personnel accordingly.

The bill may also have a minimal impact on local expenditures because the bill creates a new requirement for local law enforcement agencies that use body cameras to establish policies and procedures governing body cameras, and to train personnel accordingly.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the section 943.1718 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

By Senator Smith

31-00493-16

2016418__

1 A bill to be entitled
 2 An act relating to law enforcement officer body
 3 cameras; creating s. 943.1718, F.S.; providing
 4 definitions; requiring a law enforcement agency that
 5 authorizes its law enforcement officers to wear body
 6 cameras to establish policies and procedures
 7 addressing the proper use, maintenance, and storage of
 8 body cameras and the data recorded by body cameras;
 9 requiring such policies and procedures to include
 10 specified information; requiring such a law
 11 enforcement agency to ensure that specified personnel
 12 are trained in the law enforcement agency's policies
 13 and procedures; requiring that data recorded by body
 14 cameras be retained in accordance with specified
 15 requirements; requiring a periodic review of agency
 16 body camera practices to ensure conformity with the
 17 agency's policies and procedures; exempting the
 18 recordings from ch. 934, F.S., relating to security of
 19 communications and surveillance; providing an
 20 effective date.
 21
 22 WHEREAS, advancements in technology allow body cameras to
 23 be affordable and practical tools for law enforcement use, and
 24 WHEREAS, body cameras can provide a valuable source of
 25 information to both law enforcement and the general public, and
 26 WHEREAS, the audio and video recording of police and
 27 citizen interactions allows law enforcement agencies to improve
 28 efforts to reduce crime and properly address citizen complaints,
 29 and

Page 1 of 3

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

31-00493-16

2016418__

30 WHEREAS, establishing uniform procedural requirements for
 31 the use of body cameras by law enforcement will provide
 32 consistency and reliability throughout the state, and
 33 WHEREAS, there are currently no statewide mandatory and
 34 uniform standards or guidelines that apply to use of body
 35 cameras by law enforcement officers, NOW, THEREFORE,
 36
 37 Be It Enacted by the Legislature of the State of Florida:
 38
 39 Section 1. Section 943.1718, Florida Statutes, is created
 40 to read:
 41 943.1718 Body cameras; policies and procedures.-
 42 (1) As used in this section, the term:
 43 (a) "Body camera" means a portable electronic recording
 44 device that is worn on a law enforcement officer's person that
 45 records audio and video data of the officer's law-enforcement-
 46 related encounters and activities.
 47 (b) "Law enforcement agency" means an agency that has a
 48 primary mission of preventing and detecting crime and enforcing
 49 the penal, criminal, traffic, and motor vehicle laws of the
 50 state and in furtherance of that primary mission employs law
 51 enforcement officers as defined in s. 943.10.
 52 (c) "Law enforcement officer" has the same meaning as
 53 provided in s. 943.10.
 54 (2) A law enforcement agency that authorizes its law
 55 enforcement officers to wear body cameras shall establish
 56 policies and procedures addressing the proper use, maintenance,
 57 and storage of body cameras and the data recorded by body
 58 cameras. The policies and procedures must include:

Page 2 of 3

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

31-00493-16

2016418__

59 (a) General guidelines for the proper use, maintenance, and
60 storage of body cameras.

61 (b) Any limitations on which law enforcement officers are
62 authorized to wear body cameras.

63 (c) Any limitations on law-enforcement-related encounters
64 and activities in which law enforcement officers are authorized
65 to wear body cameras.

66 (d) General guidelines for the proper storage, retention,
67 and release of audio and video data recorded by body cameras.

68 (3) A law enforcement agency that authorizes its law
69 enforcement officers to wear body cameras shall:

70 (a) Ensure that all personnel who wear, use, maintain, or
71 store body cameras are trained in the law enforcement agency's
72 policies and procedures concerning them.

73 (b) Ensure that all personnel who use, maintain, store, or
74 release audio or video data recorded by body cameras are trained
75 in the law enforcement agency's policies and procedures.

76 (c) Retain audio and video data recorded by body cameras in
77 accordance with the requirements of s. 119.021, except as
78 otherwise provided by law.

79 (d) Perform a periodic review of actual agency body camera
80 practices to ensure conformity with the agency's policies and
81 procedures.

82 (4) Chapter 934 does not apply to body camera recordings
83 made by law enforcement agencies that elect to use body cameras.

84 Section 2. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2 / 1 / 2016

Meeting Date

Topic _____

Bill Number 418
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

418

Meeting Date _____

Bill Number (if applicable) _____

Topic _____

Amendment Barcode (if applicable) _____

Name JESS McCARTY

Job Title _____

Address 111 NW 1st St
Street
Miami 33128
City State Zip

Phone 305-979-7110

Email JM2@MIAMI-DADE.GOV

Speaking: ☒ For ☐ Against ☐ Information

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

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16
Meeting Date

118
Bill Number (if applicable)

Topic Body Cams

Amendment Barcode (if applicable)

Name TIM STANFIELD

Job Title _____

Address 701 N. Monroe
Street

Phone 661 4001

City

State

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Police Chiefs Assoc

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2.1.14

Meeting Date

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

418

Bill Number (if applicable)

Topic Body Cameras

Amendment Barcode (if applicable)

Name Sarah Carroll

Job Title Lobbyist

Address 123 S. Adams Street

Phone 671 4401

Street

Tallahassee

City

FL

State

32301

Zip

Email Carroll@scs

strategy.com

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
APPEARANCE RECORD

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

2/1/2016

Meeting Date

SB 418

Bill Number (if applicable)

Topic Law Enforcement Officer Body Worn Cameras

Amendment Barcode (if applicable)

Name Matt Puckett

Job Title Lobbyist

Address 300 East Brevard St

Phone _____

Street

Tallahassee

FL

32301

City

State

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Police Benevolent 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
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 582

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Gaetz

SUBJECT: Public Corruption

DATE: January 29, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	Fav/CS
2.	Cellon	Cannon	CJ	Favorable
3.			RC	

Please see Section IX. for Additional Information:

PLEASE MAKE SELECTION

I. Summary:

CS/SB 582 amends the laws relating to public corruption. Specifically, the bill:

- Defines “governmental entity” as an agency or entity of the state, a county, municipality, or special district or any other public entity created or authorized by law.
- Defines “public contractor” as any person who has entered into a contract with a governmental entity or any officer or employee of a person who has entered into a contract with a governmental entity.
- Changes the mens rea element for certain public corruption crimes from “corruptly” to “knowingly and intentionally.”
- Expands the application of the official misconduct law in s. 838.022, F.S., to public contractors.
- Expands the application of the bid tampering law in s. 838.22, F.S., to public contractors who contract to assist a governmental entity in a competitive procurement.

The bill has an effective date of October 1, 2016.

II. Present Situation:

Nineteenth Statewide Grand Jury

A statewide grand jury¹ was impaneled in February 2010 upon the petition of Governor Charlie Crist to the Supreme Court of Florida. In the Petition for Order to Impanel a Statewide Grand Jury, Governor Crist requested that the following should be addressed:²

- Examine criminal activity of public officials who have abused their powers via their public office;
- Consider whether Florida's prosecutors have sufficient resources to effectively combat corruption;
- Address the effectiveness of Florida's current statutes in fighting public corruption;
- Identify any deficiencies in current laws, punishments or enforcement efforts and make detailed recommendations to improve our anti-corruption initiatives;
- Investigate crimes, return indictments, and make presentations; and
- Examine public policy issues regarding public corruption and develop specific recommendations regarding improving current laws.

The Nineteenth Statewide Grand Jury issued its First Interim Report: A Study of Public Corruption in Florida and Recommended Solutions on December 17, 2010. In its report, the Nineteenth Statewide Grand Jury made several recommendations to the Legislature, including revisions to ch. 838, F.S., regarding the definitions of the terms "public servant" and "corruptly" and "corrupt intent," and the offenses of bribery, unlawful compensation or reward for official behavior, official misconduct, and bid tampering.

Color of Law

Florida law does not enhance criminal classifications or felony sentencing penalties for criminal acts committed "under color of law" where the enhancements for wrongful conduct are based on public authority or position or the assertion of such that does not form an element of the underlying crime. The Nineteenth Statewide Grand Jury also recommended that the Legislature consider reclassification of such offenses.³

Doctrine of Mens Rea and Scienter

The term "mens rea" is defined as "a guilty mind; a guilty or wrongful purpose; a criminal intent."⁴ Black's Law Dictionary notes that the term scienter is defined as "knowingly" and frequently used to signify the defendant's guilty knowledge.⁵ The general rule is that scienter or mens rea is a necessary element in the indictment for every crime.⁶

¹ See ss. 905.31-905.40, F.S., known as the Statewide Grand Jury Act.

² Nineteenth Statewide Grand Jury First Interim Report: A Study of Public Corruption in Florida and Recommended Solutions, December 17, 2010, Case No. SC 09-1910. Available online at: [http://myfloridalegal.com/webfiles.nsf/WF/JFAO-8CLT9A/\\$file/19thSWGJInterimReport.pdf](http://myfloridalegal.com/webfiles.nsf/WF/JFAO-8CLT9A/$file/19thSWGJInterimReport.pdf) (last visited on November 20, 2015).

³ *Id.*

⁴ BLACK'S LAW DICTIONARY 1137 (4th Rev. 1968).

⁵ *Id.* 1512.

⁶ *Chicone v. State*, 684 So.2d 736, 741 (Fla. 1996). Also, see *U.S. v. Balint*, 258 U.S. 250 (1922).

The Nineteenth Statewide Grand Jury found that the use of the word “corruptly” or “with corrupt intent” made prosecutions of offenses under ch. 838, F.S., more difficult and might require additional evidence, such as testimony from persons involved.⁷ The Nineteenth Statewide Grand Jury recommended that the additional element of “corruptly” or “with corrupt intent” be removed from the ch. 838, F.S., offenses of bribery, unlawful compensation, official misconduct, and bid tampering.⁸

Bribery; Misuse of Public Office: Chapter 838, F.S.

Chapter 838, F.S., pertains to bribery and other offenses concerning the misuse of public office.

Section 838.014(4), F.S., defines the term “corruptly” or “with corrupt intent” as acting knowingly and dishonestly for a wrongful purpose.

Section 838.014(6), F.S., defines the term “public servant” as:

- (a) Any officer or employee of a state, county, municipal, or special district agency or entity;
- (b) Any legislative or judicial officer or employee;
- (c) Any person, except a witness, who acts as a general or special magistrate, receiver, auditor, arbitrator, umpire, referee, consultant, or hearing officer while performing a governmental function; or
- (d) A candidate for election or appointment to any of the positions listed in this subsection, or an individual who has been elected to, but has yet to officially assume the responsibilities of, public office.

Bribery

Section 838.015, F.S., relates to the offense of bribery.⁹ Any individual who violates this section is guilty of a felony of the second degree, which is punishable as provided for in s. 775.082, s. 775.083, or s. 775.084, F.S.¹⁰

Chapter 838, F.S., also contains three other bribery offenses, including bribery in athletic contests,¹¹ commercial bribery receiving,¹² and commercial bribery.¹³ In *Roque v. State*, the Florida Supreme Court held that s. 838.15, F.S., the commercial bribe receiving law, was

⁷ See *supra* note 2, at 24.

⁸ *Id.*

⁹ Section 838.015(1), F.S., defines “bribery” as corruptly to give, offer, or promise to any public servant, or, if a public servant, corruptly to request, solicit, accept, or agree to accept for himself or herself or another, any pecuniary or other benefit not authorized by law with an intent or purpose to influence the performance of any act or omission which the person believes to be, or the public servant represents as being, within the official discretion of a public servant, in violation of a public duty, or in performance of a public duty.

¹⁰ Section 838.015(3), F.S. Under sections 775.082 and 775.083, F.S., a second degree felony is punishable by a term of imprisonment not to exceed 15 years, and a maximum fine of \$10,000. Section 775.084, F.S., relates to habitual felony offenders. If a habitual felony offender is convicted of a second degree felony, such offender may be sentenced for a term not exceeding 30 years.

¹¹ Section 838.12, F.S.

¹² Section 838.15, F.S.

¹³ Section 838.16, F.S.

invalid.¹⁴ The Nineteenth Statewide Grand Jury Report opined that s. 838.16, F.S., commercial bribery, was probably unconstitutionally vague since s. 838.16, F.S., referred to s. 838.15, F.S.¹⁵

Unlawful Compensation or Reward for Official Behavior

Section 838.016, F.S., pertains to unlawful compensation or reward for official behavior. It is a second degree felony¹⁶ for any person corruptly to give, offer, or promise to any public servant any benefit not authorized by law; or for any public servant corruptly to request, solicit, accept or agree to accept any benefit not authorized by law:

- For the past, present, or future performance, nonperformance or violation of
- Any act or omission; or
- For the past, present, or future exertion of any influence upon or with any other public servant regarding any act or omission

which the person believes to have been or the public servant represents to have been either within the official discretion of the public servant, in violation of a public duty, or in performance of a public duty.¹⁷

Official Misconduct

The offense of official misconduct contained in s. 838.022(1), F.S., provides that it “is unlawful for a public servant, with corrupt intent to obtain a benefit for any person or to cause harm to another to:

- (a) Falsify, or cause another person to falsify, any official record or official document;
- (b) Conceal, cover up, destroy, mutilate, or alter any official record or official document or cause another person to perform such an act; or
- (c) Obstruct, delay, or prevent the communication of information relating to the commission of a felony that directly involves or affects the public agency or public entity served by the public servant.

Any person who violates this section commits a felony of the third degree, which is punishable as provided for in s. 775.082, s. 775.083, or s. 775.084, F.S.¹⁸

Bid Tampering

Section 838.22, F.S., provides that:

¹⁴ *Roque v. State*, 664 So.2d 928 (Fla. 1995). The Court further noted that s. 838.015, F.S., was impermissibly vague and subject to arbitrary application. *Id.* at 929.

¹⁵ See *supra* note 2, at 34.

¹⁶ Section 838.016(4), F.S. Any person who violates this section commits a second degree felony which is punishable as provided in ss. 775.082, 775.083, or s. 775.084, F.S. See *supra* note 10.

¹⁷ Section 838.016(1) and (2), F.S.

¹⁸ Section 838.022(3), F.S. Under sections 775.082 and 775.083, F.S., a third degree felony is punishable by a term of imprisonment not to exceed 5 years, and a maximum fine of \$5,000. Section 775.084, F.S., relates to habitual felony offenders. If a habitual felony offender is convicted of a third degree felony, such offender may be sentenced for a term not exceeding 10 years.

(1) It is unlawful for a public servant, with corrupt intent to influence or attempt to influence the competitive bidding process undertaken by any state, county, municipal, or special district agency, or any other public entity, for the procurement of commodities or services, to:

(a) Disclose material information concerning a bid or other aspects of the competitive bidding process when such information is not publicly disclosed.

(b) Alter or amend a submitted bid, documents or other materials supporting a submitted bid, or bid results for the purpose of intentionally providing a competitive advantage to any person who submits a bid.

(2) It is unlawful for a public servant, with corrupt intent to obtain a benefit for any person or to cause unlawful harm to another, to circumvent a competitive bidding process required by law or rule by using a sole-source contract for commodities or services.

(3) It is unlawful for any person to knowingly agree, conspire, combine, or confederate, directly or indirectly, with a public servant to violate subsection (1) or subsection (2).

(4) It is unlawful for any person to knowingly enter into a contract for commodities or services which was secured by a public servant acting in violation of subsection (1) or subsection (2).

(5) Any person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084¹⁹

Criminal Use of Personal Identification Information

Section 817.568(11), F.S., provides, in part, that any person who willfully and without authorization fraudulently uses personal identification concerning a public servant as defined in s. 838.014, F.S., without first obtaining the consent of that individual commits a felony of the second degree.

III. Effect of Proposed Changes:

Section 1 amends s. 838.014, F.S., to define the term “governmental entity” as an agency or entity of the state, a county, municipality, or special district or any other public entity created or authorized by law. The bill expands the definition of “governmental entity” to include other public entities, such as Citizens Property Insurance Corporation,²⁰ statutorily-created direct support organizations,²¹ and other statutorily-created public entities. The definition of “corruptly” or “with corrupt intent” is eliminated.

This section defines the term “public contractor,” for purposes of the offenses of official misconduct in s. 838.022, F.S., and bid tampering in s. 838.22, F.S., as any person, as defined by s. 1.01(3), F.S.,²² who has entered into a contract with a governmental entity or any officer or employee of a person, as defined in s. 1.01(3), F.S., who has entered into a contract with a governmental entity.

¹⁹ See *supra* note 3.

²⁰ Section 627.351(6), F.S. Citizens Property Insurance Corporation was created in 2002 as a not-for-profit insurer of last resort for home-owners who could not obtain insurance elsewhere.

²¹ A direct support organization is an organization incorporated under ch. 617, F.S., and approved by the Department of State as a Florida corporation not for profit that is approved by a state agency to operate for the benefit of a specific program, such as the Florida Historic Capitol Museum Council’s direct support organization. See s. 272.131(1)(e), F.S.

²² Section 1.01(3), F.S., provides that the term “person” includes individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

This section revises the definition of the term “public servant” to mean any officer or employee of a governmental entity, including any executive, legislative, or judicial branch officer or employee and a candidate for election or appointment to any of the officer positions listed in this subsection.

Section 2 amends s. 838.015(1), F.S., relating to bribery, to change the mens rea element of the crime from “corruptly” to “knowingly and intentionally.”

Section 3 amends s. 838.016, F.S., relating to unlawful compensation or reward for official behavior, to redefine the mens rea element of the offense from “corruptly” to “knowingly and intentionally.”

Section 4 amends s. 838.022, F.S., to subject public contractors to the same level of conduct as public servants. The mens rea element of the offense is changed from “with corrupt intent” to “knowingly and intentionally.” The law is clarified so that the harm caused to another must be an “unlawful harm.” Concealing, covering up, destroying, mutilating, or altering an official record is criminalized unless such action is authorized by law or contract.

Section 5 amends s. 838.22, F.S., to expand the application of the bid tampering laws to public contractors who have contracted with a governmental entity to assist in a competitive procurement. These public contractors are treated similar to public servants for this law. The mens rea element of the offense is changed from “with corrupt intent” to “knowingly and intentionally” influence.

Sections 6 through 10 reenact ss. 112.534(2)(a), 117.01(4)(d), 817.568(11), 921.0022(3)(g), and 921.0022(3)(d), F.S., respectively, to incorporate by reference the revisions made in sections 1 through 5 of the bill.

Section 11 provides that the bill takes effect on October 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Indeterminate. In response to request for proposals and solicitation of competitive bids for state services and construction projects, a vendor may increase its bid amounts to account for the potential legal expenses that may result from a violation of public corruption laws.

C. Government Sector Impact:

Indeterminate. To the extent the mens rea element of these crimes relating to misuse of public office has become easier to prove, more public servants may be convicted of such crimes.

Also, costs for services provided by public contractors may increase to the extent public contractors factor into their bids the risk of incurring legal expenses associated with being accused of violating public corruption laws.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 838.014, 838.015, 838.016, 838.022, and 838.22.

The bill makes technical changes to the following sections of the Florida Statutes: 112.534(2)(a), 117.01(4)(d), 817.568(11), 921.0022(3)(g), and 921.0022(3)(d).

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 Governmental Oversight and Accountability on January 19, 2016:**

- Revises the definition of “governmental entity;”
- Creates a definition of “public contractor;”
- Deletes the provisions of the original bill regarding a nongovernmental entity acting on behalf of a governmental entity;

- Provides that public contractors are subject to the offenses of official misconduct and bid tampering in ss. 838.022 and 838.22, F.S.;
- Deletes the term “improper” in the offenses of official misconduct and bid tampering;
- Provides an exception, as authorized by law or contract, for concealing, covering up, destroying, mutilating, or altering any official record or document in the official misconduct offense; and
- Expands the offense of bid tampering to prohibit the disclosure of material information in the competitive solicitation process, including a vendor’s response and evaluation results, and provides an exception for disclosing such information when otherwise authorized by law.

B. Amendments:

None.



243190

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/01/2016	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (5) through (9) of section 11.045, Florida Statutes, are renumbered as subsections (6) through (10), respectively, a new subsection (5) is added to that section, and present subsection (8) of that section is amended, to read:

11.045 Lobbying before the Legislature; registration and



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reporting; exemptions; penalties.—

(5) (a) For purposes of this subsection, the term:

1. "Lobbying activities" means any action designed to support, oppose, or influence proposed legislation or proposed legislative action. The term includes, but is not limited to, any verbal, written, or electronic communication with any legislator or legislative employee undertaken for the purpose of directly or indirectly supporting, opposing, or influencing legislation or requesting proposed legislation to be filed.

2. "Proposed legislation" includes, but is not limited to, policies, ideas, issues, concepts, or statutory language that is presently, or may at some future point be, reflected in or impacted by a bill, a memorial, a resolution, a compact, or an appropriation.

3. "Proposed legislative action" means any action by a constituent entity of the Legislature, including, but not limited to, the houses of the Legislature, a joint office, and a joint committee.

(b) Each house of the Legislature shall provide reporting requirements by rule requiring each lobbying firm to file a monthly report with the office. The report must include:

1. The full name, business address, and telephone number of the lobbying firm.

2. The name of each of the lobbying firm's lobbyists.

3. A list detailing the lobbying firm's lobbying activities during the reporting period. The list must itemize:

a. The proposed legislation or proposed legislative action that the lobbying firm has attempted to support, oppose, or influence;



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b. The entity lobbied;

c. Each principal on behalf of whom the lobbying firm has acted; and

d. If the proposed legislation included an appropriation or was an appropriation, the intended recipient of the appropriation.

(c) For purposes of the reporting requirement provided in this subsection, the reports must identify proposed legislation by referencing any legislatively assigned identifying numbers, including, but not limited to, bill numbers, amendment barcode numbers, or specific appropriation numbers. If the proposed legislation does not have an identifying number assigned, the report must include a description of the subject matter of the proposed legislation, whether the lobbying firm is supporting or opposing the proposed legislation and, if seeking to modify the proposed legislation, how the lobbying firm's modification would alter the proposal.

(d) The reports shall be filed even if the reporting lobbying firm did not engage in any lobbying activities requiring disclosure, in which the report shall be marked "not applicable."

(e) The reports shall be filed with the office by electronic means no later than 7 business days after the end of the preceding month. The reports shall be rendered in the identical form provided by the respective houses and shall be open to public inspection.

(f) Each house of the Legislature shall provide by rule, or both houses may provide by joint rule, a procedure by which a lobbying firm that fails to timely file a report is notified and



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assessed fines. The rule must provide the following:

1. Upon determining that the report is late, the person designated to review the timeliness of reports shall immediately notify the lobbying firm as to the failure to timely file the report and that a fine is being assessed for each late day. The fine shall be \$50 per day per report for each late day, not to exceed \$5,000 per report.

2. Upon receipt of the report, the person designated to review the timeliness of reports shall determine the amount of the fine due based upon when a report is actually received by the office.

3. Such fine must be paid within 30 days after the notice of payment due is transmitted by the office, unless appeal is made to the office. The moneys shall be deposited into the Legislative Lobbyist Registration Trust Fund.

4. A fine may not be assessed against a lobbying firm the first time any reports for which the lobbying firm is responsible are not timely filed. However, to receive the one-time fine waiver, all reports for which the lobbying firm is responsible must be filed within 30 days after notice that any reports have not been timely filed is transmitted by the Lobbyist Registration Office. A fine shall be assessed for any subsequent late-filed reports.

5. Any lobbying firm may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and is entitled to a hearing before the General Counsel of the Office of Legislative Services, who shall recommend to the President of the Senate and the Speaker of the House of Representatives, or their respective



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designees, that the fine be waived in whole or in part for good cause shown. The President of the Senate and the Speaker of the House of Representatives, or their respective designees, may concur in the recommendation and waive the fine in whole or in part. Any such request must be made within 30 days after the notice of payment due is transmitted by the office. In such case, the lobbying firm shall, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to request a hearing.

6. A lobbying firm may request that the filing of a report be waived upon good cause shown, based on unusual circumstances. The request must be filed with the General Counsel of the Office of Legislative Services, who shall make a recommendation concerning the waiver request to the President of the Senate and the Speaker of the House of Representatives. The President of the Senate and the Speaker of the House of Representatives may grant or deny the request.

7. All lobbyist registrations for lobbyists who are partners, owners, officers, or employees of a lobbying firm that fails to timely pay a fine are automatically suspended until the fine is paid or waived, and the office shall promptly notify all affected principals of any suspension or reinstatement.

8. The person designated to review the timeliness of reports shall notify the coordinator of the office of the failure of a lobbying firm to file a report after notice or of the failure of a lobbying firm to pay the fine imposed.

~~(9)~~ Any person required to be registered or to provide information pursuant to this section or pursuant to rules established in conformity with this section who knowingly fails



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to disclose any material fact required by this section or by rules established in conformity with this section, or who knowingly provides false information on any report required by this section or by rules established in conformity with this section, commits a noncriminal infraction, punishable by a fine not to exceed \$5,000. Such penalty shall be in addition to any other penalty assessed by a house of the Legislature pursuant to subsection (8) ~~(7)~~.

Section 2. Subsection (2) of section 11.40, Florida Statutes, is amended to read:

11.40 Legislative Auditing Committee.—

(2) Following notification by the Auditor General, the Department of Financial Services, ~~or~~ the Division of Bond Finance of the State Board of Administration, the Governor or his or her designee, or the Commissioner of Education or his or her designee of the failure of a local governmental entity, district school board, charter school, or charter technical career center to comply with the applicable provisions within s. 11.45(5)-(7), s. 218.32(1), s. 218.38, or s. 218.503(3), the Legislative Auditing Committee may schedule a hearing to determine if the entity should be subject to further state action. If the committee determines that the entity should be subject to further state action, the committee shall:

(a) In the case of a local governmental entity or district school board, direct the Department of Revenue and the Department of Financial Services to withhold any funds not pledged for bond debt service satisfaction which are payable to such entity until the entity complies with the law. The committee shall specify the date that such action must ~~shall~~



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begin, and the directive must be received by the Department of Revenue and the Department of Financial Services 30 days before the date of the distribution mandated by law. The Department of Revenue and the Department of Financial Services may implement ~~the provisions of~~ this paragraph.

(b) In the case of a special district created by:

1. A special act, notify the President of the Senate, the Speaker of the House of Representatives, the standing committees of the Senate and the House of Representatives charged with special district oversight as determined by the presiding officers of each respective chamber, the legislators who represent a portion of the geographical jurisdiction of the special district pursuant to s. 189.034(2), and the Department of Economic Opportunity that the special district has failed to comply with the law. Upon receipt of notification, the Department of Economic Opportunity shall proceed pursuant to s. 189.062 or s. 189.067. If the special district remains in noncompliance after the process set forth in s. 189.034(3), or if a public hearing is not held, the Legislative Auditing Committee may request the department to proceed pursuant to s. 189.067(3).

2. A local ordinance, notify the chair or equivalent of the local general-purpose government pursuant to s. 189.035(2) and the Department of Economic Opportunity that the special district has failed to comply with the law. Upon receipt of notification, the department shall proceed pursuant to s. 189.062 or s. 189.067. If the special district remains in noncompliance after the process set forth in s. 189.034(3), or if a public hearing is not held, the Legislative Auditing Committee may request the



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department to proceed pursuant to s. 189.067(3).

3. Any manner other than a special act or local ordinance, notify the Department of Economic Opportunity that the special district has failed to comply with the law. Upon receipt of notification, the department shall proceed pursuant to s. 189.062 or s. 189.067(3).

(c) In the case of a charter school or charter technical career center, notify the appropriate sponsoring entity, which may terminate the charter pursuant to ss. 1002.33 and 1002.34.

Section 3. Subsection (1), paragraph (j) of subsection (2), paragraph (u) of subsection (3), and paragraph (i) of subsection (7) of section 11.45, Florida Statutes, are amended, and paragraph (x) is added to subsection (3) of that section, to read:

11.45 Definitions; duties; authorities; reports; rules.—

(1) DEFINITIONS.—As used in ss. 11.40-11.51, the term:

(a) "Abuse" means behavior that is deficient or improper when compared with behavior that a prudent person would consider a reasonable and necessary operational practice given the facts and circumstances. The term includes the misuse of authority or position for personal gain.

(b) ~~(a)~~ "Audit" means a financial audit, operational audit, or performance audit.

(c) ~~(b)~~ "County agency" means a board of county commissioners or other legislative and governing body of a county, however styled, including that of a consolidated or metropolitan government, a clerk of the circuit court, a separate or ex officio clerk of the county court, a sheriff, a property appraiser, a tax collector, a supervisor of elections,



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or any other officer in whom any portion of the fiscal duties of a body or officer expressly stated in this paragraph are ~~the above are under law~~ separately placed by law.

(d)~~(e)~~ "Financial audit" means an examination of financial statements in order to express an opinion on the fairness with which they are presented in conformity with generally accepted accounting principles and an examination to determine whether operations are properly conducted in accordance with legal and regulatory requirements. Financial audits must be conducted in accordance with auditing standards generally accepted in the United States and government auditing standards as adopted by the Board of Accountancy. When applicable, the scope of financial audits must ~~shall~~ encompass the additional activities necessary to establish compliance with the Single Audit Act Amendments of 1996, 31 U.S.C. ss. 7501-7507, and other applicable federal law.

(e) "Fraud" means obtaining something of value through willful misrepresentation, including, but not limited to, the intentional misstatements or omissions of amounts or disclosures in financial statements to deceive users of financial statements, theft of an entity's assets, bribery, or the use of one's position for personal enrichment through the deliberate misuse or misapplication of an organization's resources.

(f)~~(d)~~ "Governmental entity" means a state agency, a county agency, or any other entity, however styled, that independently exercises any type of state or local governmental function.

(g)~~(e)~~ "Local governmental entity" means a county agency, municipality, tourist development council, county tourism promotion agency, or special district as defined in s. 189.012.



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243 The term, ~~but~~ does not include any housing authority established
244 under chapter 421.

245 (h) ~~(f)~~ "Management letter" means a statement of the
246 auditor's comments and recommendations.

247 (i) ~~(g)~~ "Operational audit" means an audit whose purpose is
248 to evaluate management's performance in establishing and
249 maintaining internal controls, including controls designed to
250 prevent and detect fraud, waste, and abuse, and in administering
251 assigned responsibilities in accordance with applicable laws,
252 administrative rules, contracts, grant agreements, and other
253 guidelines. Operational audits must be conducted in accordance
254 with government auditing standards. Such audits examine internal
255 controls that are designed and placed in operation to promote
256 and encourage the achievement of management's control objectives
257 in the categories of compliance, economic and efficient
258 operations, reliability of financial records and reports, and
259 safeguarding of assets, and identify weaknesses in those
260 internal controls.

261 (j) ~~(h)~~ "Performance audit" means an examination of a
262 program, activity, or function of a governmental entity,
263 conducted in accordance with applicable government auditing
264 standards or auditing and evaluation standards of other
265 appropriate authoritative bodies. The term includes an
266 examination of issues related to:

- 267 1. Economy, efficiency, or effectiveness of the program.
- 268 2. Structure or design of the program to accomplish its
269 goals and objectives.
- 270 3. Adequacy of the program to meet the needs identified by
271 the Legislature or governing body.



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4. Alternative methods of providing program services or products.

5. Goals, objectives, and performance measures used by the agency to monitor and report program accomplishments.

6. The accuracy or adequacy of public documents, reports, or requests prepared under the program by state agencies.

7. Compliance of the program with appropriate policies, rules, or laws.

8. Any other issues related to governmental entities as directed by the Legislative Auditing Committee.

(k)~~(i)~~ "Political subdivision" means a separate agency or unit of local government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, city, commission, consolidated government, county, department, district, institution, metropolitan government, municipality, office, officer, public corporation, town, or village.

(l)~~(j)~~ "State agency" means a separate agency or unit of state government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, commission, department, division, institution, office, officer, or public corporation, as the case may be, except any such agency or unit within the legislative branch of state government other than the Florida Public Service Commission.

(m) "Waste" means the act of using or expending resources unreasonably, carelessly, extravagantly, or for no useful purpose.

(2) DUTIES.—The Auditor General shall:



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(j) Conduct audits of local governmental entities when determined to be necessary by the Auditor General, when directed by the Legislative Auditing Committee, or when otherwise required by law. No later than 18 months after the release of the audit report, the Auditor General shall perform such appropriate followup procedures as he or she deems necessary to determine the audited entity's progress in addressing the findings and recommendations contained within the Auditor General's previous report. The Auditor General shall notify each member of the audited entity's governing body and the Legislative Auditing Committee of the results of his or her determination. For purposes of this paragraph, local governmental entities do not include water management districts.

The Auditor General shall perform his or her duties independently but under the general policies established by the Legislative Auditing Committee. This subsection does not limit the Auditor General's discretionary authority to conduct other audits or engagements of governmental entities as authorized in subsection (3).

(3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements as determined appropriate by the Auditor General of:

(u) The Florida Virtual School ~~pursuant to s. 1002.37.~~

(x) Tourist development councils and county tourism promotion agencies.

(7) AUDITOR GENERAL REPORTING REQUIREMENTS.—



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(i) The Auditor General shall annually transmit by July 15, to the President of the Senate, the Speaker of the House of Representatives, and the Department of Financial Services, a list of all school districts, charter schools, charter technical career centers, Florida College System institutions, state universities, and local governmental entities ~~water management districts~~ that have failed to comply with the transparency requirements as identified in the audit reports reviewed pursuant to paragraph (b) and those conducted pursuant to subsection (2).

Section 4. Section 20.602, Florida Statutes, is created to read:

20.602 Standards of conduct; officers and board members of Department of Economic Opportunity corporate entities.—

(1) The following officers and board members are subject to ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2):

(a) Officers and members of the board of directors of:

1. Any corporation created under chapter 288;

2. Space Florida;

3. CareerSource Florida, Inc., or the programs or entities created by CareerSource Florida, Inc., pursuant to s. 445.004;

4. The Florida Housing Finance Corporation; or

5. Any other corporation created by the Department of Economic Opportunity in accordance with its powers and duties under s. 20.60.

(b) Officers and members of the board of directors of a corporate parent or subsidiary corporation of a corporation described in paragraph (a).



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(c) Officers and members of the board of directors of a corporation created to carry out the missions of a corporation described in paragraph (a).

(d) Officers and members of the board of directors of a corporation with which a corporation described in paragraph (a) is required by law to contract with to carry out its missions.

(2) For purposes of applying ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2) to activities of the officers and members of the board of directors specified in subsection (1), those persons shall be considered public officers or employees and the corporation shall be considered their agency.

(3) For a period of 2 years after retirement from or termination of service, or for a period of 10 years if removed or terminated for cause or for misconduct, as defined in s. 443.036(29), an officer or a member of the board of directors specified in subsection (1) may not represent another person or entity for compensation before:

(a) His or her corporation;

(b) A division, a subsidiary, or the board of directors of a corporation created to carry out the mission of his or her corporation; or

(c) A corporation with which the corporation is required by law to contract to carry out its missions.

(4) This section does not supersede any additional or more stringent standards of conduct applicable to an officer or a member of the board of directors of an entity specified in subsection (1) prescribed by any other provision of law.

Section 5. Paragraph (d) of subsection (2) of section



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28.35, Florida Statutes, is amended to read:

28.35 Florida Clerks of Court Operations Corporation.—

(2) The duties of the corporation shall include the following:

(d) Developing and certifying a uniform system of workload measures and applicable workload standards for court-related functions as developed by the corporation and clerk workload performance in meeting the workload performance standards. These workload measures and workload performance standards shall be designed to facilitate an objective determination of the performance of each clerk in accordance with minimum standards for fiscal management, operational efficiency, and effective collection of fines, fees, service charges, and court costs. The corporation shall develop the workload measures and workload performance standards in consultation with the Legislature. When the corporation finds a clerk has not met the workload performance standards, the corporation shall identify the nature of each deficiency and any corrective action recommended and taken by the affected clerk of the court. For quarterly periods ending on the last day of March, June, September, and December of each year, the corporation shall notify the Legislature of any clerk not meeting workload performance standards and provide a copy of any corrective action plans. Such notifications shall be submitted no later than 45 days after the end of the preceding quarterly period. As used in this subsection, the term:

1. "Workload measures" means the measurement of the activities and frequency of the work required for the clerk to adequately perform the court-related duties of the office as



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defined by the membership of the Florida Clerks of Court
Operations Corporation.

2. "Workload performance standards" means the standards
developed to measure the timeliness and effectiveness of the
activities that are accomplished by the clerk in the performance
of the court-related duties of the office as defined by the
membership of the Florida Clerks of Court Operations
Corporation.

Section 6. Present subsections (6) and (7) of section
43.16, Florida Statutes, are redesignated as subsections (7) and
(8), respectively, and a new subsection (6) is added to that
section, to read:

43.16 Justice Administrative Commission; membership, powers
and duties.—

(6) The commission, each state attorney, each public
defender, the criminal conflict and civil regional counsel, the
capital collateral regional counsel, and the Guardian Ad Litem
Program shall establish and maintain internal controls designed
to:

(a) Prevent and detect fraud, waste, and abuse.

(b) Promote and encourage compliance with applicable laws,
rules, contracts, grant agreements, and best practices.

(c) Support economical and efficient operations.

(d) Ensure reliability of financial records and reports.

(e) Safeguard assets.

Section 7. Section 112.3126, Florida Statutes, is created
to read:

112.3126 Employment restrictions; legislators.—

(1) As used in this section, the term "private entity"



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means any nongovernmental entity, such as a corporation,
partnership, company or nonprofit organization, any other legal
entity, or any natural person.

(2)(a) A member of, or candidate for, the Legislature may
not accept employment with a private entity that directly
receives funding through state revenues appropriated by the
General Appropriations Act if he or she knows, or with the
exercise of reasonable care should know, that the position is
being offered by the employer for the purpose of gaining
influence or other advantage based on the legislator's office or
candidacy. Any employment with a private entity that directly
receives funding through state revenues appropriated by the
General Appropriations Act accepted by a member or candidate
must meet all of the following conditions:

1. The position was already in existence or was created by
the employer without the knowledge or anticipation of the
legislator's interest in such position;

2. The position was open to other applicants;

3. The legislator was subject to the same application and
hiring process as other candidates for the position; and

4. The legislator meets or exceeds the required
qualifications for the position.

(b) A member of the Legislature who is employed by such
private entity before his or her legislative service begins may
continue his or her employment. However, he or she may not
accept promotion, advancement, additional compensation, or
anything of value that he or she knows, or with the exercise of
reasonable care should know, is provided or given to influence
or attempt to influence his or her legislative office, or that



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is otherwise inconsistent with the promotion, advancement,
additional compensation, or anything of value provided or given
an employee who is similarly situated.

Section 8. Subsection (7) of section 112.313, Florida
Statutes, is amended to read:

112.313 Standards of conduct for public officers, employees
of agencies, and local government attorneys.—

(7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.—

(a) A ~~No~~ public officer or employee of an agency may not
~~shall~~ have or hold any employment or contractual relationship
with any business entity or any agency that ~~which~~ is subject to
the regulation of, or is doing business with, an agency of which
he or she is an officer or employee, excluding those
organizations and their officers who, when acting in their
official capacity, enter into or negotiate a collective
bargaining contract with the state or any municipality, county,
or other political subdivision of the state; and ~~nor shall~~ an
officer or employee of an agency may not have or hold any
employment or contractual relationship that will create a
continuing or frequently recurring conflict between his or her
private interests and the performance of his or her public
duties or that would impede the full and faithful discharge of
his or her public duties. For purposes of this subsection, if a
public officer or employee of an agency holds a controlling
interest in a business entity or is an officer, a director, or a
member who manages such an entity, contractual relationships
held by the business entity are deemed to be held by the public
officer or employee.

1. When the agency referred to is a ~~that certain kind of~~



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special tax district created by general or special law and is limited specifically to constructing, maintaining, managing, and financing improvements in the land area over which the agency has jurisdiction, or when the agency has been organized pursuant to chapter 298, ~~then~~ employment with, or entering into a contractual relationship with, such a business entity by a public officer or employee of such an agency is ~~shall~~ not be prohibited by this subsection or ~~be~~ deemed a conflict per se. However, conduct by such officer or employee that is prohibited by, or otherwise frustrates the intent of, this section must ~~shall~~ be deemed a conflict of interest in violation of the standards of conduct set forth by this section.

2. When the agency referred to is a legislative body and the regulatory power over the business entity resides in another agency, or when the regulatory power that ~~which~~ the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, ~~then~~ employment or a contractual relationship with such a business entity by a public officer or employee of a legislative body is ~~shall~~ not be prohibited by this subsection or ~~be~~ deemed a conflict.

(b) This subsection does ~~shall~~ not prohibit a public officer or employee from practicing in a particular profession or occupation when such practice by persons holding such public office or employment is required or permitted by law or ordinance.

Section 9. Subsections (1) and (2) of section 112.3144, Florida Statutes, are amended to read:

112.3144 Full and public disclosure of financial interests.—



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(1) In addition to officers specified in s. 8, Art. II of the State Constitution or other state law, all elected municipal officers are required to file a full and public disclosure of their financial interests. An officer who is required ~~by s. 8, Art. II of the State Constitution~~ to file a full and public disclosure of ~~his or her~~ financial interests for any calendar or fiscal year shall file that disclosure with the ~~Florida~~ Commission on Ethics. ~~Additionally, beginning January 1, 2015,~~ An officer who is required to complete annual ethics training pursuant to s. 112.3142 must certify on his or her full and public disclosure of financial interests that he or she has completed the required training.

(2) A person who is required, ~~pursuant to s. 8, Art. II of the State Constitution,~~ to file a full and public disclosure of financial interests and who has filed a full and public disclosure of financial interests for any calendar or fiscal year ~~is shall~~ not ~~be~~ required to file a statement of financial interests pursuant to s. 112.3145(2) and (3) for the same year or for any part thereof notwithstanding any requirement of this part. If an incumbent in an elective office has filed the full and public disclosure of financial interests to qualify for election to the same office or if a candidate for office holds another office subject to the annual filing requirement, the qualifying officer shall forward an electronic copy of the full and public disclosure of financial interests to the commission no later than July 1. The electronic copy of the full and public disclosure of financial interests satisfies the annual disclosure requirement of this section. A candidate who does not qualify until after the annual full and public disclosure of



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financial interests has been filed pursuant to this section shall file a copy of his or her disclosure with the officer before whom he or she qualifies.

Section 10. The amendment made to s. 112.3144, Florida Statutes, by this act applies to disclosures filed for the 2016 calendar year and all subsequent calendar years.

Section 11. Subsection (1) of section 112.31455, Florida Statutes, is amended to read:

112.31455 Collection methods for unpaid automatic fines for failure to timely file disclosure of financial interests.—

(1) Before referring any unpaid fine accrued pursuant to s. 112.3144(5) or s. 112.3145(7) to the Department of Financial Services, the commission shall attempt to determine whether the individual owing such a fine is a current public officer or current public employee. If so, the commission may notify the Chief Financial Officer or the governing body of the appropriate county, municipality, school district, or special district of the total amount of any fine owed to the commission by such individual.

(a) After receipt and verification of the notice from the commission, the Chief Financial Officer or the governing body of the county, municipality, school district, or special district shall begin withholding the lesser of 10 percent or the maximum amount allowed under federal law from any salary-related payment. The withheld payments shall be remitted to the commission until the fine is satisfied.

(b) The Chief Financial Officer or the governing body of the county, municipality, school district, or special district may retain an amount of each withheld payment, as provided in s.



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77.0305, to cover the administrative costs incurred under this section.

Section 12. Present subsections (7) through (15) of section 112.3215, Florida Statutes, are renumbered as subsections (8) through (16), respectively, a new subsection (7) is added to that section, and paragraph (a) of present subsection (8) and present subsection (11) of that section are amended, to read:

112.3215 Lobbying before the executive branch or the Constitution Revision Commission; registration and reporting; investigation by commission.—

(7) If a lobbying firm lobbies the Governor to approve or veto any bill passed by the Legislature or a specific appropriation in the General Appropriations Act, the lobbying firm must file a monthly report disclosing such activity with the commission.

(a) The monthly report must contain the same information required under s. 11.045(5). The reports must be filed with the commission no later than 7 business days after the end of the preceding month. A lobbying firm may satisfy the filing requirements of this subsection by using the form used under s. 11.045(5).

(b) The reports shall be filed even if the reporting lobbying firm did not engage in any lobbying activities requiring disclosure, in which the report shall be marked "not applicable."

(c) The commission shall provide by rule the grounds for waiving a fine, the procedures by which a lobbying firm that fails to timely file a report shall be notified and assessed fines, and the procedure for appealing the fines. The rule shall



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provide for the following:

1. Upon determining that the report is late, the person designated to review the timeliness of reports shall immediately notify the lobbying firm as to the failure to timely file the report and that a fine is being assessed for each late day. The fine shall be \$50 per day per report for each late day up to a maximum of \$5,000 per late report.

2. Upon receipt of the report, the person designated to review the timeliness of reports shall determine the amount of the fine due based upon when a report is actually received by the commission.

3. Such fine shall be paid within 30 days after the notice of payment due is transmitted by the commission, unless appeal is made to the commission. The moneys shall be deposited into the Executive Branch Lobby Registration Trust Fund.

4. A fine may not be assessed against a lobbying firm the first time any reports for which the lobbying firm is responsible are not timely filed. However, to receive the one-time fine waiver, all reports for which the lobbying firm is responsible must be filed within 30 days after the notice that any reports have not been timely filed is transmitted by the commission. A fine shall be assessed for any subsequent late-filed reports.

5. Any lobbying firm may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the commission, which shall have the authority to waive the fine in whole or in part for good cause shown. Any such request shall be made within 30 days after the



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notice of payment due is transmitted by the commission. In such case, the lobbying firm shall, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission.

6. The person designated to review the timeliness of reports shall notify the commission of the failure of a lobbying firm to file a report after notice or of the failure of a lobbying firm to pay the fine imposed. All lobbyist registrations for lobbyists who are partners, owners, officers, or employees of a lobbying firm that fails to timely pay a fine are automatically suspended until the fine is paid or waived, and the commission shall promptly notify all affected principals of each suspension and each reinstatement.

7. Notwithstanding any provision of chapter 120, any fine imposed under this subsection that is not waived by final order of the commission and that remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the lobbying firm's appeal shall be collected by the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department may assign the collection of such fine to a collection agent as provided in s. 17.20.

~~(9) (a) - (8) (a)~~ The commission shall investigate every sworn complaint that is filed with it alleging that a person covered by this section has failed to register, has failed to submit a compensation report, has made a prohibited expenditure, has failed to file a report required by subsection (7), or has knowingly submitted false information in any report or



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registration required in this section.

(12) ~~(11)~~ Any person who is required to be registered or to provide information under this section or under rules adopted pursuant to this section and who knowingly fails to disclose any material fact that is required by this section or by rules adopted pursuant to this section, or who knowingly provides false information on any report required by this section or by rules adopted pursuant to this section, commits a noncriminal infraction, punishable by a fine not to exceed \$5,000. Such penalty is in addition to any other penalty assessed by the Governor and Cabinet pursuant to subsection (11) ~~(10)~~.

Section 13. Section 112.3261, Florida Statutes, is amended to read:

112.3261 Lobbying before governmental entities ~~water management districts~~; registration and reporting.—

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

(a) "Governmental entity" or "entity" ~~"District"~~ means a water management district created in s. 373.069 and operating under the authority of chapter 373, a hospital district, a children's services district, an expressway authority as the term "authority" is defined in s. 348.0002, the term "port authority" as defined in s. 315.02, a county or municipality that has not adopted lobbyist registration and reporting requirements, or an independent special district with annual revenues of more than \$5 million which exercises ad valorem taxing authority.

(b) "Lobbies" means seeking, on behalf of another person, to influence a governmental entity ~~district~~ with respect to a decision of the entity ~~district~~ in an area of policy or



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procurement or an attempt to obtain the goodwill of an a
~~district~~ official or employee of a governmental entity. The term
~~"lobbies"~~ shall be interpreted and applied consistently with the
rules of the commission implementing s. 112.3215.

(c) "Lobbyist" has the same meaning as provided in s.
112.3215.

(d) "Principal" has the same meaning as provided in s.
112.3215.

(2) A person may not lobby a governmental entity ~~district~~
until such person has registered as a lobbyist with that entity
~~district~~. Such registration shall be due upon initially being
retained to lobby and is renewable on a calendar-year basis
thereafter. Upon registration, the person shall provide a
statement signed by the principal or principal's representative
stating that the registrant is authorized to represent the
principal. The principal shall also identify and designate its
main business on the statement authorizing that lobbyist
pursuant to a classification system approved by the governmental
entity ~~district~~. Any changes to the information required by this
section must be disclosed within 15 days by filing a new
registration form. The registration form must ~~shall~~ require each
lobbyist to disclose, under oath, the following:

(a) The lobbyist's name and business address.

(b) The name and business address of each principal
represented.

(c) The existence of any direct or indirect business
association, partnership, or financial relationship with an
official ~~any officer~~ or employee of a governmental entity
~~district~~ with which he or she lobbies or intends to lobby.



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(d) A governmental entity shall create a lobbyist registration form modeled after the ~~In lieu of creating its own lobbyist registration forms,~~ a district may accept a completed legislative branch or executive branch lobbyist registration form, which must be returned to the governmental entity.

(3) A governmental entity ~~district~~ shall make lobbyist registrations available to the public. If a governmental entity ~~district~~ maintains a website, a database of currently registered lobbyists and principals must be available on the entity's ~~district's~~ website.

(4) A lobbyist shall promptly send a written statement to the governmental entity ~~district~~ canceling the registration for a principal upon termination of the lobbyist's representation of that principal. A governmental entity ~~district~~ may remove the name of a lobbyist from the list of registered lobbyists if the principal notifies the entity ~~district~~ that a person is no longer authorized to represent that principal.

(5) A governmental entity ~~district~~ may establish an annual lobbyist registration fee, not to exceed \$40, for each principal represented. The governmental entity ~~district~~ may use registration fees only to administer this section.

(6) A governmental entity ~~district~~ shall be diligent to ascertain whether persons required to register pursuant to this section have complied. A governmental entity ~~district~~ may not knowingly authorize a person who is not registered pursuant to this section to lobby the entity ~~district~~.

(7) Upon receipt of a sworn complaint alleging that a lobbyist or principal has failed to register with a governmental entity ~~district~~ or has knowingly submitted false information in



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a report or registration required under this section, the commission shall investigate a lobbyist or principal pursuant to the procedures established under s. 112.324. The commission shall provide the Governor with a report of its findings and recommendations in any investigation conducted pursuant to this subsection. The Governor is authorized to enforce the commission's findings and recommendations.

(8) A governmental entity ~~Water management districts~~ may adopt rules to establish procedures to govern the registration of lobbyists, including the adoption of forms and the establishment of a lobbyist registration fee.

Section 14. Paragraph (c) of subsection (3) of section 129.03, Florida Statutes, is amended to read:

129.03 Preparation and adoption of budget.—

(3) The county budget officer, after tentatively ascertaining the proposed fiscal policies of the board for the next fiscal year, shall prepare and present to the board a tentative budget for the next fiscal year for each of the funds provided in this chapter, including all estimated receipts, taxes to be levied, and balances expected to be brought forward and all estimated expenditures, reserves, and balances to be carried over at the end of the year.

(c) The board shall hold public hearings to adopt tentative and final budgets pursuant to s. 200.065. The hearings shall be primarily for the purpose of hearing requests and complaints from the public regarding the budgets and the proposed tax levies and for explaining the budget and any proposed or adopted amendments. The tentative budget must be posted on the county's official website at least 2 days before the public hearing to



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consider such budget and must remain on the website for at least 45 days. The final budget must be posted on the website within 30 days after adoption and must remain on the website for at least 2 years. The tentative budgets, adopted tentative budgets, and final budgets shall be filed in the office of the county auditor as a public record. Sufficient reference in words and figures to identify the particular transactions must ~~shall~~ be made in the minutes of the board to record its actions with reference to the budgets.

Section 15. Paragraph (f) of subsection (2) of section 129.06, Florida Statutes, is amended to read:

129.06 Execution and amendment of budget.—

(2) The board at any time within a fiscal year may amend a budget for that year, and may within the first 60 days of a fiscal year amend the budget for the prior fiscal year, as follows:

(f) Unless otherwise prohibited by law, if an amendment to a budget is required for a purpose not specifically authorized in paragraphs (a)-(e), the amendment may be authorized by resolution or ordinance of the board of county commissioners adopted following a public hearing.

1. The public hearing must be advertised at least 2 days, but not more than 5 days, before the date of the hearing. The advertisement must appear in a newspaper of paid general circulation and must identify the name of the taxing authority, the date, place, and time of the hearing, and the purpose of the hearing. The advertisement must also identify each budgetary fund to be amended, the source of the funds, the use of the funds, and the total amount of each fund's appropriations.



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2. If the board amends the budget pursuant to this paragraph, the adopted amendment must be posted on the county's official website within 5 days after adoption and must remain on the website for at least 2 years.

Section 16. Subsections (3) and (5) of section 166.241, Florida Statutes, are amended to read:

166.241 Fiscal years, budgets, and budget amendments.—

(3) The tentative budget must be posted on the municipality's official website at least 2 days before the budget hearing, held pursuant to s. 200.065 or other law, to consider such budget, and must remain on the website for at least 45 days. The final adopted budget must be posted on the municipality's official website within 30 days after adoption and must remain on the website for at least 2 years. If the municipality does not operate an official website, the municipality must, within a reasonable period of time as established by the county or counties in which the municipality is located, transmit the tentative budget and final budget to the manager or administrator of such county or counties who shall post the budgets on the county's website.

(5) If the governing body of a municipality amends the budget pursuant to paragraph (4)(c), the adopted amendment must be posted on the official website of the municipality within 5 days after adoption and must remain on the website for at least 2 years. If the municipality does not operate an official website, the municipality must, within a reasonable period of time as established by the county or counties in which the municipality is located, transmit the adopted amendment to the manager or administrator of such county or counties who shall



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post the adopted amendment on the county's website.

Section 17. Subsections (4) and (7) of section 189.016, Florida Statutes, are amended to read:

189.016 Reports; budgets; audits.—

(4) The tentative budget must be posted on the special district's official website at least 2 days before the budget hearing, held pursuant to s. 200.065 or other law, to consider such budget, and must remain on the website for at least 45 days. The final adopted budget must be posted on the special district's official website within 30 days after adoption and must remain on the website for at least 2 years. If the special district does not operate an official website, the special district must, within a reasonable period of time as established by the local general-purpose government or governments in which the special district is located or the local governing authority to which the district is dependent, transmit the tentative budget or final budget to the manager or administrator of the local general-purpose government or the local governing authority. The manager or administrator shall post the tentative budget or final budget on the website of the local general-purpose government or governing authority. This subsection and subsection (3) do not apply to water management districts as defined in s. 373.019.

(7) If the governing body of a special district amends the budget pursuant to paragraph (6)(c), the adopted amendment must be posted on the official website of the special district within 5 days after adoption and must remain on the website for at least 2 years. If the special district does not operate an official website, the special district must, within a reasonable



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period of time as established by the local general-purpose government or governments in which the special district is located or the local governing authority to which the district is dependent, transmit the adopted amendment to the manager or administrator of the local general-purpose government or governing authority. The manager or administrator shall post the adopted amendment on the website of the local general-purpose government or governing authority.

Section 18. Present subsections (1) through (5) of section 215.425, Florida Statutes, are renumbered as subsections (2) through (6), respectively, present subsection (2) and paragraph (a) of present subsection (4) of that section are amended, and a new subsection (1) and subsections (7) through (13) are added to that section, to read:

215.425 Extra compensation claims prohibited; bonuses; severance pay.—

(1) As used in this section, the term "public funds" means any taxes, tuition, grants, fines, fees, or other charges or any other type of revenue collected by the state or any county, municipality, special district, school district, Florida College System institution, state university, or other separate unit of government created pursuant to law, including any office, department, agency, division, subdivision, political subdivision, board, bureau, or commission of such entities.

(3)~~(2)~~ Notwithstanding subsection (2), if the payment and receipt does not otherwise violate part III of chapter 112, the following funds may be used to provide extra compensation or severance pay in excess of the amount specified in subparagraph (5) (a)1.:



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(a) Revenues received by state universities through or from faculty practice plans; health services support organizations; hospitals with which state universities are affiliated; direct-support organizations; or federal, auxiliary, or private sources, except for tuition.

(b) Revenues received by Florida College System institutions through or from faculty practice plans; health services support organizations; direct-support organizations; or federal, auxiliary, or private sources, except for tuition.

(c) Revenues that are received by a hospital licensed under chapter 395 which has entered into a Medicaid provider contract and that:

1. Are not derived from the levy of an ad valorem tax;

2. Are not derived from patient services paid through the Medicaid or Medicare program;

3. Are derived from patient services pursuant to contracts with private insurers or private managed care entities; or

4. Are not appropriated by the Legislature or by any county, municipality, special district, school district, Florida College System institution, state university, or other separate unit of government created pursuant to law, including any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, or institution of such entities, except for revenues otherwise authorized to be used pursuant to subparagraphs 2. and 3. ~~This section does not apply to:~~

~~(a) a bonus or severance pay that is paid wholly from nontax revenues and nonstate-appropriated funds, the payment and receipt of which does not otherwise violate part III of chapter~~



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~~112, and which is paid to an officer, agent, employee, or contractor of a public hospital that is operated by a county or a special district; or~~

(d) ~~(b)~~ A clothing and maintenance allowance given to plainclothes deputies pursuant to s. 30.49.

(e) Revenues or fees received by a seaport or airport from sources other than through the levy of a tax, or funds appropriated by any county or municipality or the Legislature.

(5) (a) ~~(4) (a)~~ On or after July 1, 2011, A unit of government, on or after July 1, 2011, or a state university, on or after July 1, 2012, that is a party to enters into a contract or employment agreement, or renewal or renegotiation of an existing contract or employment agreement, that contains a provision for severance pay with an officer, agent, employee, or contractor must include the following provisions in the contract:

1. A requirement that severance pay paid from public funds provided may not exceed an amount greater than 20 weeks of compensation.

2. A prohibition of provision of severance pay paid from public funds when the officer, agent, employee, or contractor has been fired for misconduct, as defined in s. 443.036(29), by the unit of government.

(7) Upon discovery or notification that a unit of government has provided prohibited compensation to any officer, agent, employee, or contractor in violation of this section, such unit of government shall investigate and take all necessary action to recover the prohibited compensation.

(a) If the violation was unintentional, the unit of



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government shall recover the prohibited compensation from the individual receiving the prohibited compensation through normal recovery methods for overpayments.

(b) If the violation was willful, the unit of government shall recover the prohibited compensation from either the individual receiving the prohibited compensation or the individual or individuals responsible for approving the prohibited compensation. Each individual determined to have willfully violated this section is jointly and severally liable for repayment of the prohibited compensation.

(8) A person who willfully violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(9) An officer who exercises the powers and duties of a state or county officer and willfully violates this section is subject to the Governor's power under s. 7(a), Art. IV of the State Constitution. An officer who exercises powers and duties other than those of a state or county officer and willfully violates this section is subject to the suspension and removal procedures under s. 112.51.

(10) (a) A person who reports a violation of this section is eligible for a reward of at least \$500, or the lesser of 10 percent of the funds recovered or \$10,000 per incident of a prohibited compensation payment recovered by the unit of government, depending upon the extent to which the person substantially contributed to the discovery, notification, and recovery of such prohibited payment.

(b) In the event that the recovery of the prohibited compensation is based primarily on disclosures of specific



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information, other than information provided by such person,
relating to allegations or transactions in a criminal, civil, or
administrative hearing; in a legislative, administrative,
inspector general, or other government report; in an auditor
general report, hearing, audit, or investigation; or from the
news media, such person is not eligible for a reward, or for an
award of a portion of the proceeds or payment of attorney fees
and costs pursuant to s. 68.085.

(c) If it is determined that the person who reported a
violation of this section was involved in the authorization,
approval, or receipt of the prohibited compensation or is
convicted of criminal conduct arising from his or her role in
the authorization, approval, or receipt of the prohibited
compensation, such person is not eligible for a reward, or for
an award of a portion of the proceeds or payment of attorney
fees and costs pursuant to s. 68.085.

(11) An employee who is discharged, demoted, suspended,
threatened, harassed, or in any manner discriminated against in
the terms and conditions of employment by his or her employer
because of lawful acts done by the employee on behalf of the
employee or others in furtherance of an action under this
section, including investigation for initiation of, testimony
for, or assistance in an action filed or to be filed under this
section, has a cause of action under s. 112.3187.

(12) If the unit of government fails to recover prohibited
compensation for a willful violation of this section upon
discovery and notification of such prohibited payment within 90
days, a cause of action may be brought to:

(a) Recover state funds in accordance with ss. 68.082 and



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68.083.

(b) Recover other funds by the Department of Legal Affairs using the procedures set forth in ss. 68.082 and 68.083, except that venue shall lie in the circuit court of the county in which the unit of government is located.

(c) Recover other funds by a person using the procedures set forth in ss. 68.082 and 68.083, except that venue shall lie in the circuit court of the county in which the unit of government is located.

(13) Subsections (7)-(12) apply prospectively to contracts or employment agreements, or the renewal or renegotiation of an existing contract or employment agreement, effective on or after October 1, 2016.

Section 19. Section 215.86, Florida Statutes, is amended to read:

215.86 Management systems and controls.—Each state agency and the judicial branch as defined in s. 216.011 shall establish and maintain management systems and internal controls designed to:

(1) Prevent and detect fraud, waste, and abuse. ~~that~~

(2) Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.†

(3) Support economical and ~~economic~~, efficient, and effective operations.†

(4) Ensure reliability of financial records and reports.†

(5) Safeguard ~~and safeguarding of~~ assets. ~~Accounting systems and procedures shall be designed to fulfill the requirements of generally accepted accounting principles.~~

Section 20. Paragraph (a) of subsection (2) of section



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215.97, Florida Statutes, is amended to read:

215.97 Florida Single Audit Act.—

(2) Definitions; as used in this section, the term:

(a) "Audit threshold" means the threshold amount used to determine when a state single audit or project-specific audit of a nonstate entity shall be conducted in accordance with this section. Each nonstate entity that expends a total amount of state financial assistance equal to or in excess of \$750,000 ~~\$500,000~~ in any fiscal year of such nonstate entity shall be required to have a state single audit, or a project-specific audit, for such fiscal year in accordance with the requirements of this section. ~~Every 2 years the Auditor General,~~ After consulting with the Executive Office of the Governor, the Department of Financial Services, and all state awarding agencies, the Auditor General shall periodically review the threshold amount for requiring audits under this section and may recommend any appropriate statutory change to revise the threshold amount in the annual report submitted pursuant to s. 11.45(7)(h) to the Legislature ~~may adjust such threshold amount consistent with the purposes of this section.~~

Section 21. Subsection (11) of section 215.985, Florida Statutes, is amended to read:

215.985 Transparency in government spending.—

(11) Each water management district shall provide a monthly financial statement in the form and manner prescribed by the Department of Financial Services to the district's ~~its~~ governing board and make such monthly financial statement available for public access on its website.

Section 22. Paragraph (d) of subsection (1) and subsection



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(2) of section 218.32, Florida Statutes, are amended to read:
218.32 Annual financial reports; local governmental
entities.—

(1)

(d) Each local governmental entity that is required to
provide for an audit under s. 218.39(1) must submit a copy of
the audit report and annual financial report to the department
within 45 days after the completion of the audit report but no
later than 9 months after the end of the fiscal year. In
conducting an audit of a local governmental entity pursuant to
s. 218.39, an independent certified public accountant shall
determine whether the entity's annual financial report is in
agreement with the audited financial statements. The
accountant's audit report must be supported by the same level of
detail as required for the annual financial report. If the
accountant's audit report is not in agreement with the annual
financial report, the accountant shall specify and explain the
significant differences that exist between the annual financial
report and the audit report.

(2) The department shall annually by December 1 file a
verified report with the Governor, the Legislature, the Auditor
General, and the Special District Accountability Program of the
Department of Economic Opportunity showing the revenues, both
locally derived and derived from intergovernmental transfers,
and the expenditures of each local governmental entity, regional
planning council, local government finance commission, and
municipal power corporation that is required to submit an annual
financial report. In preparing the verified report, the
department may request additional information from the local



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governmental entity. The information requested must be provided to the department within 45 days after the request. If the local governmental entity does not comply with the request, the department shall notify the Legislative Auditing Committee, which may take action pursuant to s. 11.40(2). The report must include, but is not limited to:

(a) The total revenues and expenditures of each local governmental entity that is a component unit included in the annual financial report of the reporting entity.

(b) The amount of outstanding long-term debt by each local governmental entity. For purposes of this paragraph, the term "long-term debt" means any agreement or series of agreements to pay money, which, at inception, contemplate terms of payment exceeding 1 year in duration.

Section 23. Present subsection (3) of section 218.33, Florida Statutes, is redesignated as subsection (4), and a new subsection (3) is added to that section, to read:

218.33 Local governmental entities; establishment of uniform fiscal years and accounting practices and procedures.—

(3) Each local governmental entity shall establish and maintain internal controls designed to:

(a) Prevent and detect fraud, waste, and abuse.

(b) Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.

(c) Support economical and efficient operations.

(d) Ensure reliability of financial records and reports.

(e) Safeguard assets.

Section 24. Present subsections (8) through (12) of section 218.39, Florida Statutes, are redesignated as subsections (9)



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through (13), respectively, and a new subsection (8) is added to that section, to read:

218.39 Annual financial audit reports.—

(8) If the audit report includes a recommendation that was included in the preceding financial audit report but remains unaddressed, the governing body of the audited entity, within 60 days after the delivery of the audit report to the governing body, shall indicate during a regularly scheduled public meeting whether it intends to take corrective action, the intended corrective action, and the timeframe for the corrective action. If the governing body indicates that it does not intend to take corrective action, it shall explain its decision at the public meeting.

Section 25. Subsection (2) of section 218.391, Florida Statutes, is amended, and subsection (9) is added to that section, to read:

218.391 Auditor selection procedures.—

(2) The governing body of a ~~charter~~ county, municipality, special district, district school board, charter school, or charter technical career center shall establish an audit committee.

(a) The audit committee for a county ~~Each noncharter county shall establish an audit committee that,~~ at a minimum, shall consist of each of the county officers elected pursuant to the county charter or s. 1(d), Art. VIII of the State Constitution, ~~or their respective designees a designee,~~ and one member of the board of county commissioners or its designee.

(b) The audit committee for a municipality, special district, district school board, charter school, or charter



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technical career center shall consist of at least three members.
One member of the audit committee must be a member of the governing body of an entity specified in this paragraph, who shall also serve as the chair of the committee.

(c) An employee, chief executive officer, or chief financial officer of the county, municipality, special district, district school board, charter school, or charter technical career center may not serve as a member of an audit committee established under this subsection.

(d) The primary purpose of the audit committee is to assist the governing body in selecting an auditor to conduct the annual financial audit required in s. 218.39; however, the audit committee may serve other audit oversight purposes as determined by the entity's governing body. The public may ~~shall~~ not be excluded from the proceedings under this section.

(9) An audit report submitted pursuant to s. 218.39 must include an affidavit executed by the chair of the audit committee affirming that the committee complied with the requirements of subsections (3)-(6) in selecting an auditor. If the Auditor General determines that an entity failed to comply with the requirements of subsections (3)-(6) in selecting an auditor, the entity shall select a replacement auditor in accordance with this section to conduct audits for subsequent fiscal years if the original audit was performed under a multiyear contract. If the replacement of an auditor would preclude the entity from timely completing the annual financial audit required by s. 218.39, the entity shall replace an auditor in accordance with this section for the subsequent annual financial audit. A multiyear contract between an entity or an



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auditor may not prohibit or restrict an entity from complying
with this subsection.

Section 26. Subsection (2) of section 286.0114, Florida
Statutes, is amended to read:

286.0114 Public meetings; reasonable opportunity to be
heard; attorney fees.—

(2) Members of the public shall be given a reasonable
opportunity to be heard on a proposition before a board or
commission. The opportunity to be heard need not occur at the
same meeting at which the board or commission takes official
action on the proposition if the opportunity occurs at a meeting
that is during the decisionmaking process and is within
reasonable proximity in time before the meeting at which the
board or commission takes the official action. A board or
commission may not require a member of the public to provide an
advance written copy of his or her testimony or comments as a
precondition of being given the opportunity to be heard at a
meeting. This section does not prohibit a board or commission
from maintaining orderly conduct or proper decorum in a public
meeting. The opportunity to be heard is subject to rules or
policies adopted by the board or commission, as provided in
subsection (4).

Section 27. Paragraph (b) of subsection (2) of section
288.92, Florida Statutes, is amended to read:

288.92 Divisions of Enterprise Florida, Inc.—

(2)

(b)1. The following officers and board members are subject
to ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and
112.3143(2):



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a. Officers and members of the board of directors of the divisions of Enterprise Florida, Inc.

b. Officers and members of the board of directors of subsidiaries of Enterprise Florida, Inc.

c. Officers and members of the board of directors of corporations created to carry out the missions of Enterprise Florida, Inc.

d. Officers and members of the board of directors of corporations with which a division is required by law to contract to carry out its missions.

2. For a period of 2 years after retirement from or termination of service to a division, or for a period of 10 years if removed or terminated for cause or for misconduct, as defined in s. 443.036(29), the officers and board members specified in subparagraph 1. may not represent another person or entity for compensation before:

a. Enterprise Florida, Inc.;

b. A division, a subsidiary, or the board of directors of corporations created to carry out the missions of Enterprise Florida, Inc.; or

c. A division with which Enterprise Florida, Inc., is required by law to contract to carry out its missions.

3.2- For purposes of applying ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2) to activities of the officers and members of the board of directors specified in subparagraph 1., those persons shall be considered public officers or employees and the corporation shall be considered their agency.

4.3- It is not a violation of s. 112.3143(2) or (4) for the



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officers or members of the board of directors of the Florida
Tourism Industry Marketing Corporation to:

a. Vote on the 4-year marketing plan required under s.
288.923 or vote on any individual component of or amendment to
the plan.

b. Participate in the establishment or calculation of
payments related to the private match requirements of s.
288.904(3). The officer or member must file an annual disclosure
describing the nature of his or her interests or the interests
of his or her principals, including corporate parents and
subsidiaries of his or her principal, in the private match
requirements. This annual disclosure requirement satisfies the
disclosure requirement of s. 112.3143(4). This disclosure must
be placed ~~either~~ on the Florida Tourism Industry Marketing
Corporation's website or included in the minutes of each meeting
of the Florida Tourism Industry Marketing Corporation's board of
directors at which the private match requirements are discussed
or voted upon.

Section 28. Paragraph (a) of subsection (3) of section
288.9604, Florida Statutes, is amended to read:

288.9604 Creation of the authority.—

(3)(a)1. A director may not receive compensation for his or
her services, but is entitled to necessary expenses, including
travel expenses, incurred in the discharge of his or her duties.
Each director shall hold office until his or her successor has
been appointed.

2. Directors are subject to ss. 112.313(1)-(8), (10), (12),
and (15); 112.3135; and 112.3143(2). For purposes of applying
ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and



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112.3143(2) to activities of directors, directors shall be considered public officers and the corporation shall be considered their agency.

3. A director of the corporation may not represent another person or entity for compensation before the corporation for a period of 2 years following his or her service on the board of directors.

Section 29. Paragraph (e) of subsection (4), paragraph (d) of subsection (5), and paragraph (d) of subsection (6) of section 373.536, Florida Statutes, are amended to read:

373.536 District budget and hearing thereon.—

(4) BUDGET CONTROLS; FINANCIAL INFORMATION.—

(e) ~~By September 1, 2012,~~ Each district shall provide a monthly financial statement in the form and manner prescribed by the Department of Financial Services to the district's governing board and make such monthly financial statement available for public access on its website.

(5) TENTATIVE BUDGET CONTENTS AND SUBMISSION; REVIEW AND APPROVAL.—

(d) Each district shall, by August 1 of each year, submit for review a tentative budget and a description of any significant changes from the preliminary budget submitted to the Legislature pursuant to s. 373.535 to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chairs of all legislative committees and subcommittees having substantive or fiscal jurisdiction over water management districts, as determined by the President of the Senate or the Speaker of the House of Representatives, as applicable, the secretary of the department, and the governing



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body of each county in which the district has jurisdiction or derives any funds for the operations of the district. The tentative budget must be posted on the district's official website at least 2 days before budget hearings held pursuant to s. 200.065 or other law and must remain on the website for at least 45 days.

(6) FINAL BUDGET; ANNUAL AUDIT; CAPITAL IMPROVEMENTS PLAN; WATER RESOURCE DEVELOPMENT WORK PROGRAM.—

(d) The final adopted budget must be posted on the water management district's official website within 30 days after adoption and must remain on the website for at least 2 years.

Section 30. Subsection (7) of section 838.014, Florida Statutes, is renumbered as subsection (8), present subsections (4) and (6) are amended, and a new subsection (6) is added to that section, to read:

838.014 Definitions.—As used in this chapter, the term:

(4) "Governmental entity" means an agency or entity of the state, a county, municipality, or special district or any other public entity created or authorized by law ~~"Corruptly" or "with corrupt intent" means acting knowingly and dishonestly for a wrongful purpose.~~

(6) "Public contractor" means, for purposes of ss. 838.022 and 838.22 only:

(a) Any person, as defined in s. 1.01(3), who has entered into a contract with a governmental entity; or

(b) Any officer or employee of a person, as defined in s. 1.01(3), who has entered into a contract with a governmental entity.

(7)(6) "Public servant" means:



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(a) Any officer or employee of a governmental state,
~~county, municipal, or special district agency or entity,~~
including

~~(b)~~ any executive, legislative, or judicial branch officer
or employee;

(b)~~(e)~~ Any person, except a witness, who acts as a general
or special magistrate, receiver, auditor, arbitrator, umpire,
referee, consultant, or hearing officer while performing a
governmental function; or

(c)~~(d)~~ A candidate for election or appointment to any of
the officer positions listed in this subsection, or an
individual who has been elected to, but has yet to officially
assume the responsibilities of, public office.

Section 31. Subsection (1) of section 838.015, Florida
Statutes, is amended to read:

838.015 Bribery.—

(1) "Bribery" means ~~corruptly~~ to knowingly and
intentionally give, offer, or promise to any public servant, or,
if a public servant, ~~corruptly~~ to knowingly and intentionally
request, solicit, accept, or agree to accept for himself or
herself or another, any pecuniary or other benefit not
authorized by law with an intent or purpose to influence the
performance of any act or omission which the person believes to
be, or the public servant represents as being, within the
official discretion of a public servant, in violation of a
public duty, or in performance of a public duty.

Section 32. Subsections (1) and (2) of section 838.016,
Florida Statutes, are amended to read:

838.016 Unlawful compensation or reward for official



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behavior.—

(1) It is unlawful for any person ~~corruptly~~ to knowingly and intentionally give, offer, or promise to any public servant, or, if a public servant, ~~corruptly~~ to knowingly and intentionally request, solicit, accept, or agree to accept, any pecuniary or other benefit not authorized by law, for the past, present, or future performance, nonperformance, or violation of any act or omission which the person believes to have been, or the public servant represents as having been, either within the official discretion of the public servant, in violation of a public duty, or in performance of a public duty. This section does not ~~Nothing herein shall be construed to~~ preclude a public servant from accepting rewards for services performed in apprehending any criminal.

(2) It is unlawful for any person ~~corruptly~~ to knowingly and intentionally give, offer, or promise to any public servant, or, if a public servant, ~~corruptly~~ to knowingly and intentionally request, solicit, accept, or agree to accept, any pecuniary or other benefit not authorized by law for the past, present, or future exertion of any influence upon or with any other public servant regarding any act or omission which the person believes to have been, or which is represented to him or her as having been, either within the official discretion of the other public servant, in violation of a public duty, or in performance of a public duty.

Section 33. Subsection (1) of section 838.022, Florida Statutes, is amended, and subsection (2) of that section is republished, to read:

838.022 Official misconduct.—



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(1) It is unlawful for a public servant or public contractor, ~~with corrupt intent~~ to knowingly and intentionally obtain a benefit for any person or to cause unlawful harm to another, by ~~to~~:

(a) Falsifying ~~Falsify~~, or causing ~~cause~~ another person to falsify, any official record or official document;

(b) Concealing, covering up, destroying, mutilating, or altering ~~Conceal, cover up, destroy, mutilate, or alter~~ any official record or official document, except as authorized by law or contract, or causing ~~cause~~ another person to perform such an act; or

(c) Obstructing, delaying, or preventing ~~Obstruct, delay, or prevent~~ the communication of information relating to the commission of a felony that directly involves or affects the government ~~public agency or public~~ entity served by the public servant or public contractor.

(2) For the purposes of this section:

(a) The term "public servant" does not include a candidate who does not otherwise qualify as a public servant.

(b) An official record or official document includes only public records.

Section 34. Section 838.22, Florida Statutes, is amended to read:

838.22 Bid tampering.—

(1) It is unlawful for a public servant or a public contractor who has contracted with a governmental entity to assist in a competitive procurement, ~~with corrupt intent~~ to knowingly and intentionally influence or attempt to influence the competitive solicitation ~~bidding process~~ undertaken by any



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~~governmental state, county, municipal, or special district agency, or any other public entity,~~ for the procurement of commodities or services, by to:

(a) Disclosing, except as authorized by law, Disclose material information concerning a vendor's response, any evaluation results, bid or other aspects of the competitive solicitation bidding process when such information is not publicly disclosed.

(b) Altering or amending Alter or amend a submitted response bid, documents or other materials supporting a submitted response bid, or any evaluation bid results relating to the competitive solicitation for the purpose of intentionally providing a competitive advantage to any person who submits a response bid.

(2) It is unlawful for a public servant or a public contractor who has contracted with a governmental entity to assist in a competitive procurement, with corrupt intent to knowingly and intentionally obtain a benefit for any person or to cause unlawful harm to another by circumventing, to circumvent a competitive solicitation bidding process required by law or rule through the use of by using a sole-source contract for commodities or services.

(3) It is unlawful for any person to knowingly agree, conspire, combine, or confederate, directly or indirectly, with a public servant or a public contractor who has contracted with a governmental entity to assist in a competitive procurement to violate subsection (1) or subsection (2).

(4) It is unlawful for any person to knowingly enter into a contract for commodities or services which was secured by a



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public servant or a public contractor who has contracted with a
governmental entity to assist in a competitive procurement
acting in violation of subsection (1) or subsection (2).

(5) Any person who violates this section commits a felony
of the second degree, punishable as provided in s. 775.082, s.
775.083, or s. 775.084.

Section 35. Present subsections (6) through (10) of section
1002.37, Florida Statutes, are redesignated as subsections (7)
through (11), respectively, a new subsection (6) is added to
that section, and present subsections (6) and (11) of that
section are amended, to read:

1002.37 The Florida Virtual School.—

(6) The Florida Virtual School shall have an annual
financial audit of its accounts and records conducted by an
independent auditor who is a certified public accountant
licensed under chapter 473. The independent auditor shall
conduct the audit in accordance with rules adopted by the
Auditor General pursuant to s. 11.45 and, upon completion of the
audit, shall prepare an audit report in accordance with such
rules. The audit report must include a written statement of the
board of trustees describing corrective action to be taken in
response to each of the recommendations of the independent
auditor included in the audit report. The independent auditor
shall submit the audit report to the board of trustees and the
Auditor General no later than 9 months after the end of the
preceding fiscal year.

(7) ~~(6)~~ The board of trustees shall annually submit to the
Governor, the Legislature, the Commissioner of Education, and
the State Board of Education the audit report prepared pursuant



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to subsection (6) and a complete and detailed report setting forth:

(a) The operations and accomplishments of the Florida Virtual School within the state and those occurring outside the state as Florida Virtual School Global.

(b) The marketing and operational plan for the Florida Virtual School and Florida Virtual School Global, including recommendations regarding methods for improving the delivery of education through the Internet and other distance learning technology.

(c) The assets and liabilities of the Florida Virtual School and Florida Virtual School Global at the end of the fiscal year.

~~(d) A copy of an annual financial audit of the accounts and records of the Florida Virtual School and Florida Virtual School Global, conducted by an independent certified public accountant and performed in accordance with rules adopted by the Auditor General.~~

~~(e)~~ Recommendations regarding the unit cost of providing services to students through the Florida Virtual School and Florida Virtual School Global. In order to most effectively develop public policy regarding any future funding of the Florida Virtual School, it is imperative that the cost of the program is accurately identified. The identified cost of the program must be based on reliable data.

(e) ~~(f)~~ Recommendations regarding an accountability mechanism to assess the effectiveness of the services provided by the Florida Virtual School and Florida Virtual School Global.

~~(11) The Auditor General shall conduct an operational audit~~



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~~of the Florida Virtual School, including Florida Virtual School
Global. The scope of the audit shall include, but not be limited
to, the administration of responsibilities relating to
personnel; procurement and contracting; revenue production;
school funds, including internal funds; student enrollment
records; franchise agreements; information technology
utilization, assets, and security; performance measures and
standards; and accountability. The final report on the audit
shall be submitted to the President of the Senate and the
Speaker of the House of Representatives no later than January
31, 2014.~~

Section 36. Subsection (5) is added to section 1010.01,
Florida Statutes, to read:

1010.01 Uniform records and accounts.—

(5) Each school district, Florida College System
institution, and state university shall establish and maintain
internal controls designed to:

(a) Prevent and detect fraud, waste, and abuse.

(b) Promote and encourage compliance with applicable laws,
rules, contracts, grant agreements, and best practices.

(c) Support economical and efficient operations.

(d) Ensure reliability of financial records and reports.

(e) Safeguard assets.

Section 37. Subsection (2) of section 1010.30, Florida
Statutes, is amended to read:

1010.30 Audits required.—

(2) If a school district, Florida College System
institution, or university audit report includes a
recommendation that was included in the preceding financial



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audit report but remains unaddressed, ~~an audit contains a significant finding,~~ the district school board, the Florida College System institution board of trustees, or the university board of trustees, within 60 days after the delivery of the audit report to the school district, Florida College System institution, or university, shall indicate ~~conduct an audit overview~~ during a regularly scheduled public meeting whether it intends to take corrective action, the intended corrective action, and the timeframe for the corrective action. If the district school board, Florida College System institution board of trustees, or university board of trustees indicates that it does not intend to take corrective action, it shall explain its decision at the public meeting.

Section 38. Subsection (4) of section 11.0455, Florida Statutes, is amended to read:

11.0455 Electronic filing of compensation reports and other information.—

(4) Each report filed pursuant to this section is deemed to meet the certification requirements of s. 11.045(3)(a)4., and as such subjects the person responsible for filing and the lobbying firm to the provisions of s. 11.045(8) and (9) ~~s. 11.045(7) and (8)~~. Persons given a secure sign-on to the electronic filing system are responsible for protecting it from disclosure and are responsible for all filings using such credentials, unless they have notified the office that their credentials have been compromised.

Section 39. Subsection (2) of section 68.082, Florida Statutes, is amended to read:

68.082 False claims against the state; definitions;



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liability.—

(2) Any person who:

(a) Knowingly presents or causes to be presented a false or fraudulent claim for payment or approval;

(b) Knowingly authorizes, approves, or receives payment of prohibited compensation in violation of s. 215.425;

(c)~~(b)~~ Knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim;

(d)~~(e)~~ Conspires to commit a violation of this subsection;

(e)~~(d)~~ Has possession, custody, or control of property or money used or to be used by the state and knowingly delivers or causes to be delivered less than all of that money or property;

(f)~~(e)~~ Is authorized to make or deliver a document certifying receipt of property used or to be used by the state and, intending to defraud the state, makes or delivers the receipt without knowing that the information on the receipt is true;

(g)~~(f)~~ Knowingly buys or receives, as a pledge of an obligation or a debt, public property from an officer or employee of the state who may not sell or pledge the property; or

(h)~~(g)~~ Knowingly makes, uses, or causes to be made or used a false record or statement material to an obligation to pay or transmit money or property to the state, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the state

is liable to the state for a civil penalty of not less than



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\$5,500 and not more than \$11,000 and for treble the amount of damages the state sustains because of the act of that person.

Section 40. Subsection (1) of section 68.083, Florida Statutes, is amended to read:

68.083 Civil actions for false claims.—

(1) The department may diligently investigate a violation under s. 68.082. If the department finds that a person has violated or is violating s. 68.082, the department may bring a civil action under the Florida False Claims Act against the person. The Department of Financial Services may bring a civil action under this section if the action arises from an investigation by that department and the Department of Legal Affairs has not filed an action under this act. For a violation of s. 68.082 regarding prohibited compensation paid from state funds, the Department of Financial Services may bring a civil action under this section if the action arises from an investigation by that department concerning a violation of s. 215.425 by the state and the Department of Legal Affairs has not filed an action under this act.

Section 41. Subsection (5) of section 99.061, Florida Statutes, is amended to read:

99.061 Method of qualifying for nomination or election to federal, state, county, or district office.—

(5) At the time of qualifying for office, each candidate for a constitutional office or an elected municipal office shall file a full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution, which must be verified under oath or affirmation pursuant to s. 92.525(1)(a), and a candidate for any other office, ~~including~~



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~~local elective office,~~ shall file a statement of financial interests pursuant to s. 112.3145.

Section 42. Subsection (3) of section 218.503, Florida Statutes, is amended to read:

218.503 Determination of financial emergency.—

(3) Upon notification that one or more of the conditions in subsection (1) have occurred or will occur if action is not taken to assist the local governmental entity or district school board, the Governor or his or her designee shall contact the local governmental entity or the Commissioner of Education or his or her designee shall contact the district school board, as appropriate, to determine what actions have been taken by the local governmental entity or the district school board to resolve or prevent the condition. The information requested must be provided within 45 days after the date of the request. If the local governmental entity or the district school board does not comply with the request, the Governor or his or her designee or the Commissioner of Education or his or her designee shall notify ~~the members of~~ the Legislative Auditing Committee, which ~~who~~ may take action pursuant to s. 11.40(2) ~~s. 11.40~~. The Governor or the Commissioner of Education, as appropriate, shall determine whether the local governmental entity or the district school board needs state assistance to resolve or prevent the condition. If state assistance is needed, the local governmental entity or district school board is considered to be in a state of financial emergency. The Governor or the Commissioner of Education, as appropriate, has the authority to implement measures as set forth in ss. 218.50-218.504 to assist the local governmental entity or district school board in resolving the



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financial emergency. Such measures may include, but are not limited to:

(a) Requiring approval of the local governmental entity's budget by the Governor or approval of the district school board's budget by the Commissioner of Education.

(b) Authorizing a state loan to a local governmental entity and providing for repayment of same.

(c) Prohibiting a local governmental entity or district school board from issuing bonds, notes, certificates of indebtedness, or any other form of debt until such time as it is no longer subject to this section.

(d) Making such inspections and reviews of records, information, reports, and assets of the local governmental entity or district school board as are needed. The appropriate local officials shall cooperate in such inspections and reviews.

(e) Consulting with officials and auditors of the local governmental entity or the district school board and the appropriate state officials regarding any steps necessary to bring the books of account, accounting systems, financial procedures, and reports into compliance with state requirements.

(f) Providing technical assistance to the local governmental entity or the district school board.

(g)1. Establishing a financial emergency board to oversee the activities of the local governmental entity or the district school board. If a financial emergency board is established for a local governmental entity, the Governor shall appoint board members and select a chair. If a financial emergency board is established for a district school board, the State Board of Education shall appoint board members and select a chair. The



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financial emergency board shall adopt such rules as are
necessary for conducting board business. The board may:

a. Make such reviews of records, reports, and assets of the
local governmental entity or the district school board as are
needed.

b. Consult with officials and auditors of the local
governmental entity or the district school board and the
appropriate state officials regarding any steps necessary to
bring the books of account, accounting systems, financial
procedures, and reports of the local governmental entity or the
district school board into compliance with state requirements.

c. Review the operations, management, efficiency,
productivity, and financing of functions and operations of the
local governmental entity or the district school board.

d. Consult with other governmental entities for the
consolidation of all administrative direction and support
services, including, but not limited to, services for asset
sales, economic and community development, building inspections,
parks and recreation, facilities management, engineering and
construction, insurance coverage, risk management, planning and
zoning, information systems, fleet management, and purchasing.

2. The recommendations and reports made by the financial
emergency board must be submitted to the Governor for local
governmental entities or to the Commissioner of Education and
the State Board of Education for district school boards for
appropriate action.

(h) Requiring and approving a plan, to be prepared by
officials of the local governmental entity or the district
school board in consultation with the appropriate state



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officials, prescribing actions that will cause the local governmental entity or district school board to no longer be subject to this section. The plan must include, but need not be limited to:

1. Provision for payment in full of obligations outlined in subsection (1), designated as priority items, which are currently due or will come due.

2. Establishment of priority budgeting or zero-based budgeting in order to eliminate items that are not affordable.

3. The prohibition of a level of operations which can be sustained only with nonrecurring revenues.

4. Provisions implementing the consolidation, sourcing, or discontinuance of all administrative direction and support services, including, but not limited to, services for asset sales, economic and community development, building inspections, parks and recreation, facilities management, engineering and construction, insurance coverage, risk management, planning and zoning, information systems, fleet management, and purchasing.

Section 43. Subsection (2) of section 1002.455, Florida Statutes, is amended to read:

1002.455 Student eligibility for K-12 virtual instruction.—

(2) A student is eligible to participate in virtual instruction if:

(a) The student spent the prior school year in attendance at a public school in the state and was enrolled and reported by the school district for funding during October and February for purposes of the Florida Education Finance Program surveys;

(b) The student is a dependent child of a member of the United States Armed Forces who was transferred within the last



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12 months to this state from another state or from a foreign country pursuant to a permanent change of station order;

(c) The student was enrolled during the prior school year in a virtual instruction program under s. 1002.45 or a full-time Florida Virtual School program under s. 1002.37(9)(a) ~~s. 1002.37(8)(a)~~;

(d) The student has a sibling who is currently enrolled in a virtual instruction program and the sibling was enrolled in that program at the end of the prior school year;

(e) The student is eligible to enter kindergarten or first grade; or

(f) The student is eligible to enter grades 2 through 5 and is enrolled full-time in a school district virtual instruction program, virtual charter school, or the Florida Virtual School.

Section 44. For the purpose of incorporating the amendment made by this act to section 838.022, Florida Statutes, in a reference thereto, paragraph (a) of subsection (2) of section 112.534, Florida Statutes, is reenacted to read:

112.534 Failure to comply; official misconduct.—

(2)(a) All the provisions of s. 838.022 shall apply to this part.

Section 45. For the purpose of incorporating the amendment made by this act to section 838.022, Florida Statutes, in a reference thereto, paragraph (d) of subsection (4) of section 117.01, Florida Statutes, is reenacted to read:

117.01 Appointment, application, suspension, revocation, application fee, bond, and oath.—

(4) The Governor may suspend a notary public for any of the grounds provided in s. 7, Art. IV of the State Constitution.



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1780 Grounds constituting malfeasance, misfeasance, or neglect of
1781 duty include, but are not limited to, the following:

1782 (d) Official misconduct as defined in s. 838.022.

1783 Section 46. For the purpose of incorporating the amendment
1784 made by this act to section 838.014, Florida Statutes, in a
1785 reference thereto, subsection (11) of section 817.568, Florida
1786 Statutes, is reenacted to read:

1787 817.568 Criminal use of personal identification
1788 information.—

1789 (11) A person who willfully and without authorization
1790 fraudulently uses personal identification information concerning
1791 an individual who is 60 years of age or older; a disabled adult
1792 as defined in s. 825.101; a public servant as defined in s.
1793 838.014; a veteran as defined in s. 1.01; a first responder as
1794 defined in s. 125.01045; an individual who is employed by the
1795 State of Florida; or an individual who is employed by the
1796 Federal Government without first obtaining the consent of that
1797 individual commits a felony of the second degree, punishable as
1798 provided in s. 775.082, s. 775.083, or s. 775.084.

1799 Section 47. For the purpose of incorporating the amendments
1800 made by this act to sections 838.015, 838.016, and 838.22,
1801 Florida Statutes, in references thereto, paragraph (g) of
1802 subsection (3) of section 921.0022, Florida Statutes, is
1803 reenacted to read:

1804 921.0022 Criminal Punishment Code; offense severity ranking
1805 chart.—

1806 (3) OFFENSE SEVERITY RANKING CHART

1807 (g) LEVEL 7

1808



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1809	Florida	Felony	Description
	Statute	Degree	
1810	316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
1811	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
1812	316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
1813	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
1814	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
1815	409.920	3rd	Medicaid provider fraud;



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1816	(2) (b) 1.a.		\$10,000 or less.
	409.920	2nd	Medicaid provider fraud; more
	(2) (b) 1.b.		than \$10,000, but less than
			\$50,000.
1817			
	456.065 (2)	3rd	Practicing a health care
			profession without a license.
1818			
	456.065 (2)	2nd	Practicing a health care
			profession without a license
			which results in serious bodily
			injury.
1819			
	458.327 (1)	3rd	Practicing medicine without a
			license.
1820			
	459.013 (1)	3rd	Practicing osteopathic medicine
			without a license.
1821			
	460.411 (1)	3rd	Practicing chiropractic
			medicine without a license.
1822			
	461.012 (1)	3rd	Practicing podiatric medicine
			without a license.
1823			
	462.17	3rd	Practicing naturopathy without
			a license.
1824			



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1825	463.015(1)	3rd	Practicing optometry without a license.
1826	464.016(1)	3rd	Practicing nursing without a license.
1827	465.015(2)	3rd	Practicing pharmacy without a license.
1828	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
1829	467.201	3rd	Practicing midwifery without a license.
1830	468.366	3rd	Delivering respiratory care services without a license.
1831	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
1832	483.901(9)	3rd	Practicing medical physics without a license.
1833	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
	484.053	3rd	Dispensing hearing aids without



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1834			a license.
1835	494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
1836	560.123(8) (b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
1837	560.125(5) (a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
1838	655.50(10) (b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
	775.21(10) (a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other



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1839			registration violations.
	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
1840			
	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
1841			
	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
1842			
	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
1843			
	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
1844			
	782.072	2nd	Killing of a human being by the operation of a vessel in a



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1845			reckless manner (vessel homicide).
	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
1846			
	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
1847			
	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
1848			
	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
1849			
	784.048 (7)	3rd	Aggravated stalking; violation of court order.
1850			
	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
1851			
	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
1852			
	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
1853			



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1854	784.081(1)	1st	Aggravated battery on specified official or employee.
1855	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
1856	784.083(1)	1st	Aggravated battery on code inspector.
1857	787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
1858	787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
1859	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
1860	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
	790.165(2)	2nd	Manufacture, sell, possess, or



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1861			deliver hoax bomb.
	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
1862			
	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
1863			
	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
1864			
	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
1865			
	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
1866			
	796.05(1)	1st	Live on earnings of a



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			prostitute; 2nd offense.
1867	796.05 (1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
1868	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
1869	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
1870	800.04 (5) (e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
1871	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
1872	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.



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1873	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
1874	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
1875	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
1876	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
1877	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
1878	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
1879	812.014 (2) (b) 4.	2nd	Property stolen, law



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1880			enforcement equipment from authorized emergency vehicle.
1881	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
1882	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
1883	812.131(2)(a)	2nd	Robbery by sudden snatching.
1884	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
1885	817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
1886	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
1887	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.



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1888

817.2341(2)(b) & 1st Making false entries of
(3)(b) material fact or false
statements regarding property
values relating to the solvency
of an insuring entity which are
a significant cause of the
insolvency of that entity.

1889

817.535(2)(a) 3rd Filing false lien or other
unauthorized document.

1890

825.102(3)(b) 2nd Neglecting an elderly person or
disabled adult causing great
bodily harm, disability, or
disfigurement.

1891

825.103(3)(b) 2nd Exploiting an elderly person or
disabled adult and property is
valued at \$10,000 or more, but
less than \$50,000.

1892

827.03(2)(b) 2nd Neglect of a child causing
great bodily harm, disability,
or disfigurement.

1893

827.04(3) 3rd Impregnation of a child under
16 years of age by person 21
years of age or older.



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1894	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
1895	838.015	2nd	Bribery.
1896	838.016	2nd	Unlawful compensation or reward for official behavior.
1897	838.021(3)(a)	2nd	Unlawful harm to a public servant.
1898	838.22	2nd	Bid tampering.
1899	843.0855(2)	3rd	Impersonation of a public officer or employee.
1900	843.0855(3)	3rd	Unlawful simulation of legal process.
1901	843.0855(4)	3rd	Intimidation of a public officer or employee.
1902	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
1903	847.0135(4)	2nd	Traveling to meet a minor to



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1904			commit an unlawful sex act.
1905	872.06	2nd	Abuse of a dead human body.
1906	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
1907	874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
1908	893.13 (1) (c) 1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
	893.13 (1) (e) 1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s.



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			893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
1909	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
1910	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
1911	893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
1912	893.135(1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
1913	893.135(1)(c)2.a.	1st	Trafficking in hydrocodone, 14 grams or more, less than 28 grams.
1914	893.135(1)(c)2.b.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50



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1915			grams.
	893.135(1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
1916			
	893.135(1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
1917			
	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
1918			
	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
1919			
	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
1920			
	893.135(1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
1921			
	893.135(1)(h)1.a.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 1 kilogram or more, less than 5



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1922			kilograms.
	893.135(1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
1923			
	893.135(1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
1924			
	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
1925			
	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
1926			
	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
1927			
	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
1928			



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1929	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
1930	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
1931	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1932	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
1933	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
1934	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
	944.607(12)	3rd	Failure to report or providing



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1935

944.607(13) 3rd false information about a sexual offender; harbor or conceal a sexual offender.
Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

1936

985.4815(10) 3rd Sexual offender; failure to submit to the taking of a digitized photograph.

1937

985.4815(12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

1938

985.4815(13) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

1939

1940

1941 Section 48. For the purpose of incorporating the amendment
1942 made by this act to section 838.022, Florida Statutes, in a
1943 reference thereto, paragraph (d) of subsection (3) of section



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1944 921.0022, Florida Statutes, is reenacted to read:
1945 921.0022 Criminal Punishment Code; offense severity ranking
1946 chart.—

1947 (3) OFFENSE SEVERITY RANKING CHART

1948 (d) LEVEL 4

1949

1950

Florida Statute	Felony Degree	Description
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1951

316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
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1952

499.0051(1)	3rd	Failure to maintain or deliver pedigree papers.
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1953

499.0051(2)	3rd	Failure to authenticate pedigree papers.
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1954

499.0051(6)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
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1955

517.07(1)	3rd	Failure to register securities.
-----------	-----	---------------------------------

1956



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1957	517.12 (1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
1958	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.
1959	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
1960	784.075	3rd	Battery on detention or commitment facility staff.
1961	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
1962	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
1963	784.081 (3)	3rd	Battery on specified official or employee.
1964	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
1965	784.083 (3)	3rd	Battery on code inspector.
	784.085	3rd	Battery of child by throwing,



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			tossing, projecting, or expelling certain fluids or materials.
1966	787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
1967	787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
1968	787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
1969	787.07	3rd	Human smuggling.
1970	790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
1971	790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
1972			



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1973	790.115 (2) (c)	3rd	Possessing firearm on school property.
1974	800.04 (7) (c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
1975	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
1976	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
1977	810.06	3rd	Burglary; possession of tools.
1978	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
1979	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
1980	812.014 (2) (c) 4.- 10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.



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1981	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
1982	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
1983	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
1984	817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
1985	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
1986	837.02(1)	3rd	Perjury in official proceedings.
1987	837.021(1)	3rd	Make contradictory statements in official proceedings.
1988	838.022	3rd	Official misconduct.
	839.13(2)(a)	3rd	Falsifying records of an



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1989			individual in the care and custody of a state agency.
	839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.
1990			
	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
1991			
	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
1992			
	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
1993			
	847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
1994			
	874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
1995			
	893.13(2)(a)1.	2nd	Purchase of cocaine (or other



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			s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs).
1996			
	914.14(2)	3rd	Witnesses accepting bribes.
1997			
	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
1998			
	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
1999			
	918.12	3rd	Tampering with jurors.
2000			
	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
2001			
2002			
2003	Section 49. <u>As provided in s. 112.322(3), Florida Statutes,</u>		
2004	<u>the Commission on Ethics is authorized to render advisory</u>		
2005	<u>opinions to any public officer, candidate for public office, or</u>		
2006	<u>public employee regarding the application of part III of chapter</u>		
2007	<u>112, Florida Statutes, including the amendments made by this</u>		
2008	<u>act.</u>		
2009	Section 50. <u>The Legislature finds that a proper and</u>		
2010	<u>legitimate state purpose is served when internal controls are</u>		
2011	<u>established to prevent and detect fraud, waste, and abuse and to</u>		



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safeguard and account for government funds and property.

Therefore, the Legislature determines and declares that this act
fulfills an important state interest.

Section 51. This act shall take effect October 1, 2016.

===== 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 government accountability; amending
s. 11.045, F.S.; defining terms; requiring each house
of the Legislature to provide by rule reporting
requirements regarding lobbying firm's lobbying
activities; specifying requirements regarding the
content of reports and filing deadlines; requiring
each house of the Legislature to establish procedures
applicable to untimely filing of reports by rule;
providing fines for late filing of reports; amending
s. 11.40, F.S.; specifying that the Governor, the
Commissioner of Education, or the designee of the
Governor or of the Commissioner of Education may
notify the Legislative Auditing Committee of an
entity's failure to comply with certain auditing and
financial reporting requirements; amending s. 11.45,
F.S.; defining the terms "abuse," "fraud," and
"waste"; revising the definition of the term "local
governmental entity"; excluding water management
districts from certain audit requirements; removing a



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2041 cross-reference; authorizing the Auditor General to
2042 conduct audits of tourist development councils and
2043 county tourism promotion agencies; revising reporting
2044 requirements applicable to the Auditor General;
2045 creating s. 20.602, F.S.; specifying the applicability
2046 of certain provisions of the Code of Ethics for Public
2047 Officers and Employees to officers and board members
2048 of corporate entities associated with the Department
2049 of Economic Opportunity; prohibiting such officers and
2050 board members from representing a person or an entity
2051 for compensation before certain bodies for a specified
2052 timeframe; providing for construction; amending s.
2053 28.35, F.S.; revising reporting requirements
2054 applicable to the Florida Clerks of Court Operations
2055 Corporation; amending s. 43.16, F.S.; revising the
2056 responsibilities of the Justice Administrative
2057 Commission, each state attorney, each public defender,
2058 a criminal conflict and civil regional counsel, a
2059 capital collateral regional counsel, and the Guardian
2060 Ad Litem Program, to include the establishment and
2061 maintenance of certain internal controls; creating s.
2062 112.3126, F.S.; defining the term "private entity";
2063 prohibiting a member of the Legislature or a candidate
2064 for legislative office from accepting employment with
2065 a private entity that directly receives funding
2066 through state revenues under certain circumstances;
2067 authorizing employment with a private entity if
2068 certain conditions are met; amending s. 112.313, F.S.;
2069 specifying that prohibitions on conflicting employment



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2070 or contractual relationships for public officers or
2071 employees of an agency apply to contractual
2072 relationships held by certain business entities;
2073 amending s. 112.3144, F.S.; requiring elected
2074 municipal officers to file a full and public
2075 disclosure of financial interests, rather than a
2076 statement of financial interests; providing for
2077 applicability; amending s. 112.31455, F.S.; revising
2078 provisions governing collection methods for unpaid
2079 automatic fines for failure to timely file disclosure
2080 of financial interests to include school districts;
2081 amending s. 112.3215, F.S.; requiring a lobbying firm
2082 to file a report with the Commission on Ethics
2083 disclosing whether the firm lobbied the Governor to
2084 approve or veto a bill or an appropriation; requiring
2085 the commission to establish procedures applicable to
2086 untimely filing of reports by rule; providing fines
2087 for late filing of reports; conforming provisions to
2088 changes made by the act; amending s. 112.3261, F.S.;
2089 revising terms to conform to changes made by the act;
2090 expanding the types of governmental entities that are
2091 subject to lobbyist registration requirements;
2092 requiring a governmental entity to create a lobbyist
2093 registration form; amending ss. 129.03, 129.06,
2094 166.241, and 189.016, F.S.; requiring counties,
2095 municipalities, and special districts to maintain
2096 certain budget documents on the entities' websites for
2097 a specified period; amending s. 215.425, F.S.;
2098 defining the term "public funds"; revising exceptions



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2099 to the prohibition on extra compensation claims;
2100 requiring certain contracts to which a unit of
2101 government or state university is a party during a
2102 specified period to contain certain prohibitions on
2103 severance pay; requiring a unit of government to
2104 investigate and take necessary action to recover
2105 prohibited compensation; specifying methods of
2106 recovery for unintentional and willful violations;
2107 providing a penalty; specifying applicability of
2108 procedures regarding suspension and removal of an
2109 officer who commits a willful violation; establishing
2110 eligibility criteria and amounts for rewards;
2111 specifying circumstances under which an employee has a
2112 cause of action under the Whistle-blower's Act;
2113 establishing causes of action if a unit of government
2114 fails to recover prohibited compensation within a
2115 certain timeframe; providing for applicability;
2116 amending s. 215.86, F.S.; revising the purposes for
2117 which management systems and internal controls must be
2118 established and maintained by each state agency and
2119 the judicial branch; amending s. 215.97, F.S.;
2120 revising the definition of the term "audit threshold";
2121 amending s. 215.985, F.S.; revising the requirements
2122 for a monthly financial statement provided by a water
2123 management district; amending s. 218.32, F.S.;
2124 revising the requirements of the annual financial
2125 audit report of a local governmental entity;
2126 authorizing the Department of Financial Services to
2127 request additional information from a local



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2128 governmental entity; requiring a local governmental
2129 entity to respond to such requests within a specified
2130 timeframe; requiring the department to notify the
2131 Legislative Auditing Committee of noncompliance;
2132 amending s. 218.33, F.S.; requiring local governmental
2133 entities to establish and maintain internal controls
2134 to achieve specified purposes; amending s. 218.39,
2135 F.S.; requiring an audited entity to respond to audit
2136 recommendations under specified circumstances;
2137 amending s. 218.391, F.S.; revising the composition of
2138 an audit committee; prohibiting an audit committee
2139 member from being an employee, a chief executive
2140 officer, or a chief financial officer of the
2141 respective governmental entity; requiring the chair of
2142 an audit committee to sign and execute an affidavit
2143 affirming compliance with auditor selection
2144 procedures; prescribing procedures in the event of
2145 noncompliance with auditor selection procedures;
2146 amending s. 286.0114, F.S.; prohibiting a board or
2147 commission from requiring an advance copy of testimony
2148 or comments from a member of the public as a
2149 precondition to be given the opportunity to be heard
2150 at a public meeting; amending s. 288.92, F.S.;
2151 prohibiting specified officers and board members of
2152 Enterprise Florida, Inc., from representing a person
2153 or entity for compensation before Enterprise Florida,
2154 Inc., and associated entities thereof, for a specified
2155 timeframe; amending s. 288.9604, F.S.; prohibiting a
2156 director of the Florida Development Finance



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2157 Corporation from representing a person or an entity
2158 for compensation before the corporation for a
2159 specified timeframe; amending s. 373.536, F.S.;
2160 deleting obsolete language; requiring water management
2161 districts to maintain certain budget documents on the
2162 districts' websites for a specified period; amending
2163 s. 838.014, F.S.; revising and providing definitions;
2164 amending s. 838.015, F.S.; revising the definition of
2165 the term "bribery"; revising requirements for
2166 prosecution; amending s. 838.016, F.S.; revising the
2167 prohibition against unlawful compensation or reward
2168 for official behavior to conform to changes made by
2169 the act; amending s. 838.022, F.S.; revising the
2170 prohibition against official misconduct to conform to
2171 changes made by the act; revising applicability of the
2172 offense to include public contractors; amending s.
2173 838.22, F.S.; revising the prohibition against bid
2174 tampering to conform to changes made by the act;
2175 revising applicability of the offense to include
2176 specified public contractors; amending s. 1002.37,
2177 F.S.; requiring completion of an annual financial
2178 audit of the Florida Virtual School; specifying audit
2179 requirements; requiring an audit report to be
2180 submitted to the board of trustees of the Florida
2181 Virtual School and the Auditor General; removing
2182 obsolete provisions; amending s. 1010.01, F.S.;
2183 requiring each school district, Florida College System
2184 institution, and state university to establish and
2185 maintain certain internal controls; amending s.



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2186 1010.30, F.S.; requiring a district school board,
2187 Florida College System institution board of trustees,
2188 or university board of trustees to respond to audit
2189 recommendations under certain circumstances; amending
2190 ss. 11.0455, 68.082, 68.083, 99.061, 218.503, and
2191 1002.455, F.S.; conforming provisions and cross-
2192 references to changes made by the act; reenacting s.
2193 112.534(2)(a), F.S., relating to official misconduct,
2194 and s. 117.01(4)(d), F.S., relating to appointment,
2195 application, suspension, revocation, application fee,
2196 bond, and oath of notaries public, to incorporate the
2197 amendment made by the act to s. 838.022, F.S., in
2198 references thereto; reenacting s. 817.568(11), F.S.,
2199 relating to criminal use of personal identification
2200 information, to incorporate the amendment made by the
2201 act to s. 838.014, F.S., in a reference thereto;
2202 reenacting s. 921.0022(3)(d) and (g), F.S., relating
2203 to the Criminal Punishment Code offense severity
2204 ranking chart, to incorporate the amendments made by
2205 the act to ss. 838.015, 838.016, 838.022, and 838.22,
2206 F.S., in references thereto; providing for
2207 applicability; declaring that the act fulfills an
2208 important state interest; providing an effective date.

By the Committee on Governmental Oversight and Accountability;
and Senator Gaetz

585-02305-16

2016582c1

A bill to be entitled

An act relating to public corruption; amending s. 838.014, F.S.; revising and providing definitions; amending s. 838.015, F.S.; revising the definition of the term "bribery"; revising requirements for prosecution; amending s. 838.016, F.S.; revising the prohibition against unlawful compensation or reward for official behavior to conform to changes made by the act; amending s. 838.022, F.S.; revising the prohibition against official misconduct to conform to changes made by the act; revising applicability of the offense to include public contractors; amending s. 838.22, F.S.; revising the prohibition against bid tampering to conform to changes made by the act; revising applicability of the offense to include specified public contractors; reenacting s. 112.534(2)(a), F.S., relating to official misconduct, and s. 117.01(4)(d), F.S., relating to appointment, application, suspension, revocation, application fee, bond, and oath of notaries public, to incorporate the amendment made by the act to s. 838.022, F.S., in references thereto; reenacting s. 817.568(11), F.S., relating to criminal use of personal identification information, to incorporate the amendment made by the act to s. 838.014, F.S., in a reference thereto; reenacting s. 921.0022(3)(d) and (g), F.S., relating to the Criminal Punishment Code offense severity ranking chart, to incorporate the amendments made by the act to ss. 838.015, 838.016, 838.022, and 838.22, F.S., in references thereto; providing an effective date.

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

585-02305-16

2016582c1

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

Section 1. Subsection (7) of section 838.014, Florida Statutes, is renumbered as subsection (8), present subsections (4) and (6) are amended, and a new subsection (6) is added to that section, to read:

838.014 Definitions.—As used in this chapter, the term:

(4) "Governmental entity" means an agency or entity of the state, a county, municipality, or special district or any other public entity created or authorized by law ~~"Corruptly" or "with corrupt intent"~~ means acting knowingly and dishonestly for a wrongful purpose.

(6) "Public contractor" means, for purposes of ss. 838.022 and 838.22 only:

(a) Any person, as defined in s. 1.01(3), who has entered into a contract with a governmental entity; or

(b) Any officer or employee of a person, as defined in s. 1.01(3), who has entered into a contract with a governmental entity.

~~(7)(6)~~ "Public servant" means:

(a) Any officer or employee of a governmental state, county, municipal, or special district agency or entity, including

~~(b)~~ any executive, legislative, or judicial branch officer or employee;

~~(b)(c)~~ Any person, except a witness, who acts as a general or special magistrate, receiver, auditor, arbitrator, umpire, referee, consultant, or hearing officer while performing a

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

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2016582c1

governmental function; or

~~(c)(4)~~ A candidate for election or appointment to any of the officer positions listed in this subsection, or an individual who has been elected to, but has yet to officially assume the responsibilities of, public office.

Section 2. Subsection (1) of section 838.015, Florida Statutes, is amended to read:

838.015 Bribery.—

(1) "Bribery" means ~~corruptly~~ to knowingly and intentionally give, offer, or promise to any public servant, or, if a public servant, ~~corruptly~~ to knowingly and intentionally request, solicit, accept, or agree to accept for himself or herself or another, any pecuniary or other benefit not authorized by law with an intent or purpose to influence the performance of any act or omission which the person believes to be, or the public servant represents as being, within the official discretion of a public servant, in violation of a public duty, or in performance of a public duty.

Section 3. Subsections (1) and (2) of section 838.016, Florida Statutes, are amended to read:

838.016 Unlawful compensation or reward for official behavior.—

(1) It is unlawful for any person ~~corruptly~~ to knowingly and intentionally give, offer, or promise to any public servant, or, if a public servant, ~~corruptly~~ to knowingly and intentionally request, solicit, accept, or agree to accept, any pecuniary or other benefit not authorized by law, for the past, present, or future performance, nonperformance, or violation of any act or omission which the person believes to have been, or

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2016582c1

the public servant represents as having been, either within the official discretion of the public servant, in violation of a public duty, or in performance of a public duty. This section does not ~~Nothing herein shall be construed to~~ preclude a public servant from accepting rewards for services performed in apprehending any criminal.

(2) It is unlawful for any person ~~corruptly~~ to knowingly and intentionally give, offer, or promise to any public servant, or, if a public servant, ~~corruptly~~ to knowingly and intentionally request, solicit, accept, or agree to accept, any pecuniary or other benefit not authorized by law for the past, present, or future exertion of any influence upon or with any other public servant regarding any act or omission which the person believes to have been, or which is represented to him or her as having been, either within the official discretion of the other public servant, in violation of a public duty, or in performance of a public duty.

Section 4. Subsection (1) of section 838.022, Florida Statutes, is amended, and subsection (2) of that section is republished, to read:

838.022 Official misconduct.—

(1) It is unlawful for a public servant or public contractor, ~~with corrupt intent~~ to knowingly and intentionally obtain a benefit for any person or to cause unlawful harm to another, by ~~to~~:

(a) Falsifying ~~Falsify~~, or causing ~~cause~~ another person to falsify, any official record or official document;

(b) Concealing, covering up, destroying, mutilating, or altering ~~Conceal, cover up, destroy, mutilate, or alter~~ any

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official record or official document, except as authorized by
law or contract, or causing ~~cause~~ another person to perform such
 an act; or

(c) ~~Obstructing, delaying, or preventing~~ Obstruct, delay,
~~or prevent~~ the communication of information relating to the
 commission of a felony that directly involves or affects the
government public agency or public entity served by the public
 servant or public contractor.

(2) For the purposes of this section:

(a) The term "public servant" does not include a candidate
 who does not otherwise qualify as a public servant.

(b) An official record or official document includes only
 public records.

Section 5. Section 838.22, Florida Statutes, is amended to
 read:

838.22 Bid tampering.—

(1) It is unlawful for a public servant or a public
contractor who has contracted with a governmental entity to
assist in a competitive procurement, with corrupt intent to
knowingly and intentionally influence or attempt to influence
 the competitive solicitation bidding process undertaken by any
governmental state, county, municipal, or special district
agency, or any other public entity, for the procurement of
 commodities or services, by ~~to~~:

(a) Disclosing, except as authorized by law, Disclose
 material information concerning a vendor's response, any
evaluation results, bid or other aspects of the competitive
solicitation bidding process when such information is not
 publicly disclosed.

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(b) ~~Altering or amending~~ Alter or amend a submitted
response bid, documents or other materials supporting a
 submitted response bid, or any evaluation bid results relating
to the competitive solicitation for the purpose of intentionally
 providing a competitive advantage to any person who submits a
response bid.

(2) It is unlawful for a public servant or a public
contractor who has contracted with a governmental entity to
assist in a competitive procurement, with corrupt intent to
knowingly and intentionally obtain a benefit for any person or
 to cause unlawful harm to another by circumventing, to
circumvent a competitive solicitation bidding process required
 by law or rule through the use of by using a sole-source
 contract for commodities or services.

(3) It is unlawful for any person to knowingly agree,
 conspire, combine, or confederate, directly or indirectly, with
 a public servant or a public contractor who has contracted with
a governmental entity to assist in a competitive procurement to
 violate subsection (1) or subsection (2).

(4) It is unlawful for any person to knowingly enter into a
 contract for commodities or services which was secured by a
 public servant or a public contractor who has contracted with a
governmental entity to assist in a competitive procurement
 acting in violation of subsection (1) or subsection (2).

(5) Any person who violates this section commits a felony
 of the second degree, punishable as provided in s. 775.082, s.
 775.083, or s. 775.084.

Section 6. For the purpose of incorporating the amendment
 made by this act to section 838.022, Florida Statutes, in a

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reference thereto, paragraph (a) of subsection (2) of section 112.534, Florida Statutes, is reenacted to read:

112.534 Failure to comply; official misconduct.—

(2) (a) All the provisions of s. 838.022 shall apply to this part.

Section 7. For the purpose of incorporating the amendment made by this act to section 838.022, Florida Statutes, in a reference thereto, paragraph (d) of subsection (4) of section 117.01, Florida Statutes, is reenacted to read:

117.01 Appointment, application, suspension, revocation, application fee, bond, and oath.—

(4) The Governor may suspend a notary public for any of the grounds provided in s. 7, Art. IV of the State Constitution. Grounds constituting malfeasance, misfeasance, or neglect of duty include, but are not limited to, the following:

(d) Official misconduct as defined in s. 838.022.

Section 8. For the purpose of incorporating the amendment made by this act to section 838.014, Florida Statutes, in a reference thereto, subsection (11) of section 817.568, Florida Statutes, is reenacted to read:

817.568 Criminal use of personal identification information.—

(11) A person who willfully and without authorization fraudulently uses personal identification information concerning an individual who is 60 years of age or older; a disabled adult as defined in s. 825.101; a public servant as defined in s. 838.014; a veteran as defined in s. 1.01; a first responder as defined in s. 125.01045; an individual who is employed by the State of Florida; or an individual who is employed by the

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Federal Government without first obtaining the consent of that individual commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 9. For the purpose of incorporating the amendments made by this act to sections 838.015, 838.016, and 838.22, Florida Statutes, in references thereto, paragraph (g) of subsection (3) of section 921.0022, Florida Statutes, is reenacted to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer

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who is in a patrol vehicle with
siren and lights activated.

327.35(3)(c)2. 3rd Vessel BUI resulting in serious
bodily injury.

402.319(2) 2nd Misrepresentation and
negligence or intentional act
resulting in great bodily harm,
permanent disfiguration,
permanent disability, or death.

409.920 3rd Medicaid provider fraud;
(2)(b)1.a. \$10,000 or less.

409.920 2nd Medicaid provider fraud; more
(2)(b)1.b. than \$10,000, but less than
\$50,000.

456.065(2) 3rd Practicing a health care
profession without a license.

456.065(2) 2nd Practicing a health care
profession without a license
which results in serious bodily
injury.

458.327(1) 3rd Practicing medicine without a
license.

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459.013(1) 3rd Practicing osteopathic medicine
without a license.

460.411(1) 3rd Practicing chiropractic
medicine without a license.

461.012(1) 3rd Practicing podiatric medicine
without a license.

462.17 3rd Practicing naturopathy without
a license.

463.015(1) 3rd Practicing optometry without a
license.

464.016(1) 3rd Practicing nursing without a
license.

465.015(2) 3rd Practicing pharmacy without a
license.

466.026(1) 3rd Practicing dentistry or dental
hygiene without a license.

467.201 3rd Practicing midwifery without a
license.

468.366 3rd Delivering respiratory care

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 services without a license.

240 483.828 (1) 3rd Practicing as clinical
 laboratory personnel without a
 license.

241 483.901 (9) 3rd Practicing medical physics
 without a license.

242 484.013 (1) (c) 3rd Preparing or dispensing optical
 devices without a prescription.

243 484.053 3rd Dispensing hearing aids without
 a license.

244 494.0018 (2) 1st Conviction of any violation of
 chapter 494 in which the total
 money and property unlawfully
 obtained exceeded \$50,000 and
 there were five or more
 victims.

245 560.123 (8) (b) 1. 3rd Failure to report currency or
 payment instruments exceeding
 \$300 but less than \$20,000 by a
 money services business.

246 560.125 (5) (a) 3rd Money services business by
 unauthorized person, currency

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 or payment instruments
 exceeding \$300 but less than
 \$20,000.

247 655.50 (10) (b) 1. 3rd Failure to report financial
 transactions exceeding \$300 but
 less than \$20,000 by financial
 institution.

248 775.21 (10) (a) 3rd Sexual predator; failure to
 register; failure to renew
 driver license or
 identification card; other
 registration violations.

249 775.21 (10) (b) 3rd Sexual predator working where
 children regularly congregate.

250 775.21 (10) (g) 3rd Failure to report or providing
 false information about a
 sexual predator; harbor or
 conceal a sexual predator.

251 782.051 (3) 2nd Attempted felony murder of a
 person by a person other than
 the perpetrator or the
 perpetrator of an attempted
 felony.

252

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782.07(1) 2nd Killing of a human being by the
act, procurement, or culpable
negligence of another
(manslaughter).

782.071 2nd Killing of a human being or
unborn child by the operation
of a motor vehicle in a
reckless manner (vehicular
homicide).

782.072 2nd Killing of a human being by the
operation of a vessel in a
reckless manner (vessel
homicide).

784.045(1)(a)1. 2nd Aggravated battery;
intentionally causing great
bodily harm or disfigurement.

784.045(1)(a)2. 2nd Aggravated battery; using
deadly weapon.

784.045(1)(b) 2nd Aggravated battery; perpetrator
aware victim pregnant.

784.048(4) 3rd Aggravated stalking; violation
of injunction or court order.

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784.048(7) 3rd Aggravated stalking; violation
of court order.

784.07(2)(d) 1st Aggravated battery on law
enforcement officer.

784.074(1)(a) 1st Aggravated battery on sexually
violent predators facility
staff.

784.08(2)(a) 1st Aggravated battery on a person
65 years of age or older.

784.081(1) 1st Aggravated battery on specified
official or employee.

784.082(1) 1st Aggravated battery by detained
person on visitor or other
detainee.

784.083(1) 1st Aggravated battery on code
inspector.

787.06(3)(a)2. 1st Human trafficking using
coercion for labor and services
of an adult.

787.06(3)(e)2. 1st Human trafficking using
coercion for labor and services

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by the transfer or transport of
an adult from outside Florida
to within the state.

790.07(4) 1st Specified weapons violation
subsequent to previous
conviction of s. 790.07(1) or
(2).

790.16(1) 1st Discharge of a machine gun
under specified circumstances.

790.165(2) 2nd Manufacture, sell, possess, or
deliver hoax bomb.

790.165(3) 2nd Possessing, displaying, or
threatening to use any hoax
bomb while committing or
attempting to commit a felony.

790.166(3) 2nd Possessing, selling, using, or
attempting to use a hoax weapon
of mass destruction.

790.166(4) 2nd Possessing, displaying, or
threatening to use a hoax
weapon of mass destruction
while committing or attempting
to commit a felony.

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790.23 1st,PBL Possession of a firearm by a
person who qualifies for the
penalty enhancements provided
for in s. 874.04.

794.08(4) 3rd Female genital mutilation;
consent by a parent, guardian,
or a person in custodial
authority to a victim younger
than 18 years of age.

796.05(1) 1st Live on earnings of a
prostitute; 2nd offense.

796.05(1) 1st Live on earnings of a
prostitute; 3rd and subsequent
offense.

800.04(5)(c)1. 2nd Lewd or lascivious molestation;
victim younger than 12 years of
age; offender younger than 18
years of age.

800.04(5)(c)2. 2nd Lewd or lascivious molestation;
victim 12 years of age or older
but younger than 16 years of
age; offender 18 years of age
or older.

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280

800.04(5)(e) 1st Lewd or lascivious molestation;
victim 12 years of age or older
but younger than 16 years;
offender 18 years or older;
prior conviction for specified
sex offense.

281

806.01(2) 2nd Maliciously damage structure by
fire or explosive.

282

810.02(3)(a) 2nd Burglary of occupied dwelling;
unarmed; no assault or battery.

283

810.02(3)(b) 2nd Burglary of unoccupied
dwelling; unarmed; no assault
or battery.

284

810.02(3)(d) 2nd Burglary of occupied
conveyance; unarmed; no assault
or battery.

285

810.02(3)(e) 2nd Burglary of authorized
emergency vehicle.

286

812.014(2)(a)1. 1st Property stolen, valued at
\$100,000 or more or a
semitrailer deployed by a law
enforcement officer; property

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stolen while causing other
property damage; 1st degree
grand theft.

288

812.014(2)(b)2. 2nd Property stolen, cargo valued
at less than \$50,000, grand
theft in 2nd degree.

289

812.014(2)(b)3. 2nd Property stolen, emergency
medical equipment; 2nd degree
grand theft.

290

812.014(2)(b)4. 2nd Property stolen, law
enforcement equipment from
authorized emergency vehicle.

291

812.0145(2)(a) 1st Theft from person 65 years of
age or older; \$50,000 or more.

292

812.019(2) 1st Stolen property; initiates,
organizes, plans, etc., the
theft of property and traffics
in stolen property.

293

812.131(2)(a) 2nd Robbery by sudden snatching.

294

812.133(2)(b) 1st Carjacking; no firearm, deadly
weapon, or other weapon.

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817.034(4)(a)1. 1st Communications fraud, value
greater than \$50,000.

817.234(8)(a) 2nd Solicitation of motor vehicle
accident victims with intent to
defraud.

817.234(9) 2nd Organizing, planning, or
participating in an intentional
motor vehicle collision.

817.234(11)(c) 1st Insurance fraud; property value
\$100,000 or more.

817.234(2)(b) & 1st Making false entries of
(3)(b) material fact or false
statements regarding property
values relating to the solvency
of an insuring entity which are
a significant cause of the
insolvency of that entity.

817.535(2)(a) 3rd Filing false lien or other
unauthorized document.

825.102(3)(b) 2nd Neglecting an elderly person or
disabled adult causing great
bodily harm, disability, or
disfigurement.

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825.103(3)(b) 2nd Exploiting an elderly person or
disabled adult and property is
valued at \$10,000 or more, but
less than \$50,000.

827.03(2)(b) 2nd Neglect of a child causing
great bodily harm, disability,
or disfigurement.

827.04(3) 3rd Impregnation of a child under
16 years of age by person 21
years of age or older.

837.05(2) 3rd Giving false information about
alleged capital felony to a law
enforcement officer.

838.015 2nd Bribery.

838.016 2nd Unlawful compensation or reward
for official behavior.

838.021(3)(a) 2nd Unlawful harm to a public
servant.

838.22 2nd Bid tampering.

843.0855(2) 3rd Impersonation of a public

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officer or employee.

310

843.0855(3)

3rd

Unlawful simulation of legal process.

311

843.0855(4)

3rd

Intimidation of a public officer or employee.

312

847.0135(3)

3rd

Solicitation of a child, via a computer service, to commit an unlawful sex act.

313

847.0135(4)

2nd

Traveling to meet a minor to commit an unlawful sex act.

314

872.06

2nd

Abuse of a dead human body.

315

874.05(2)(b)

1st

Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.

316

874.10

1st, PBL

Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.

317

893.13(1)(c)1.

1st

Sell, manufacture, or deliver cocaine (or other drug

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prohibited under s.

893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

318

893.13(1)(e)1.

1st

Sell, manufacture, or deliver cocaine or other drug prohibited under s.

893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.

319

893.13(4)(a)

1st

Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).

320

893.135(1)(a)1.

1st

Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.

321

893.135(1)(b)1.a.

1st

Trafficking in cocaine, more

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than 28 grams, less than 200
grams.

322

893.135(1)(c)1.a. 1st Trafficking in illegal drugs,
more than 4 grams, less than 14
grams.

323

893.135(1)(c)2.a. 1st Trafficking in hydrocodone, 14
grams or more, less than 28
grams.

324

893.135(1)(c)2.b. 1st Trafficking in hydrocodone, 28
grams or more, less than 50
grams.

325

893.135(1)(c)3.a. 1st Trafficking in oxycodone, 7
grams or more, less than 14
grams.

326

893.135(1)(c)3.b. 1st Trafficking in oxycodone, 14
grams or more, less than 25
grams.

327

893.135(1)(d)1. 1st Trafficking in phencyclidine,
more than 28 grams, less than
200 grams.

328

893.135(1)(e)1. 1st Trafficking in methaqualone,
more than 200 grams, less than

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5 kilograms.

329

893.135(1)(f)1. 1st Trafficking in amphetamine,
more than 14 grams, less than
28 grams.

330

893.135(1)(g)1.a. 1st Trafficking in flunitrazepam, 4
grams or more, less than 14
grams.

331

893.135(1)(h)1.a. 1st Trafficking in gamma-
hydroxybutyric acid (GHB), 1
kilogram or more, less than 5
kilograms.

332

893.135(1)(j)1.a. 1st Trafficking in 1,4-Butanediol,
1 kilogram or more, less than 5
kilograms.

333

893.135(1)(k)2.a. 1st Trafficking in Phenethylamines,
10 grams or more, less than 200
grams.

334

893.1351(2) 2nd Possession of place for
trafficking in or manufacturing
of controlled substance.

335

896.101(5)(a) 3rd Money laundering, financial
transactions exceeding \$300 but

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less than \$20,000.

336

896.104(4)(a)1.

3rd

Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.

337

943.0435(4)(c)

2nd

Sexual offender vacating permanent residence; failure to comply with reporting requirements.

338

943.0435(8)

2nd

Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.

339

943.0435(9)(a)

3rd

Sexual offender; failure to comply with reporting requirements.

340

943.0435(13)

3rd

Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

341

943.0435(14)

3rd

Sexual offender; failure to report and reregister; failure

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to respond to address verification; providing false registration information.

342

944.607(9)

3rd

Sexual offender; failure to comply with reporting requirements.

343

944.607(10)(a)

3rd

Sexual offender; failure to submit to the taking of a digitized photograph.

344

944.607(12)

3rd

Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

345

944.607(13)

3rd

Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

346

985.4815(10)

3rd

Sexual offender; failure to submit to the taking of a digitized photograph.

347

985.4815(12)

3rd

Failure to report or providing false information about a

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sexual offender; harbor or
conceal a sexual offender.

985.4815(13)

3rd

Sexual offender; failure to
report and reregister; failure
to respond to address
verification; providing false
registration information.

Section 10. For the purpose of incorporating the amendment
made by this act to section 838.022, Florida Statutes, in a
reference thereto, paragraph (d) of subsection (3) of section
921.0022, Florida Statutes, is reenacted to read:

921.0022 Criminal Punishment Code; offense severity ranking
chart.—

(3) OFFENSE SEVERITY RANKING CHART

(d) LEVEL 4

Florida Statute	Felony Degree	Description
--------------------	------------------	-------------

316.1935(3) (a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
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499.0051(1) 3rd Failure to maintain or deliver
pedigree papers.

499.0051(2) 3rd Failure to authenticate
pedigree papers.

499.0051(6) 2nd Knowing sale or delivery, or
possession with intent to sell,
contraband prescription drugs.

517.07(1) 3rd Failure to register securities.

517.12(1) 3rd Failure of dealer, associated
person, or issuer of securities
to register.

784.07(2) (b) 3rd Battery of law enforcement
officer, firefighter, etc.

784.074(1) (c) 3rd Battery of sexually violent
predators facility staff.

784.075 3rd Battery on detention or
commitment facility staff.

784.078 3rd Battery of facility employee by
throwing, tossing, or expelling
certain fluids or materials.

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784.08(2)(c) 3rd Battery on a person 65 years of age or older.

784.081(3) 3rd Battery on specified official or employee.

784.082(3) 3rd Battery by detained person on visitor or other detainee.

784.083(3) 3rd Battery on code inspector.

784.085 3rd Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.

787.03(1) 3rd Interference with custody; wrongly takes minor from appointed guardian.

787.04(2) 3rd Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.

787.04(3) 3rd Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering

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to designated person.

787.07 3rd Human smuggling.

790.115(1) 3rd Exhibiting firearm or weapon within 1,000 feet of a school.

790.115(2)(b) 3rd Possessing electric weapon or device, destructive device, or other weapon on school property.

790.115(2)(c) 3rd Possessing firearm on school property.

800.04(7)(c) 3rd Lewd or lascivious exhibition; offender less than 18 years.

810.02(4)(a) 3rd Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.

810.02(4)(b) 3rd Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

810.06 3rd Burglary; possession of tools.

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386

810.08(2)(c) 3rd Trespass on property, armed
with firearm or dangerous
weapon.

387

812.014(2)(c)3. 3rd Grand theft, 3rd degree \$10,000
or more but less than \$20,000.

388

812.014(2)(c)4.- 3rd Grand theft, 3rd degree, a
will, firearm, motor vehicle,
livestock, etc.

389

812.0195(2) 3rd Dealing in stolen property by
use of the Internet; property
stolen \$300 or more.

390

817.563(1) 3rd Sell or deliver substance other
than controlled substance
agreed upon, excluding s.
893.03(5) drugs.

391

817.568(2)(a) 3rd Fraudulent use of personal
identification information.

392

817.625(2)(a) 3rd Fraudulent use of scanning
device or reencoder.

393

828.125(1) 2nd Kill, maim, or cause great
bodily harm or permanent

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394

breeding disability to any
registered horse or cattle.

837.02(1)

3rd

Perjury in official
proceedings.

395

837.021(1)

3rd

Make contradictory statements
in official proceedings.

396

838.022

3rd

Official misconduct.

397

839.13(2)(a)

3rd

Falsifying records of an
individual in the care and
custody of a state agency.

398

839.13(2)(c)

3rd

Falsifying records of the
Department of Children and
Families.

399

843.021

3rd

Possession of a concealed
handcuff key by a person in
custody.

400

843.025

3rd

Deprive law enforcement,
correctional, or correctional
probation officer of means of
protection or communication.

401

843.15(1)(a)

3rd

Failure to appear while on bail

Page 32 of 34

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585-02305-16

2016582c1

for felony (bond estreature or
bond jumping).

847.0135 (5) (c) 3rd Lewd or lascivious exhibition
using computer; offender less
than 18 years.

874.05 (1) (a) 3rd Encouraging or recruiting
another to join a criminal
gang.

893.13 (2) (a) 1. 2nd Purchase of cocaine (or other
s. 893.03 (1) (a), (b), or (d),
(2) (a), (2) (b), or (2) (c) 4.
drugs).

914.14 (2) 3rd Witnesses accepting bribes.

914.22 (1) 3rd Force, threaten, etc., witness,
victim, or informant.

914.23 (2) 3rd Retaliation against a witness,
victim, or informant, no bodily
injury.

918.12 3rd Tampering with jurors.

934.215 3rd Use of two-way communications
device to facilitate commission

Page 33 of 34

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585-02305-16

2016582c1

of a crime.

Section 11. This act shall take effect October 1, 2016.

Page 34 of 34

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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)

2 / 1 / 201

Meeting Date

Topic _____

Bill Number 582
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-1-2014

Meeting Date

CS/SB 582

Bill Number (if applicable)

Topic Public Corruption

Amendment Barcode (if applicable)

Name Debbie Harrison Rumberger

Job Title Legislative Liaison

Address 540 Beverly Court

Street

Tallahassee FL 32301

City

State

Zip

Phone 850-225-2545

Email Lwvfrdunag@mail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida League of Women Voters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16

Meeting Date

CS/SB 582

Bill Number (if applicable)

Topic

Public Corruption

Amendment Barcode (if applicable)

Name

Phil Archer

Job Title

State Attorney - 18th Circuit

Address

2725 Judge Fran Jamieson Way

Phone

(321) 637-5575

Street

Viera

Fl.

32940

Email

parcher@sa18.org

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

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

Representing

FPAA - Fla. Prosecuting Attorneys Assoc

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☐

No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16

Meeting Date

582

Bill Number (if applicable)

Topic Gov. Corr.

Amendment Barcode (if applicable)

Name Greg Pound

Job Title _____

Address 9166 Sunrise Dr.
Street

Phone _____

Largo / Fla. 33773
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Saving Families

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 612

INTRODUCER: Senator Hays

SUBJECT: Slungshot

DATE: January 29, 2016

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cellon	Cannon	CJ	Favorable
2. _____	_____	CM	_____
3. _____	_____	RC	_____

I. Summary:

SB 612 deletes references to “slungshot” in ch. 790, F.S. By making these deletions, the bill:

- Allows persons to carry a slungshot in a concealed manner;
- Allows slungshots to be manufactured, displayed for sale, and sold; and
- Allows a dealer in arms to sell or transfer a slungshot to a minor.

“Slungshot” is defined in s. 790.001(12), F.S., as a small mass of metal, stone, sand, or similar material fixed on a flexible handle, strap, or the like, used as a weapon.

II. Present Situation:

“Slungshot” is defined in s. 790.001(12), F.S., as a small mass of metal, stone, sand, or similar material fixed on a flexible handle, strap, or the like, used as a weapon. The term “slungshot” is contained within the definition of what can be considered a concealed weapon under current law.¹ It is a second degree misdemeanor to manufacture a slungshot or cause one to be manufactured, or to sell a slungshot or expose one for sale.² It is a second degree felony for any dealer in arms to sell or transfer a slungshot to a minor.³

The slungshot often consists of a weight affixed to the end of a long cord by being wound into the center of a knot called a monkey’s fist.⁴ Although the slungshot is a maritime tool, it became an improvised and very effective weapon, widely used by street gangs in the 19th century.⁵

¹ Section 790.001(3)(a), F.S.

² Section 790.09, F.S.

³ Section 790.18, F.S.

⁴ <http://en.wikipedia.org>

⁵ *Id.*; see also <http://wisegeek.com/what-is-a-slungshot.htm>

Survivalists have embraced the slungshot as both a tool and a weapon. Demonstrations of how to make slungshots and use them are available on the Internet.⁶

III. Effect of Proposed Changes:

The bill deletes references to “slungshot” in ch. 790, F.S. The weapon (or tool) may be manufactured, displayed for sale, sold, and carried in a concealed manner under the provisions of the bill. The bill will also allow a dealer in arms to sell or transfer a slungshot to a minor.

The bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Businesses and individuals will be allowed to manufacture and sell slungshots under the bill.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁶ <http://www.paracordist.com>; <http://SurvivalistBoards.com>. (last visited January 28, 2016).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 790.001, 790.09, and 790.18.

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

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

None.

B. Amendments:

None.

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

By Senator Hays

11-00078-16

2016612__

1 A bill to be entitled
 2 An act relating to the slungshot; amending s. 790.001,
 3 F.S.; revising the definition of the term "concealed
 4 weapon" to delete its inclusion of a slungshot;
 5 amending s. 790.09, F.S.; deleting provisions
 6 prohibiting the manufacture or sale of any instrument
 7 or weapon usually known as a slungshot; amending s.
 8 790.18, F.S.; deleting a provision prohibiting a
 9 dealer in arms from selling or transferring a
 10 slungshot to a minor; providing an effective date.
 11
 12 Be It Enacted by the Legislature of the State of Florida:
 13
 14 Section 1. Paragraph (a) of subsection (3) of section
 15 790.001, Florida Statutes, is amended to read:
 16 790.001 Definitions.—As used in this chapter, except where
 17 the context otherwise requires:
 18 (3) (a) "Concealed weapon" means any dirk, metallic
 19 knuckles, ~~slungshot~~, billie, tear gas gun, chemical weapon or
 20 device, or other deadly weapon carried on or about a person in
 21 such a manner as to conceal the weapon from the ordinary sight
 22 of another person.
 23 Section 2. Section 790.09, Florida Statutes, is amended to
 24 read:
 25 790.09 Manufacturing or selling metallic knuckles
 26 ~~slungshot~~.—Whoever manufactures or causes to be manufactured, or
 27 sells or exposes for sale any instrument or weapon of the kind
 28 usually known as ~~slungshot~~, or metallic knuckles ~~commits, shall~~
 29 ~~be guilty of~~ a misdemeanor of the second degree, punishable as

Page 1 of 2

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11-00078-16

2016612__

30 provided in s. 775.082 or s. 775.083.
 31 Section 3. Section 790.18, Florida Statutes, is amended to
 32 read:
 33 790.18 Sale or transfer of arms to minors by dealers.—It is
 34 unlawful for any dealer in arms to sell or transfer to a minor
 35 any firearm, pistol, Springfield rifle or other repeating rifle,
 36 bowie knife or dirk knife, brass knuckles, ~~slungshot~~, or
 37 electric weapon or device. A person who violates this section
 38 commits a felony of the second degree, punishable as provided in
 39 s. 775.082, s. 775.083, or s. 775.084.
 40 Section 4. This act shall take effect upon becoming a law.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice
CC: Amanda Cannon, Staff Director
Sue Arnold, Administrative Assistant

Subject: Committee Agenda Request

Date: November 5, 2015

I respectfully request that **Senate Bill # 612**, relating to Slungshots, be placed on the:

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

A handwritten signature in cursive script that reads "D. Alan Hays, DMR".

Senator Alan Hays
Florida Senate, District 11

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/2016

Meeting Date

Topic _____

Name BRIAN PITTS

Bill Number 612

(if applicable)

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Street

Phone 727-897-9291

SAINT PETERSBURG

City

FLORIDA

State

33705

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 634

INTRODUCER: Senator Benacquisto

SUBJECT: Sexual Offense Victim or Witness Testimony

DATE: January 29, 2016

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cellon	Cannon	CJ	Favorable
2. _____	_____	JU	_____
3. _____	_____	FP	_____

I. Summary:

SB 634 amends s. 92.53 F.S., and s. 92.54, F.S., to authorize the trial court to order videotaping or closed circuit testimony of victims of sexual battery. The bill also amends the definition of “sexual offense victim or witness” in s. 92.55, F.S., to eliminate the 16 year old cut-off age for eligibility for court protective orders.

The bill becomes effective July 1, 2016.

II. Present Situation:

Florida law currently contains a constitutional provision and several statutes providing for certain treatment of victims and witnesses.¹ A number of these statutes authorize the court to provide special protections to a victim or witness who is under 16 years of age or who has an intellectual disability or to a victim or witness of a sexual offense who is under 16 years of age.

Sections 92.53 and 92.54, F.S., authorize a court to enter a protective order after a motion and hearing in camera² if the court finds that the protected individual is a victim or witness who is under the age of 16 or has an intellectual disability,³ and that:

- It is substantially likely the protected individual would suffer at least moderate emotional or mental harm due to the presence of the defendant if the protected individual were required to testify in open court; or

¹ See, e.g., FLA. CONST. art. I, s. 16; ss. 92.53-55, F.S.; s. 914.25, F.S.; s. 914.27.

² A hearing “in camera” means the hearing is held in the judge’s chambers or held in a courtroom where all spectators are excluded from being present. DUHAIME’S LAW DICTIONARY, *In Camera Definition*, <http://www.duhaime.org/LegalDictionary/I/InCamera.aspx> (last visited Jan. 14, 2016).

³ Under the procedure provided in s. 92.53, F.S., “intellectual disability” means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which manifests before the age of 18 and can reasonably be expected to continue indefinitely. s. 393.063, F.S.

- The court determines that the protected individual is unavailable⁴ to testify.

When the above circumstances are met, the court has several options. The court may order the protected individual's testimony be videotaped and used in lieu of testimony in open court.⁵ In the event of such an order, the defendant and the defendant's counsel must be permitted to be present at any videotaping, but the court may order the defendant to view the testimony from outside the presence of the protected individual.⁶ Alternatively, the court may require that the protected individual's testimony be taken outside the courtroom and shown in the courtroom by means of closed circuit television.⁷ Only the specified parties⁸ may be permitted in the room when the testimony is recorded.⁹ The judge may require the defendant to view the testimony from the courtroom, but must permit the defendant to observe and hear the person's testimony.¹⁰

Section 92.55, F.S., authorizes the court to enter a wide variety of protective orders to protect victims and witnesses under 16 years of age, sexual offense¹¹ victims or witnesses under 16 years of age,¹² and persons with an intellectual disability.¹³ A motion for protection can be raised by any party to the case, a parent, a guardian, an attorney, a guardian ad litem, or the court.¹⁴ The court is required to consider a lengthy list of factors, including, but not limited to the age of the person, the nature of the offense, and the functional capacity of the person if he or she has an intellectual disability.¹⁵

The court may enter orders taking the following actions, in addition to any other relief available under the law:

- Limit the number of times that the person may be interviewed;
- Prohibit depositions of the person;
- Require the submission of questions prior to examination of the person;
- Set the place and conditions for interviewing the person or for other proceedings;
- Permit or prohibit the attendance of any person at a proceeding; and

⁴ A witness or potential witness is considered unavailable to testify when he or she: 1) Is exempted from testifying by a ruling of a court due to a legal privilege; 2) Refuses to testify concerning the subject matter of his or her statement despite a court order to testify; 3) Has suffered a lack of memory of the subject matter of his or her statement; 4) Is unable to be present or to testify at the hearing because of death, illness or infirmity; or 5) Is absent from the hearing, and the proponent of a statement has been unable to procure the declarant's attendance by reasonable means. s. 90.804(1), F.S.

⁵ Section 92.53(1), F.S.

⁶ Section 92.53(4), F.S.

⁷ Section 92.54(1), F.S.

⁸ Only the judge, prosecutor, the defendant and his or her attorney, any video equipment operators, and interpreter, or any other person who is not going to be a witness in the case and, in the opinion of the court, benefits the well-being of the protected individual. s. 92.54(3), F.S.

⁹ Section 92.54(3), F.S.

¹⁰ Section 92.54(4), F.S.

¹¹ "Sexual offense" means any offense specified in s. 775.21(4)(a)1., F.S. (Sexual Predator criteria), or s. 943.0435(1)(a)1.a.(I), F.S. (Sexual Offender criteria).

¹² A "sexual offense victim or witness" means a person who was under 16 years old when he or she was the victim of or a witness to a sexual offense. s. 92.55(1)(a), F.S.

¹³ Section 92.55(1)(b), F.S.

¹⁴ Section 92.55(2), F.S.

¹⁵ Section 92.55(3), F.S.

- Permit the use of a service animal during the person's testimony in any sexual offense proceeding.¹⁶

III. Effect of Proposed Changes:

The bill amends s. 92.53 F.S., and s. 92.54, F.S., to authorize the trial court to order the videotaping or the closed circuit testimony of victims of sexual battery.

The bill amends the definition of "sexual offense victim or witness" in s. 92.55, F.S., to eliminate the 16 year old cut-off age for eligibility for court protective orders.

The bill becomes effective on July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

To the extent to which the court orders the videotape and closed circuit television authorized in the bill, there may be additional costs incurred by the court.

VI. Technical Deficiencies:

None.

¹⁶ Section 92.55(4) and (5), F.S.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 92.53, 92.54, and 92.55.

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

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

None.

B. Amendments:

None.

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

By Senator Benacquisto

30-00590-16

2016634__

1 A bill to be entitled
 2 An act relating to sexual offense victim or witness
 3 testimony; amending s. 92.53, F.S.; authorizing a
 4 trial court to order the videotaping of the testimony
 5 of a victim of sexual battery under certain
 6 circumstances; expanding who may stipulate that the
 7 requirement for the presence of the judge at the
 8 videotaping of testimony may be waived; amending s.
 9 92.54, F.S.; authorizing a trial court to order the
 10 use of closed circuit television in proceedings
 11 involving a victim of sexual battery under certain
 12 circumstances; permitting certain persons to be
 13 present in the room during the recording of testimony;
 14 amending s. 92.55, F.S.; redefining the term "sexual
 15 offense victim or witness"; conforming provisions to
 16 changes made by the act; providing an effective date.
 17
 18 Be It Enacted by the Legislature of the State of Florida:
 19
 20 Section 1. Section 92.53, Florida Statutes, is amended to
 21 read:
 22 92.53 Videotaping the testimony of a victim of sexual
 23 battery, a victim or witness under age 16, or a victim or
 24 witness who has an intellectual disability.—
 25 (1) On motion and hearing in camera and a finding that
 26 there is a substantial likelihood that a victim of sexual
 27 battery or a victim or witness who is under the age of 16 or who
 28 has an intellectual disability as defined in s. 393.063 would
 29 suffer at least moderate emotional or mental harm due to the

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30-00590-16

2016634__

30 presence of the defendant if such victim or witness is required
 31 to testify in open court, or is unavailable as defined in s.
 32 90.804(1), the trial court may order the videotaping of the
 33 testimony of the victim or witness in a case, whether civil or
 34 criminal in nature, in which videotaped testimony is to be used
 35 at trial in lieu of trial testimony in open court.
 36 (2) The motion may be filed by:
 37 (a) The victim or witness, or the victim's or witness's
 38 attorney, parent, legal guardian, or guardian ad litem;
 39 (b) A trial judge on his or her own motion;
 40 (c) Any party in a civil proceeding; or
 41 (d) The prosecuting attorney or the defendant, or the
 42 defendant's counsel.
 43 (3) The judge shall preside, or shall appoint a special
 44 master to preside, at the videotaping unless:
 45 (a) The child or the person who has the intellectual
 46 disability is represented by a guardian ad litem or counsel;
 47 (b) The victim or a representative of the victim or witness
 48 and the counsel for each party stipulate that the requirement
 49 for the presence of the judge or special master may be waived;
 50 and
 51 (c) The court finds at a hearing on the motion that the
 52 presence of a judge or special master is not necessary to
 53 protect the victim or witness.
 54 (4) The defendant and the defendant's counsel must be
 55 present at the videotaping unless the defendant has waived this
 56 right. The court may require the defendant to view the testimony
 57 from outside the presence of the victim of sexual battery, the
 58 child, or the person who has an intellectual disability by means

Page 2 of 6

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30-00590-16

2016634

of a two-way mirror or another similar method that ensures that the defendant can observe and hear the testimony of the victim or witness in person, but the victim or witness cannot hear or see the defendant. The defendant and the attorney for the defendant may communicate by any appropriate private method.

(5) Any party, or the court on its own motion, may request the aid of an interpreter, as provided in s. 90.606, to aid the parties in formulating methods of questioning the child or person who has the intellectual disability and in interpreting the answers of the child or person during proceedings conducted under this section.

(6) The motion referred to in subsection (1) may be made at any time with reasonable notice to each party to the cause, and videotaping of testimony may be made any time after the court grants the motion. The videotaped testimony is admissible as evidence in the trial of the cause; however, such testimony is not admissible in any trial or proceeding in which such witness testifies by use of closed circuit television pursuant to s. 92.54.

(7) The court shall make specific findings of fact, on the record, as to the basis for its ruling under this section.

Section 2. Section 92.54, Florida Statutes, is amended to read:

92.54 Use of closed circuit television in proceedings involving a victim of sexual battery, a victim or witness under the age of 16, or a victim or witness who has an intellectual disability.—

(1) Upon motion and hearing in camera and upon a finding that there is a substantial likelihood that a victim of sexual

30-00590-16

2016634

battery, a victim or witness under the age of 16, or a victim or witness who has an intellectual disability will suffer at least moderate emotional or mental harm due to the presence of the defendant if such victim or witness is required to testify in open court, or is unavailable as defined in s. 90.804(1), the trial court may order that the testimony of the victim or witness be taken outside of the courtroom and shown by means of closed circuit television.

(2) The motion may be filed by the victim or witness; the attorney, parent, legal guardian, or guardian ad litem of the victim or witness; the prosecutor; the defendant or the defendant's counsel; or the trial judge on his or her own motion.

(3) Only the judge, the prosecutor, the defendant, the attorney for the defendant, the operators of the videotape equipment, an interpreter, and some other person who, in the opinion of the court, contributes to the well-being of the victim, the child, or the person who has an intellectual disability and who will not be a witness in the case may be in the room during the recording of the testimony.

(4) During the victim's or witness's testimony by closed circuit television, the court may require the defendant to view the testimony from the courtroom. In such a case, the court shall permit the defendant to observe and hear the testimony of the victim or witness, but must ensure that the victim or witness cannot hear or see the defendant. The defendant's right to assistance of counsel, which includes the right to immediate and direct communication with counsel conducting cross-examination, must be protected and, upon the defendant's

30-00590-16

2016634__

request, such communication must be provided by any appropriate electronic method.

(5) The court shall make specific findings of fact, on the record, as to the basis for its ruling under this section.

Section 3. Subsections (1) and (3) of section 92.55, Florida Statutes, are amended to read:

92.55 Judicial or other proceedings involving a victim or witness under the age of 16, a person who has an intellectual disability, or a sexual offense victim of any age or a witness to a sexual offense; special protections; use of registered service or therapy animals.—

(1) For purposes of this section, the term:

(a) "Sexual offense victim or witness" means a person who was ~~under the age of 16 when he or she was~~ the victim of or a witness to a sexual offense.

(b) "Sexual offense" means any offense specified in s. 775.21(4)(a)1. or s. 943.0435(1)(a)1.a.(I).

(3) In ruling upon the motion, the court shall consider:

(a) The age of the victim or witness ~~child~~, the nature of the offense or act, the relationship of the victim or witness ~~child~~ to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the victim or witness ~~child~~ as a consequence of the defendant's presence, and any other fact that the court deems relevant;

(b) The age of the person who has an intellectual disability, the functional capacity of such person, the nature of the offenses or act, the relationship of the person to the parties in the case or to the defendant in a criminal action,

30-00590-16

2016634__

the degree of emotional trauma that will result to the person as a consequence of the defendant's presence, and any other fact that the court deems relevant; or

(c) The age of the sexual offense victim or witness when the sexual offense occurred, the relationship of the sexual offense victim or witness to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the sexual offense victim or witness as a consequence of the defendant's presence, and any other fact that the court deems relevant.

Section 4. This act shall take effect July 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Banking and Insurance, *Chair*
Appropriations, *Vice Chair*
Appropriations Subcommittee on Health
and Human Services
Education Pre-K-12
Higher Education
Judiciary
Rules

SENATOR LIZBETH BENACQUISTO

30th District

JOINT COMMITTEE:

Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

November 4, 2015



The Honorable Greg Evers
Senate Criminal Justice, Chair
308 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 634- Sexual Offense Victim or Witness Testimony

Dear Mr. Chair:

Please allow this letter to serve as my respectful request to agenda SB 634, Relating to Sexual Offense Victim or Witness Testimony, for a public hearing at your earliest convenience.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in cursive script, reading "Lizbeth Benacquisto".

Lizbeth Benacquisto
Senate District 30

Cc: Amanda Cannon

REPLY TO:

- ☐ 2310 First Street, Suite 305, Fort Myers, Florida 33901 (239) 338-2570
- ☐ 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5030

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16

Meeting Date

634

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Greg Pound

Job Title _____

Address 9166 Sunrise Dr.

Phone _____

Street

Largo Fla. 33773

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Saving Families

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

This form is part of the public record for this meeting

S 001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16

Meeting Date

634

Bill Number (if applicable)

Topic Sexual offense victim or witness testimony Amendment Barcode (if applicable)

Name Jennifer Drith

Job Title Executive Director

Address 1820 B. Park Ave Ste 100

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-297-2000

Email janith@causm.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL Council Against Sexual Violence

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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CS-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16

Meeting Date

634

Bill Number (if applicable)

Topic Sexual offense victim or witness Testimony

Amendment Barcode (if applicable)

Name Theresa Prichard

Job Title Director of Advocacy

Address 1820 E. Park Ave Ste 100

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-297-2000

Email tprichard@fcasv.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Council Against Sexual Violence

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

This form is part of the public record for this meeting

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/2016

Meeting Date

634

Bill Number (if applicable)

Topic Victim or Witness Testimony

Amendment Barcode (if applicable)

Name Blair Payne

Job Title Public Defender, 3rd Circuit

Address 173 N.E. Hernando Avenue, Suite 115

Phone 386.362.7235

Street

Lake City

Florida

32055

Email mbp@pd3.coj.net

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

This form is part of the public record for this meeting

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 700

INTRODUCER: Senator Soto

SUBJECT: Public Records/Juvenile Criminal History Information

DATE: January 29, 2016

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Dugger	Cannon	CJ	Favorable
2. _____	_____	ACJ	_____
3. _____	_____	FP	_____

I. Summary:

SB 700 addresses the inconsistencies that exist between s. 985.04(1), F.S. (making the majority of juvenile records confidential), and s. 943.053, F.S. (allowing a juvenile's criminal history information to be disseminated in the same manner as that of an adult), by:

- Making the records of juveniles who have been found to have committed three or more misdemeanors confidential and exempt (currently they are not);
- Ensuring that the list of juvenile records that are not confidential and exempt under s. 985.04(2), F.S., is identical to the list of juvenile records deemed to be not confidential and exempt under s. 943.053, F.S.;
- Requiring the Florida Department of Law Enforcement (FDLE) to release juvenile criminal history records in a manner that takes into account the records' confidential and exempt status; and
- Specifying how FDLE must release juvenile criminal history records.

The bill expands existing public record exemptions and repeals them on October 2, 2021, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

The bill requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage since it expands public records exemptions.

II. Present Situation:

Public Records Laws

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or

employee of the state, or of persons acting on their behalf.¹ The records of the legislative, executive, and judicial branches are specifically included.²

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act³ guarantees every person's right to inspect and copy any state or local government public record⁴ at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁵

Only the Legislature may create an exemption to public records requirements.⁶ Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption.⁷ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions⁸ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.⁹

The Open Government Sunset Review Act¹⁰ requires a newly created or expanded public records exemption to be repealed on October 2 of the fifth year after enactment, unless reviewed and reenacted by the Legislature.¹¹ It further provides that a public records exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet the public purpose it serves.¹²

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Chapter 119, F.S.

⁴ Section 119.011(12), F.S., defines "public records" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records (*see Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992)).

⁵ Section 119.07(1)(a), F.S.

⁶ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and* exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances (*see WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption (*see Attorney General Opinion* 85-62, August 1, 1985).

⁷ FLA. CONST., art. I, s. 24(c).

⁸ The bill may, however, contain multiple exemptions that relate to one subject.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ Section 119.15, F.S.

¹¹ Section 119.15(3), F.S.

¹² Section 119.15(5)(b), F.S.

Confidential Information of Juveniles

Section 985.04(1), F.S., provides that all records obtained under ch. 985, F.S., resulting from a juvenile's involvement in the juvenile justice system are confidential. There are several exceptions to this general provision of confidentiality. For example, s. 985.04(2), F.S., provides in part, that the name, photograph, address, and crime or arrest report of certain juveniles is not confidential and exempt from s. 119.07(1), F.S., solely because of the juvenile's age, if the juvenile is:

- Taken into custody by a law enforcement officer for a violation of law which, if committed by an adult, would be a felony;
- Found by a court to have committed three or more violations of law which, if committed by an adult, would be misdemeanors;
- Transferred to the adult system by indictment, judicial waiver, or direct file;
- Taken into custody by a law enforcement officer for a violation of law subject to mandatory direct file under s. 985.557(2)(b) or (d), F.S.; or
- Transferred to the adult system but sentenced to the juvenile system under s. 985.565, F.S.

Criminal Justice Information Program

Section 943.05, F.S., creates the Criminal Justice Information Program (CJIP) within FDLE to act as the state's central criminal justice information¹³ repository. Law enforcement agencies, clerks of the court, the Department of Corrections (DOC), and the Department of Juvenile Justice (DJJ) are required to submit specified information on offenders they have had contact with for inclusion in CJIP.¹⁴ This information can then be transmitted between criminal justice agencies.¹⁵

Currently, s. 943.051, F.S., requires state, county, municipal, or other law enforcement agencies to capture and electronically submit to FDLE the fingerprints, palm prints, and facial images of:

- Each adult person charged with or convicted of a felony, misdemeanor, or violation of a comparable ordinance;
- A juvenile who is charged with or found to have committed an offense, which would be a felony if committed by an adult; or
- A minor who is charged with or found to have committed an enumerated offense, unless the minor is issued a civil citation pursuant to s. 985.12, F.S.

¹³ Section 943.045(12), F.S., provides "criminal justice information" means information on individuals collected or disseminated as a result of arrest, detention, or the initiation of a criminal proceeding by criminal justice agencies, including arrest record information, correctional and release information, criminal history record information, conviction record information, offender registration information, identification record information, and wanted persons record information. The term does not include statistical or analytical records or reports in which individuals are not identified and from which their identities are not ascertainable. The term does not include criminal intelligence information or criminal investigative information.

¹⁴ Section 943.052, F.S.

¹⁵ Section 985.051, F.S.

Dissemination of Criminal History Information under Chapter 943, F.S.

Criminal history information¹⁶ compiled by CJIP may be released to criminal justice agencies, noncriminal justice agencies, and the private sector upon request in accordance with s. 943.053, F.S. Criminal justice agencies are provided criminal history information free of charge on a priority basis.¹⁷ With some exceptions, noncriminal justice agencies and persons in the private sector are charged \$24 dollars per name submitted.¹⁸

Currently, s. 943.053, F.S., allows a juvenile's criminal history information to be disseminated in the same manner as that of an adult.¹⁹ Additionally, the statute is silent as to the release of a juvenile's information which has been made confidential pursuant to s. 985.04, F.S.

G.G. v. FDLE

In *G.G. v. FDLE*,²⁰ a juvenile with no prior criminal history record was arrested for petit theft – a first degree misdemeanor. Several weeks after the arrest, G.G.'s attorney received G.G.'s criminal history information from FDLE, and discovered that it included information relating to the petit theft arrest.²¹ G.G. filed suit, claiming that the petit theft information should be confidential and exempt under s. 985.04(1), F.S.²² The trial court disagreed, holding that s. 943.053(3), F.S., creates an exception to confidentiality established for juvenile criminal history records in s. 985.04(1), F.S.²³

On appeal, the First District Court of Appeal reversed the trial court's decision and held that FDLE's authority to disseminate criminal justice information under s. 943.053(3), F.S., is expressly limited by s. 985.04, F.S., which, with very few exceptions, makes juvenile records confidential.²⁴

FDLE – Release of Juvenile Information since G.G.

As noted above, s. 985.04(1), F.S., makes the majority of juvenile records confidential. However, s. 985.04(2), F.S., creates exceptions for records if the juvenile is:

- Taken into custody for a violation of law which, if committed by an adult, would be a felony;
- Found by a court to have committed three or more violations of law which, if committed by an adult, would be misdemeanors; or

¹⁶ Section 943.045(5), F.S., defines "criminal history information" as information collected by criminal justice agencies on persons, which information consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges and the disposition thereof. The term does not include identification information, such as biometric records, if the information does not indicate involvement of the person in the criminal justice system.

¹⁷ Section 943.053(3)(a), F.S.

¹⁸ Section 943.053(30)(b), F.S. The guardian ad litem program; vendors of the Department of Children and Families, DJJ, and the Department of Elderly Affairs; the Department of Agriculture and Consumer Services; and other qualified entities are charged a lesser amount.

¹⁹ Section 943.053(3)(a), F.S.

²⁰ 97 So. 3d 268 (Fla. 1st DCA 2012).

²¹ *Id.* at 269.

²² *Id.*

²³ *Id.*

²⁴ *Id.* at 273.

- Transferred to the adult system.

In an effort to comply with the ruling in *G.G. v. FDLE*, the FDLE is ensuring that only the above-described records are released. However, because of programming limitations²⁵ and incomplete reporting of juvenile disposition information,²⁶ FDLE reports that they are unable to accurately and fairly assess whether a juvenile has been found by a court to have committed three or more misdemeanors.²⁷ As such, FDLE is currently only releasing the following juvenile records to private entities and non-criminal justice agencies:

- Taken into custody or charged with a crime that would be a felony if committed by an adult; and
- Treated as adults.²⁸

III. Effect of Proposed Changes:

The bill addresses the inconsistencies that exist between s. 985.04(1), F.S. (making the majority of juvenile records confidential), and s. 943.053, F.S. (allowing a juvenile's criminal history information to be disseminated in the same manner as that of an adult), by:

- Ensuring that the specified juvenile records deemed to be not confidential and exempt under s. 943.053, F.S., are identical to the juvenile records deemed to be not confidential and exempt under s. 985.04, F.S.; and
- Requiring FDLE to release juvenile criminal history records in a manner that takes into account the records' confidential and exempt status.

Section 985.04, F.S.

The bill amends s. 985.04(1), F.S., clarifying that juvenile records obtained under ch. 985, F.S., are confidential and exempt (rather than just confidential).²⁹

The bill also amends s. 985.04(2), F.S., to specify that the following juvenile records are not confidential and exempt:

- Records where a juvenile has been taken into custody by a law enforcement officer for a violation of law which, if committed by an adult, would be a felony;

²⁵ FDLE cites that there would be extensive programming changes required to ensure that the records of juveniles found to have committed three or more misdemeanors were available for dissemination. Florida Department of Law Enforcement, *2016 Bill Analysis for SB 700* (November 3, 2015) (on file with the Senate Criminal Justice Committee).

²⁶ Disposition, or charge outcome, reporting for juvenile arrests was not legislatively mandated until July 1, 2008. This has resulted in much lower arrest-disposition reporting rates for juveniles. (The juvenile reporting rate for all arrests is currently 48.5%, while the adult rate is 72.2%.) *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. See 85-62 Fla. Op. Att'y Gen. (August 1, 1985).

- Records where a juvenile has been charged with a violation of law which, if committed by an adult, would be a felony;
- Records where a juvenile has been found to have committed an offense which, if committed by an adult, would be a felony; or
- Records where a juvenile has been transferred to adult court pursuant to part X of ch. 985, F.S.

Notably, the bill removes language specifying that the records of juveniles who have been found to have committed three or more misdemeanor violations are not confidential and exempt. These records will now be confidential and exempt.

Section 943.053, F.S.

The bill amends s. 943.053, F.S., so that the list of juvenile records deemed to be not confidential and exempt under s. 985.04(2), F.S., will be identical to the list of juvenile records deemed to be not confidential and exempt under s. 943.053, F.S. Because the language regarding three or more misdemeanors is not included on the list, FDLE will no longer be tasked with determining whether the juvenile had three or more misdemeanors before releasing such records to the private sector and noncriminal justice agencies.

The bill further amends s. 943.053, F.S., establishing a separate process for the dissemination of juvenile criminal history information. Under this process, juvenile criminal history information, including the information that is made confidential and exempt, is available to:

- A criminal justice agency for criminal justice purposes on a priority basis and free of charge;
- The person to whom the record relates or his or her attorney;
- The parent, guardian, or legal custodian of the person to whom the record relates, provided such person has not reached the age of majority, been emancipated by a court, or been legally married; or
- An agency or entity specified in ss. 943.0585(4) or 943.059(4), F.S.,³⁰ for the purposes specified therein, and to any person within such agency or entity who has direct responsibility for employment, access authorization, or licensure decisions.

Juvenile criminal history information that is not confidential and exempt may be released to the private sector and noncriminal justice agencies upon tender of fees and in the same manner that criminal history information relating to adults is released.

The bill provides that juvenile records deemed confidential and exempt under the provisions of s. 943.053, F.S., which are released by the sheriff, DOC, or DJJ to private entities under contract with each entity retain their confidential status upon release to these private entities.

The bill repeals all new public records exemptions provided for in the bill on October 2, 2021, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.³¹

³⁰ These sections require persons who are seeking employment with specified agencies (e.g., in part, DCF, Department of Health, and DJJ) to acknowledge their criminal history record, even if such record has been sealed or expunged.

³¹ FLA. CONST. art. I, s. 24(c).

Lastly, the bill makes conforming changes to ss. 496.4101 and 943.056, F.S., to reflect changes made in the act.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the Florida Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill expands a public record exemption limited to certain criminal history information of juveniles.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may result in a positive economic benefit to juveniles with misdemeanor records who are seeking employment as these records will no longer be released to the public.

C. Government Sector Impact:

According to the FDLE, there should be no fiscal impact upon the department if the requirements of the bill are implemented as part of the ongoing Computerized Criminal History (CCH) system update/replacement project. This project is in the process of being implemented by the department and is expected to be fully funded by the Legislature and completed by the end of FY 2017-18. (If the bill is implemented in the current CCH system before the system is updated, it will cost the department \$100,000.)³²

VI. Technical Deficiencies:

None.

VII. Related Issues:

The FDLE recommends that the bill's effective date be changed to July 2018 because that is when the CCH system replacement project will be completed and the bill's requirements can be fully implemented without the department incurring additional costs.³³

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 985.04 and 943.053.

This bill makes conforming and technical changes to the following sections of the Florida Statutes: 496.4101 and 943.056.

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

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

None.

B. Amendments:

None.

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

³² Florida Department of Law Enforcement, *2016 Bill Analysis for SB 700* (November 3, 2015), and Email from Bobbie Baggett, Legislative Analyst, Office of External Affairs, Florida Department of Law Enforcement, (January 27, 2016) (on file with the Senate Criminal Justice Committee).

³³ Email from Bobbie Baggett, Legislative Analyst, Office of External Affairs, Florida Department of Law Enforcement, (January 27, 2016) (on file with the Senate Criminal Justice Committee).

By Senator Soto

14-00618A-16

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A bill to be entitled

An act relating to public records; amending s. 985.04, F.S.; specifying that certain confidential information obtained under chapter 985, F.S., relating to juvenile justice, is exempt from public records requirements; providing applicability; revising applicability of public records requirements with respect to the arrest records of certain juvenile offenders; providing for future review and repeal of such applicability provisions; amending s. 943.053, F.S.; providing an exemption from public records requirements for juvenile information compiled by the Criminal Justice Information Program from intrastate sources; providing exceptions; providing for future review and repeal of the exemption; providing for release by the Department of Law Enforcement of the criminal history information of a juvenile which has been deemed confidential and exempt under certain circumstances; amending ss. 496.4101 and 943.056, F.S.; conforming provisions to changes made by the act; providing a statement of public necessity; providing an effective date.

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

Section 1. Subsections (1) and (2) of section 985.04, Florida Statutes, are amended to read:

985.04 Oaths; records; confidential information.—

(1) (a) Except as provided in subsections (2), (3), (6), and (7) and s. 943.053, all information obtained under this chapter

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in the discharge of official duty by any judge, any employee of the court, any authorized agent of the department, the Florida Commission on Offender Review, the Department of Corrections, the juvenile justice circuit boards, any law enforcement agent, or any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to information obtained before, on, or after the effective date of this exemption.

(b) Such confidential and exempt information ~~and~~ may be disclosed only to the authorized personnel of the court, the department and its designees, the Department of Corrections, the Florida Commission on Offender Review, law enforcement agents, school superintendents and their designees, any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile, and others entitled under this chapter to receive that information, or upon order of the court.

(c) Within each county, the sheriff, the chiefs of police, the district school superintendent, and the department shall enter into an interagency agreement for the purpose of sharing information about juvenile offenders among all parties. The agreement must specify the conditions under which summary criminal history information is to be made available to appropriate school personnel, and the conditions under which school records are to be made available to appropriate department personnel. Such agreement shall require notification to any classroom teacher of assignment to the teacher's

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

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classroom of a juvenile who has been placed in a probation or commitment program for a felony offense. The agencies entering into such agreement must comply with s. 943.0525, and must maintain the confidentiality of information that is otherwise exempt from s. 119.07(1), as provided by law.

(2) (a) Notwithstanding any other provisions of this chapter, the name, photograph, address, and crime or arrest report of a child:

1. (a) Taken into custody if the child has been taken into custody by a law enforcement officer for a violation of law which, if committed by an adult, would be a felony;

2. Charged with a violation of law which, if committed by an adult, would be a felony;

3. Found to have committed an offense which, if committed by an adult, would be a felony; or

4. Transferred to adult court pursuant to part X of this chapter,

~~(b) Found by a court to have committed three or more violations of law which, if committed by an adult, would be misdemeanors;~~

~~(c) Transferred to the adult system under s. 985.557, indicted under s. 985.56, or waived under s. 985.556;~~

~~(d) Taken into custody by a law enforcement officer for a violation of law subject to s. 985.557(2)(b) or (d); or~~

~~(e) Transferred to the adult system but sentenced to the juvenile system under s. 985.565~~

are shall not be considered confidential and exempt from s. 119.07(1) solely because of the child's age.

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(b) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. Subsections (3), (8), (9), and (10) of section 943.053, Florida Statutes, are amended to read:

943.053 Dissemination of criminal justice information; fees.—

(3) (a) Criminal history information, ~~including information relating to an adult minors~~, compiled by the Criminal Justice Information Program from intrastate sources shall be available on a priority basis to criminal justice agencies for criminal justice purposes free of charge. After providing the program with all known personal identifying information, persons in the private sector and noncriminal justice agencies may be provided criminal history information upon tender of fees as established in this subsection and in the manner prescribed by rule of the Department of Law Enforcement. ~~Any access to criminal history information by the private sector or noncriminal justice agencies as provided in this subsection shall be assessed without regard to the quantity or category of criminal history record information requested.~~

(b) 1. Criminal history information relating to a juvenile compiled by the Criminal Justice Information Program from intrastate sources shall be released as provided in this section. Such information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, unless such juvenile has been:

a. Taken into custody by a law enforcement officer for a

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117 violation of law which, if committed by an adult, would be a
 118 felony;
 119 b. Charged with a violation of law which, if committed by
 120 an adult, would be a felony;
 121 c. Found to have committed an offense which, if committed
 122 by an adult, would be a felony; or
 123 d. Transferred to adult court pursuant to part X of chapter
 124 985,
 125
 126 and provided the criminal history record has not been expunged
 127 or sealed under any law applicable to such record.
 128 2. This paragraph is subject to the Open Government Sunset
 129 Review Act in accordance with s. 119.15 and shall stand repealed
 130 on October 2, 2021, unless reviewed and saved from repeal
 131 through reenactment by the Legislature.
 132 (c)1. Criminal history information relating to juveniles,
 133 including criminal history information consisting in whole or in
 134 part of information that is confidential and exempt under
 135 paragraph (b), shall be available to:
 136 a. A criminal justice agency for criminal justice purposes
 137 on a priority basis and free of charge;
 138 b. The person to whom the record relates, or his or her
 139 attorney;
 140 c. The parent, guardian, or legal custodian of the person
 141 to whom the record relates, provided such person has not reached
 142 the age of majority, been emancipated by a court, or been
 143 legally married; or
 144 d. An agency or entity specified in s. 943.0585(4) or s.
 145 943.059(4), for the purposes specified therein, and to any

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146 person within such agency or entity who has direct
 147 responsibility for employment, access authorization, or
 148 licensure decisions.
 149 2. After providing the program with all known personal
 150 identifying information, the criminal history information
 151 relating to a juvenile which is not confidential and exempt
 152 under this subsection may be released to the private sector and
 153 noncriminal justice agencies not specified in s. 943.0585(4) or
 154 s. 943.059(4) in the same manner as provided in paragraph (a).
 155 Criminal history information relating to a juvenile which is not
 156 confidential and exempt under this subsection is the entire
 157 criminal history information relating to a juvenile who
 158 satisfies any of the criteria listed in sub-subparagraphs
 159 (b)1.a. through (b)1.d., except for any portion of such
 160 juvenile's criminal history record which has been expunged or
 161 sealed under any law applicable to such record.
 162 3. All criminal history information relating to juveniles,
 163 other than that provided to criminal justice agencies for
 164 criminal justice purposes, shall be provided upon tender of fees
 165 as established in this subsection and in the manner prescribed
 166 by rule of the Department of Law Enforcement.
 167 (d) The fee for access to criminal history information by
 168 the private sector or a noncriminal justice agency shall be
 169 assessed without regard to the size or category of criminal
 170 history record information requested.
 171 (e) ~~(b)~~ The fee per record for criminal history information
 172 provided pursuant to this subsection and s. 943.0542 is \$24 per
 173 name submitted, except that the fee for the guardian ad litem
 174 program and vendors of the Department of Children and Families,

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the Department of Juvenile Justice, and the Department of Elderly Affairs shall be \$8 for each name submitted; the fee for a state criminal history provided for application processing as required by law to be performed by the Department of Agriculture and Consumer Services shall be \$15 for each name submitted; and the fee for requests under s. 943.0542, which implements the National Child Protection Act, shall be \$18 for each volunteer name submitted. The state offices of the Public Defender shall not be assessed a fee for Florida criminal history information or wanted person information.

(8) Notwithstanding ~~the provisions of~~ s. 943.0525, and any user agreements adopted pursuant thereto, and notwithstanding the confidentiality of sealed records as provided for in s. 943.059 and juvenile records as provided for in paragraph (3)(b), the sheriff of any county that has contracted with a private entity to operate a county detention facility pursuant to ~~the provisions of~~ s. 951.062 shall provide that private entity, in a timely manner, copies of the Florida criminal history records for its inmates. The sheriff may assess a charge for the Florida criminal history records pursuant to ~~the provisions of~~ chapter 119. Sealed records and confidential juvenile records received by the private entity under this section remain confidential and exempt from ~~the provisions of~~ s. 119.07(1).

(9) Notwithstanding ~~the provisions of~~ s. 943.0525, and any user agreements adopted pursuant thereto, and notwithstanding the confidentiality of sealed records as provided for in s. 943.059 and juvenile records as provided for in paragraph (3)(b), the Department of Corrections shall provide, in a timely

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manner, copies of the Florida criminal history records for inmates housed in a private state correctional facility to the private entity under contract to operate the facility pursuant to ~~the provisions of~~ s. 944.105. The department may assess a charge for the Florida criminal history records pursuant to ~~the provisions of~~ chapter 119. Sealed records and confidential juvenile records received by the private entity under this section remain confidential and exempt from ~~the provisions of~~ s. 119.07(1).

(10) Notwithstanding ~~the provisions of~~ s. 943.0525 and any user agreements adopted pursuant thereto, and notwithstanding the confidentiality of sealed records as provided for in s. 943.059 or of juvenile records as provided for in paragraph (3)(b), the Department of Juvenile Justice or any other state or local criminal justice agency may provide copies of the Florida criminal history records for juvenile offenders currently or formerly detained or housed in a contracted juvenile assessment center or detention facility or serviced in a contracted treatment program and for employees or other individuals who will have access to these facilities, only to the entity under direct contract with the Department of Juvenile Justice to operate these facilities or programs pursuant to ~~the provisions of~~ s. 985.688. The criminal justice agency providing such data may assess a charge for the Florida criminal history records pursuant to ~~the provisions of~~ chapter 119. Sealed records and confidential juvenile records received by the private entity under this section remain confidential and exempt from ~~the provisions of~~ s. 119.07(1). Information provided under this section shall be used only for the criminal justice purpose for

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which it was requested and may not be further disseminated.

Section 3. Paragraph (b) of subsection (3) of section 496.4101, Florida Statutes, is amended to read:

496.4101 Licensure of professional solicitors and certain employees thereof.—

(3)

(b) Fees for state and federal fingerprint processing and fingerprint retention fees shall be borne by the applicant. The state cost for fingerprint processing is that authorized in s. 943.053(3) (e) ~~943.053(3) (b)~~ for records provided to persons or entities other than those specified as exceptions therein.

Section 4. Subsection (1) of section 943.056, Florida Statutes, is amended to read:

943.056 Criminal history records; access, review, and challenge.—

(1) For purposes of verification of the accuracy and completeness of a criminal history record, the Department of Law Enforcement shall provide, in the manner prescribed by rule, such record for review upon verification, by fingerprints, of the identity of the requesting person. If a minor, or the parent or legal guardian of a minor, requests a copy of the minor's criminal history record, the Department of Law Enforcement shall provide such copy, including any portions of the record which may be confidential under s. 943.053(3) (b), for review upon verification, by fingerprints, of the identity of the minor. The providing of such record shall not require the payment of any fees, except those provided for by federal regulations.

Section 5. The Legislature finds that it is a public necessity that the criminal history information of juveniles,

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who have not been adjudicated delinquent of a felony or who have been found only to have committed misdemeanor offenses and certain criminal history information relating to a juvenile compiled by the Criminal Justice Information Program be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution under ss. 985.04 and 943.053, Florida Statutes. Many individuals who have either completed their sanctions and received treatment or who were never charged in the juvenile justice system have found it difficult to obtain employment. The presence of an arrest or a misdemeanor record in these individuals' juvenile past and certain criminal history information relating to a juvenile compiled by the Criminal Justice Information Program creates an unnecessary barrier to becoming productive members of society, thus frustrating the rehabilitative purpose of the juvenile system. The Legislature therefore finds that it is in the best interest of the public that individuals with juvenile misdemeanor records are given the opportunity to become contributing members of society. Therefore, prohibiting the unfettered release of juvenile misdemeanor records and certain criminal history information relating to a juvenile compiled by the Criminal Justice Information Program is of greater importance than any public benefit that may be derived from the full disclosure and release of such arrest records and information.

Section 6. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Rules, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Environmental Preservation and Conservation
Finance and Tax
Judiciary

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DARREN SOTO

Minority Caucus Rules Chair
14th District

December 28, 2015

The Honorable Greg Evers
Committee on Criminal Justice
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Evers,

I respectfully request that Senate Bill 700, Public Records/Criminal History Information, be placed on the agenda as soon as possible. Senate Bill 700 specifies that certain confidential information relating to juvenile justice is exempt from public records requirements. This bill further revises the applicability of public record requirements to the arrest of juvenile offenders, as well as providing exceptions to the bill for specific juvenile records and agencies. The bill also provides for future dates of review and repeal of such applicability provisions.

Thank you for your consideration. Should you have any questions or concerns, please feel free to contact me at 850-487-5014.

Sincerely,

A handwritten signature in cursive script that reads "Darren M. Soto".

Darren M. Soto
State Senator, District 14

Cc: Amanda Cannon, Staff Director
Sue Arnold, Committee Administrative Assistant

REPLY TO:

- ☐ Kissimmee City Hall, 101 North Church Street, Suite 305, Kissimmee, Florida 34741 (407) 846-5187 FAX: (407) 846-5188
- ☐ 220 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-1-2016

Meeting Date

SB 700

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DAVID STEWARD

Job Title Legis Liaison

Address 2001 Mercy Drive
Street

Phone 407-645-0273

Orlando, FL 32808
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Christian Prison Ministry

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/2016

Meeting Date

SB700

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name

Cathy Craig-Myers

Job Title

Executive Director

Address

3333 W. Pensacola St.

Phone

850 671 3442

Street

Tallahassee

State

FL

Zip

Email

cathy@fjja.org

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

Florida Juvenile Justice Association

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

Feb 1st 2016
Meeting Date

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

700
Bill Number (if applicable)

Topic Confidentiality

Amendment Barcode (if applicable)

Name Colleen Mackin

Job Title Constituency Services

Address 1115 S. Magnolia DR #4

Phone 850 425-20

Tallahassee FL
City State Zip

Email cmackin@iamforkids.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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2.1.16

Meeting Date

SB 700

Bill Number (if applicable)

Topic Public Records - Juveniles

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Pres & CEO

Address 204 S. Monroe St., Ste. 201

Street

Tall

City

FL

State

32301

Zip

Phone 577-3032

Email barney@smart
justicealliance.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Fla. 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1

Meeting Date

700

Bill Number (if applicable)

Topic Juvenile Records

Amendment Barcode (if applicable)

Name Samantha Sexton

Job Title Dir. of Government Affairs

Address One W. Adam St., #301

Street

Jacksonville

City

FL

State

32202
32306

Zip

Phone 904-353-9403

Email Samantha.Sexton@pacecenter.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing PACE Center for Girls

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 004 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16

Meeting Date

700

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Greg Pound

Job Title _____

Address 9166 Sunrise Dr.

Phone _____

Street

Largo

City

Fla

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

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 714

INTRODUCER: Senator Joyner

SUBJECT: Theft

DATE: January 29, 2016

REVISED: _____

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

I. Summary:

SB 714 increases the property value threshold (from \$100 to \$600) for first degree petit theft and third degree grand theft of property from a dwelling. The bill also increases the property value threshold (from \$300 to \$1,000) for third degree grand theft and retail theft. As a result of these changes, the value of property stolen must be greater than under current law to charge third degree grand theft of property from a dwelling, third degree grand theft, and retail theft, which are all third degree felonies (maximum penalty of 5 years in prison).

The bill also increases the property value range (from “\$100 or more, but less than \$300” to “from \$600 or more, but less than \$1,000”) for first degree petit theft and third degree grand theft of property from a dwelling.

The bill also authorizes the issuance of a notice to appear in lieu of arrest for some retail theft offenders, and authorizes state attorneys to create a retail theft diversion program for retail theft offenders who meet the criteria for issuance of a notice to appear.

II. Present Situation:

Theft

Section 812.014, F.S., defines and categorizes thefts into misdemeanor or felony criminal violations. Whether a theft is a misdemeanor or a felony generally depends upon the value of the property taken by the defendant, the defendant’s history of theft convictions or, in some cases, the type of property taken. A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or

- Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.¹

Second degree petit theft, a second degree misdemeanor,² is theft of property valued at less than \$100.³ First degree petit theft, a first degree misdemeanor,⁴ is theft of property valued at \$100 or more but less than \$300.⁵ Petit theft incurs greater penalties if there is a prior theft conviction: a first degree misdemeanor if there is a prior conviction,⁶ and a third degree felony⁷ if there are two or more prior convictions.⁸

Third degree grand theft, a third degree felony, is: theft of property valued at \$300 or more but less than \$20,000; or theft of specified property (e.g., a firearm or fire extinguisher).⁹ Theft of property from a dwelling or its unenclosed curtilage is third degree grand theft, a third degree felony, if the property is valued at \$100 or more, but less than \$300.¹⁰

Second degree grand theft, a second degree felony,¹¹ is theft of:

- Property valued at \$20,000 or more but less than \$100,000;
- Cargo valued at less than \$50,000 in specified circumstances; or
- Emergency medical equipment or law enforcement equipment valued at \$300 or more in specified circumstances.¹²

First degree grand theft, a first degree felony,¹³ is:

- Theft of property valued at \$100,000 or more;
- Theft of a semitrailer deployed by a law enforcement officer;
- Theft of cargo valued at \$50,000 or more in specified circumstances; or

¹ Section 812.014(1), F.S.

² A second degree misdemeanor is punishable by up to 60 days in jail and a fine of up to \$500. Sections 775.082 and 775.083, F.S.

³ Section 812.014(3)(a), F.S.

⁴ A first degree misdemeanor is punishable by up to one year in jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

⁵ Section 812.014(2)(e), F.S.

⁶ Section 812.014(3)(b), F.S.

⁷ A third degree felony is punishable by up to 5 years in state prison and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S. However, if the third degree felony is not a forcible felony (excluding a third degree felony under ch. 810, F.S.) and total sentence points are 22 points or fewer, the court must sentence the offender to a nonstate prison sanction unless the court makes written findings that a nonstate prison sanction could present a danger to the public. Section 775.082(10), F.S.

⁸ Section 812.014(3)(c), F.S.

⁹ Section 812.014(2)(c), F.S.

¹⁰ Section 812.014(3)(d), F.S.

¹¹ A second degree felony is punishable by up to 15 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

¹² Section 812.014(2)(b), F.S. However, this theft is reclassified from a second degree felony to a first degree felony if the theft occurs within a county subject to a state of emergency declared by the Governor, is committed after the declaration is made, and is facilitated by conditions arising from the emergency. *Id.*

¹³ A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

- Grand theft and, in the course of committing the offense, a motor vehicle is used as specified or the offender causes damage to the real or personal property of another in excess of \$1,000.¹⁴

Retail Theft

Section 812.015(1)(d), F.S., defines retail theft as:

- The taking possession of or carrying away of merchandise, property, money, or negotiable documents;
- Altering or removing a label, universal product code, or price tag;
- Transferring merchandise from one container to another; or
- Removing a shopping cart, with intent to deprive the merchant of possession, use, benefit, or full retail value.

Theft defined as retail theft is punishable under s. 812.014, F.S., and like any other type of theft, must meet the elements of the applicable theft offense under that statute. However, s. 812.015, F.S., also provides that retail theft is a third degree felony if the theft involves property valued at \$300 or more and the person commits the theft in a specified manner (e.g., commits theft from more than one location within a 48-hour period, in which case the amount of each individual theft is aggregated to determine the value of the property stolen).¹⁵ Retail theft is a second degree felony if the person has previously been convicted of third degree felony retail theft or individually, or in concert with one or more other persons, coordinates the activities of one or more persons in committing the offense of retail theft where the stolen property has a value in excess of \$3,000.¹⁶ The statute also requires a fine of not less than \$50 nor more than \$1,000 for a second or subsequent conviction for petit theft from a merchant¹⁷ and provides that it is a third degree felony to possess, or use or attempt to use, any antishoplifting or inventory control device countermeasure within any premises used for the retail purchase or sale of any merchandise.¹⁸

Notice to Appear

Relevant to the theft provisions of the bill, a notice to appear is a written order issued by a law enforcement officer, in lieu of physical arrest, that requires a defendant to appear in a designated court on a specific date and time. When a person is arrested for a misdemeanor or a local ordinance, the officer may elect to issue the notice to appear unless:

- The accused fails or refuses to sufficiently identify himself or herself or supply the required information;
- The accused refuses to sign the notice to appear;
- The officer has reason to believe that the continued liberty of the accused constitutes an unreasonable risk of bodily injury to the accused or others;
- The accused has no ties with the jurisdiction reasonably sufficient to assure the accused's appearance or there is substantial risk that the accused will refuse to respond to the notice;

¹⁴ Section 812.014(2)(a), F.S.

¹⁵ Section 812.014(8), F.S.

¹⁶ Section 812.014(9), F.S.

¹⁷ Section 812.014(2), F.S.

¹⁸ Section 812.014(7), F.S.

- The officer has any suspicion that the accused may be wanted in any jurisdiction; or
- It appears that the accused previously has failed to respond to a notice or a summons or has violated the conditions of any pretrial release program.¹⁹

Even if the officer who makes the arrest does not issue a notice to appear, the booking officer at the local jail has that option available if he or she determines there is a likelihood that the defendant will appear in court based upon determinations made regarding the defendant's residence and length of residence in the community, family ties in the community, employment record, character and mental condition, past record of convictions, or past history of appearance at court proceedings.²⁰

If a defendant willfully fails to appear in court as directed by a notice to appear, he or she may be subject to imprisonment or a fine of up to the maximum on the underlying charge.²¹ The court may also hold the defendant in contempt for failure to appear.

Misdemeanor Case Diversion

A state attorney may enter into what is known as a deferred prosecution agreement with a defendant. This agreement requires that the defendant waive the right to a speedy trial in order to allow time to complete the terms of the agreement. Often the terms of the agreement are tailored to the specific offense committed and require community service work, restitution, costs, and other provisions. Upon completion of the terms of the agreement, the pending criminal case is disposed of by the state attorney. An example of such diversion is worthless check diversion. State attorneys may establish a worthless check case diversion program. Restitution and costs are paid by the worthless check defendant through this program and the defendant is required to attend a program designed to assist and educate him or her on the issue of bad check-writing.²²

III. Effect of Proposed Changes:

The bill amends ss. 812.014 and 812.015, F.S., to:

- Increase the property value threshold (from \$100 to \$600) for first degree petit theft and third degree grand theft of property from a dwelling; and
- Increase the property value threshold (from \$300 to \$1,000) for third degree grand theft and retail theft.

As a result of these changes, the value of property stolen must be greater than under current law to charge third degree grand theft of property from a dwelling, third degree grand theft, and retail theft, which are all third degree felonies (maximum penalty of 5 years in prison).

The bill also amends s. 812.014, F.S., to increase the property value range (from "\$100 or more, but less than \$300" to "from \$600 or more, but less than \$1,000") for first degree petit theft and third degree grand theft of property from a dwelling or its unenclosed curtilage.

¹⁹ Fla.R.Crim.P. Rule 3.125.

²⁰ *Id.*

²¹ Section 901.31, F.S.

²² Section 832.08, F.S.

The bill also amends s. 812.014, F.S., to authorize a law enforcement officer to issue a notice to appear in lieu of arrest if the officer has probable cause to believe the person has committed retail theft, the aggregate value of the merchandise stolen is less than \$1,000 (misdemeanor petit theft under the bill), and the defendant has no previous criminal convictions. The officer may lawfully detain the person until the person's identity and criminal history have been provided to the officer to allow the officer to make an informed decision regarding whether to issue the notice to appear in lieu of an arrest.

Further, a state attorney is authorized to establish a diversion program for defendants who meet the previously-noted criteria for issuance of a notice to appear. In addition to considering the misdemeanor defendant's clean record, the state attorney must consider:

- The value of the merchandise stolen in the retail theft;
- The existence of other pending complaints or criminal charges against the offender;
- The strength of the evidence of the retail theft; and
- The victim's input.

If the state attorney allows the offender to enter the retail theft diversion program, the state attorney must enter into a written agreement with the offender to divert him or her from prosecution for retail theft. The diversion agreement must include all of the following conditions, which must be accepted by the offender:

- Attendance and proof of completion of a program designed to assist, educate, and prevent future unlawful conduct by the offender;
- Full restitution of the value of the retail theft, if a value is established;
- Full payment of fees due;²³ and
- A knowing and intelligent waiver of his or her right to a speedy trial for the period of his or her diversion.

An offender who does not fulfill all of these conditions may be prosecuted for the crime of retail theft.

The bill makes conforming changes to s. 921.0022, F.S., the offense severity ranking chart of the Criminal Punishment Code, to reflect changes in the description of theft and retail theft offenses amended by the bill. The bill does not change current offense severity level rankings for any offense.

The effective date of the bill is July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²³ The bill authorizes the state attorney to collect a fee from each participating offender to fund the retail theft diversion program. The fee may not exceed \$250.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill authorizes the state attorney to collect a fee from each offender participating in a retail theft diversion program (as provided in the bill). The fee is to fund the retail theft diversion program. The fee may not exceed \$250.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. A preliminary estimate of provisions of the bill by the Legislature's Office of Economic and Demographic Research (EDR) is that the bill will have a negative significant impact (a decrease of more than 25 prison beds).

Per the Department of Corrections, in FY 2014-15, there were:

- 12,231 (adj.) offenders sentenced under s. 812.014(2)(c)(1), F.S. (property valued at \$300 or more but less than \$5,000) with 1,370 (adj.) of these offenders sentenced to prison (mean sentence length of 23.5 months and incarceration rate of 11.2 percent adj-11.2 percent unadj);
- 183 (adj.) offenders sentenced under s. 812.014(2)(d), F.S. (property valued at \$100 or more but less than \$300 is taken from a dwelling or its curtilage) with 37 (adj.) of these offenders sentenced to prison (mean sentence length of 21.0 months and incarceration rate of 20.0 percent adj-20.2 percent unadj); and
- 383 (adj.) offenders sentenced under s. 812.015(8), F.S. (third degree felony retail theft) with 77 (adj.) of these offenders sentenced to prison (mean sentence length of 27.7 months and incarceration rate of 20.1 percent adj-20.1 percent unadj).

The number of offenders that currently fall within the proposed changes to ss. 812.014(2)(c)(1) and s. 812.015(8), F.S., thresholds cannot be differentiated from the current thresholds. However, 37 offenders were sentenced to prison under s. 812.014(2)(d), F.S. (\$100 to \$300), which would not include these offenders within the parameters of the current bill (\$600 to \$1,000). That change alone would be a significant effect. Although the other changes to this portion of the bill cannot be quantified, there is expected to be a significant overall effect on prison beds.

This bill also creates the ability for a state attorney to establish a retail theft diversion program. However, this program would only apply to offenders that fall under the newly established minimum threshold property value of \$1,000 for third degree felony retail theft. Therefore, this would not have an additional impact on prison beds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Relevant to the bill, the last time the Legislature increased the threshold property value for felony grand theft was in 1986.²⁴ At that time, the value was increased from \$100 to \$300.

According to the National Conference of State Legislatures, the majority of states (30 states) and the District of Columbia set a \$1,000-or-greater property value threshold for felony grand theft.²⁵

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 812.014, 812.015, and 921.0022.

This bill reenacts provisions of section 943.051 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

²⁴ Ch. 86-161, sec. 1, L.O.F.

²⁵ Lawrence, Alison. *Making Sense of Sentencing: State Systems and Policies* (June 2015), National Conference of State Legislatures, available at <http://www.ncsl.org/documents/cj/sentencing.pdf> (last visited on January 26, 2015).

By Senator Joyner

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1 A bill to be entitled
 2 An act relating to theft; amending s. 812.014, F.S.;
 3 increasing the minimum monetary value that must be
 4 attributed to certain property for the theft of such
 5 property to reach the threshold for prosecution as a
 6 felony of the third degree or a misdemeanor of the
 7 first degree, under specified circumstances;
 8 authorizing a law enforcement officer who has probable
 9 cause to believe that an offender has committed retail
 10 theft to issue a notice to appear in lieu of arresting
 11 the offender under certain circumstances; authorizing
 12 a state attorney to establish a retail theft diversion
 13 program for the purpose of diverting offenders from
 14 criminal prosecution if the offender meets certain
 15 criteria; providing eligibility criteria for
 16 participation in a retail theft diversion program;
 17 requiring the state attorney to mail a notice to
 18 appear to an offender upon referral to a diversion
 19 program; requiring each participant in the retail
 20 theft diversion program to complete specified
 21 conditions; providing that an offender may be
 22 prosecuted for the retail theft if all conditions of
 23 the diversion program are not fulfilled; authorizing a
 24 state attorney to collect a fee from each participant
 25 in the program; setting a limit on the fee for each
 26 offender; amending s. 812.015, F.S.; increasing the
 27 minimum monetary value that must be attributed to
 28 retail property for the theft of such property to
 29 reach the threshold amount for prosecution as a felony

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30 of the third degree; amending s. 921.0022, F.S.;
 31 conforming provisions to changes made by the act;
 32 reenacting s. 943.051(3)(b), F.S., relating to the
 33 Criminal Justice Information Program, to incorporate
 34 the amendment made to s. 812.014, F.S., in a reference
 35 thereto; providing an effective date.
 36

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

38
 39 Section 1. Subsection (2) of section 812.014, Florida
 40 Statutes, is amended, paragraph (a) of subsection (3) of that
 41 section is republished, and paragraphs (e) and (f) are added to
 42 that subsection, to read:

43 812.014 Theft.—

44 (2)(a)1. If the property stolen is valued at \$100,000 or
 45 more or is a semitrailer that was deployed by a law enforcement
 46 officer; or

47 2. If the property stolen is cargo valued at \$50,000 or
 48 more that has entered the stream of interstate or intrastate
 49 commerce from the shipper's loading platform to the consignee's
 50 receiving dock; or

51 3. If the offender commits any grand theft and:

52 a. In the course of committing the offense the offender
 53 uses a motor vehicle as an instrumentality, other than merely as
 54 a getaway vehicle, to assist in committing the offense and
 55 thereby damages the real property of another; or

56 b. In the course of committing the offense the offender
 57 causes damage to the real or personal property of another in
 58 excess of \$1,000,

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the offender commits grand theft in the first degree, punishable as a felony of the first degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

(b)1. If the property stolen is valued at \$20,000 or more, but less than \$100,000;

2. The property stolen is cargo valued at less than \$50,000 which ~~that~~ has entered the stream of interstate or intrastate commerce from the shipper's loading platform to the consignee's receiving dock;

3. The property stolen is emergency medical equipment, valued at \$300 or more, which ~~that~~ is taken from a facility licensed under chapter 395 or from an aircraft or vehicle permitted under chapter 401; or

4. The property stolen is law enforcement equipment, valued at \$300 or more, which ~~that~~ is taken from an authorized emergency vehicle, as defined in s. 316.003,

the offender commits grand theft in the second degree, punishable as a felony of the second degree, as provided in s. 775.082, s. 775.083, or s. 775.084. Emergency medical equipment means mechanical or electronic apparatus used to provide emergency services and care as defined in s. 395.002(9) or to treat medical emergencies. Law enforcement equipment means any property, device, or apparatus used by any law enforcement officer as defined in s. 943.10 in the officer's official business. However, if the property is stolen within a county that is subject to a state of emergency declared by the Governor under chapter 252, the theft is committed after the declaration

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of emergency is made, and the perpetration of the theft is facilitated by conditions arising from the emergency, the theft is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this paragraph, the term "conditions arising from the emergency" means civil unrest, power outages, curfews, voluntary or mandatory evacuations, or a reduction in the presence of or response time for first responders or homeland security personnel. For purposes of sentencing under chapter 921, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

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

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

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

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

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

5. A firearm.

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

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

8. Any fire extinguisher.

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

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individual pieces of fruit.

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

11. Any stop sign.

12. Anhydrous ammonia.

13. Any amount of a controlled substance as defined in s. 893.02. Notwithstanding any other law, separate judgments and sentences for theft of a controlled substance under this subparagraph and for any applicable possession of controlled substance offense under s. 893.13 or trafficking in controlled substance offense under s. 893.135 may be imposed when all such offenses involve the same amount or amounts of a controlled substance.

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

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chapter 921, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

(d) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is valued at \$600 ~~\$100~~ or more, but less than \$1,000 ~~\$300~~, and is taken from a dwelling as defined in s. 810.011(2) or from the unenclosed curtilage of a dwelling pursuant to s. 810.09(1).

(e) Except as provided in paragraph (d), if the property stolen is valued at \$600 ~~\$100~~ or more, but less than \$1,000 ~~\$300~~, the offender commits petit theft of the first degree, punishable as a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(3)(a) Theft of any property not specified in subsection (2) is petit theft of the second degree and a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and as provided in subsection (5), as applicable.

(e) If a law enforcement officer has probable cause to believe that a person has committed retail theft as defined in s. 812.015(1), the officer may issue a notice to appear in lieu of arresting the offender if the aggregate value of the merchandise stolen is less than \$1,000 and the offender has no previous criminal convictions. The officer may lawfully detain the offender until the offender's identity and criminal history have been provided to the officer to allow him or her to make an informed decision regarding whether to issue the notice to appear in lieu of arrest.

(f) A state attorney may establish a retail theft diversion

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program in the state attorney's office or may use an independent contractor for the purpose of diverting from prosecution offenders who meet the criteria set forth in paragraph (e). However, the establishment and operation of a diversion program does not supersede the authority of the state attorney to prosecute an offender for committing retail theft.

1. Upon receipt of a complaint or notice to appear alleging the crime of retail theft, a state attorney who operates a retail theft diversion program shall determine whether the offender is eligible for referral to the retail theft diversion program. In making such a determination, the state attorney shall consider:

- a. The value of the merchandise stolen in the retail theft;
- b. The existence of other pending complaints or criminal charges against the offender;
- c. The strength of the evidence of the retail theft; and
- d. The victim's input.

2. Upon referral of the offender to the retail theft diversion program, the state attorney shall mail a copy of the notice to appear to the offender. The notice must contain:

- a. The date and location of the alleged retail theft;
- b. The date before which the offender must contact the retail theft diversion program concerning the notice to appear; and

c. A statement of the maximum penalty for the retail theft.

3. If the state attorney allows the offender to enter the retail theft diversion program, the state attorney shall enter into a written agreement with the offender to divert him or her from prosecution for retail theft. The diversion agreement must

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include all of the following conditions, which must be accepted by the offender:

a. Attendance and proof of completion of a program designed to assist, educate, and prevent future unlawful conduct by the offender;

b. Full restitution of the value of the retail theft, if a value is established;

c. Full payment of fees due under subparagraph 5.; and

d. A knowing and intelligent waiver of his or her right to a speedy trial for the period of his or her diversion.

4. An offender who does not fulfill all of the conditions imposed under subparagraph 3. may be prosecuted for the crime of retail theft.

5. The state attorney may collect a fee from each participating offender to fund the retail theft diversion program. The fee may not exceed \$250.

Section 2. Subsection (8) of section 812.015, Florida Statutes, is amended, and subsection (9) of that section is republished, to read:

812.015 Retail and farm theft; transit fare evasion; mandatory fine; alternative punishment; detention and arrest; exemption from liability for false arrest; resisting arrest; penalties.—

(8) Except as provided in subsection (9), a person who commits retail theft commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is valued at \$1,000 ~~\$300~~ or more, and the person:

- (a) Individually, or in concert with one or more other

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233 persons, coordinates the activities of one or more individuals
234 in committing the offense, in which case the amount of each
235 individual theft is aggregated to determine the value of the
236 property stolen;

237 (b) Commits theft from more than one location within a 48-
238 hour period, in which case the amount of each individual theft
239 is aggregated to determine the value of the property stolen;

240 (c) Acts in concert with one or more other individuals
241 within one or more establishments to distract the merchant,
242 merchant's employee, or law enforcement officer in order to
243 carry out the offense, or acts in other ways to coordinate
244 efforts to carry out the offense; or

245 (d) Commits the offense through the purchase of merchandise
246 in a package or box that contains merchandise other than, or in
247 addition to, the merchandise purported to be contained in the
248 package or box.

249 (9) A person commits a felony of the second degree,
250 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
251 if the person:

252 (a) Violates subsection (8) and has previously been
253 convicted of a violation of subsection (8); or

254 (b) Individually, or in concert with one or more other
255 persons, coordinates the activities of one or more persons in
256 committing the offense of retail theft where the stolen property
257 has a value in excess of \$3,000.

258 Section 3. Paragraphs (b) and (e) of subsection (3) of
259 section 921.0022, Florida Statutes, are amended to read:

260 921.0022 Criminal Punishment Code; offense severity ranking
261 chart.—

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262 (3) OFFENSE SEVERITY RANKING CHART

263 (b) LEVEL 2

264

Florida Statute	Felony Degree	Description
265 379.2431 (1) (e) 3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
266 379.2431 (1) (e) 4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
267 403.413(6) (c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
268 517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
269		

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270	590.28(1)	3rd	Intentional burning of lands.	
	784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.	
271	787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.	
272	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.	
273	810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.	
274	810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.	
275				

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	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; <u>\$1,000</u> \$300 or more but less than \$5,000.	
276	812.014(2)(d)	3rd	Grand theft, 3rd degree; <u>\$600</u> \$100 or more but less than <u>\$1,000</u> \$300 , taken from unenclosed curtilage of dwelling.	
277	812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.	
278	817.234(1)(a)2.	3rd	False statement in support of insurance claim.	
279	817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.	
280	817.52(3)	3rd	Failure to redeliver hired vehicle.	
281				

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282	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
283	817.60(5)	3rd	Dealing in credit cards of another.
284	817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
285	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
286	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
287	831.01	3rd	Forgery.
288	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
	831.07	3rd	Forging bank bills, checks, drafts, or

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289			promissory notes.
290	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
291	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
292	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
293	832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
294	843.08	3rd	False personation.
	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs other than cannabis.

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295	19-00750-16	2016714	
	893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.
296			
297	(e) LEVEL 5		
298			
	Florida	Felony	
	Statute	Degree	Description
299			
	316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
300			
	316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
301			
	322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
302			
	327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
303			
	379.367(4)	3rd	Willful molestation of a

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			commercial harvester's spiny lobster trap, line, or buoy.
304			
	379.3671	3rd	Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.
	(2)(c)3.		
305			
	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
306			
	440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
307			
	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
308			
	440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing

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			workers' compensation premiums.
309	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
310	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
311	790.01(2)	3rd	Carrying a concealed firearm.
312	790.162	2nd	Threat to throw or discharge destructive device.
313	790.163(1)	2nd	False report of deadly explosive or weapon of mass destruction.
314	790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
315			

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	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
316	796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.
317	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
318	800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
319	806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
320	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
321	812.015(8)	3rd	Retail theft; property stolen is valued at <u>\$1,000</u> \$300 or more and

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			one or more specified acts.
322	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
323	812.131(2)(b)	3rd	Robbery by sudden snatching.
324	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
325	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
326	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
327	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.

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328	817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more persons.
329	817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
330	825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
331	827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct

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			by a child.	
332	827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.	
333	839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.	
334	843.01	3rd	Resist officer with violence to person; resist arrest with violence.	
335	847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.	
336	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.	

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337	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.	
338	874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.	
339	874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.	
340	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).	
341	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5.,	

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(2) (c) 6., (2) (c) 7.,
 (2) (c) 8., (2) (c) 9., (3),
 or (4) drugs) within
 1,000 feet of a child
 care facility, school,
 or state, county, or
 municipal park or
 publicly owned
 recreational facility or
 community center.

342

893.13(1)(d)1.

1st

Sell, manufacture, or
 deliver cocaine (or
 other s. 893.03(1)(a),
 (1)(b), (1)(d), (2)(a),
 (2)(b), or (2)(c) 4.
 drugs) within 1,000 feet
 of university.

343

893.13(1)(e)2.

2nd

Sell, manufacture, or
 deliver cannabis or
 other drug prohibited
 under s. 893.03(1)(c),
 (2)(c) 1., (2)(c) 2.,
 (2)(c) 3., (2)(c) 5.,
 (2)(c) 6., (2)(c) 7.,
 (2)(c) 8., (2)(c) 9., (3),
 or (4) within 1,000 feet
 of property used for

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religious services or a
 specified business site.

344

893.13(1)(f)1.

1st

Sell, manufacture, or
 deliver cocaine (or
 other s. 893.03(1)(a),
 (1)(b), (1)(d), or
 (2)(a), (2)(b), or
 (2)(c) 4. drugs) within
 1,000 feet of public
 housing facility.

345

893.13(4)(b)

2nd

Deliver to minor
 cannabis (or other s.
 893.03(1)(c), (2)(c) 1.,
 (2)(c) 2., (2)(c) 3.,
 (2)(c) 5., (2)(c) 6.,
 (2)(c) 7., (2)(c) 8.,
 (2)(c) 9., (3), or (4)
 drugs).

346

893.1351(1)

3rd

Ownership, lease, or
 rental for trafficking
 in or manufacturing of
 controlled substance.

347

348

349

350

Section 4. For the purpose of incorporating the amendment
 made by this act to section 812.014, Florida Statutes, in a
 reference thereto, paragraph (b) of subsection (3) of section

Page 24 of 25

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

19-00750-16

2016714__

943.051, Florida Statutes, is reenacted to read:

943.051 Criminal justice information; collection and storage; fingerprinting.—

(3)

(b) A minor who is charged with or found to have committed the following offenses shall be fingerprinted and the fingerprints shall be submitted electronically to the department, unless the minor is issued a civil citation pursuant to s. 985.12:

1. Assault, as defined in s. 784.011.

2. Battery, as defined in s. 784.03.

3. Carrying a concealed weapon, as defined in s. 790.01(1).

4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).

5. Neglect of a child, as defined in s. 827.03(1)(e).

6. Assault or battery on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a) and (b).

7. Open carrying of a weapon, as defined in s. 790.053.

8. Exposure of sexual organs, as defined in s. 800.03.

9. Unlawful possession of a firearm, as defined in s. 790.22(5).

10. Petit theft, as defined in s. 812.014(3).

11. Cruelty to animals, as defined in s. 828.12(1).

12. Arson, as defined in s. 806.031(1).

13. Unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property, as provided in s. 790.115.

Section 5. This act shall take effect July 1, 2016.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/2016

Meeting Date

714

Bill Number (if applicable)

Topic Theft

Amendment Barcode (if applicable)

Name Blair Payne

Job Title Public Defender, 3rd Circuit

Address 173 N.E. Hernando Avenue, Suite 115

Phone 386.362.7235

Street

Lake City

Florida

32055

Email mbp@pd3.coj.net

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/2016
Meeting Date

714
Bill Number (if applicable)

Topic Theft

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title Vice President & General Counsel

Address 227 S. Adams St.
Street

Phone 222-4082

Tallahassee FL 32301
City State Zip

Email samantha@prf.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Retail Federation

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 (10/14/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2 / 1 / 2016
Meeting Date

Topic _____

Bill Number 714
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☒ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 850

INTRODUCER: Senator Bradley

SUBJECT: Offenses Concerning Racketeering and Illegal Debts

DATE: January 29, 2016

REVISED: _____

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

I. Summary:

SB 850 amends civil enforcement provisions of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act. Major features of the bill include:

- Authorizing an investigative agency, on behalf of the state, to institute a RICO civil proceeding for forfeiture in the circuit court for the judicial circuit in which the real or personal tangible property is located or in a circuit court in the state for intangible property;
- Authorizing an investigative agency to pursue an action to recover fair market value of unavailable property regardless of when the property is conveyed, alienated, disposed of, diminished in value, or otherwise rendered unavailable for forfeiture;
- Authorizing a court to order the forfeiture of any other property of a defendant up to the value of the property subject to forfeiture (as an alternative to the court ordering an amount equal to the fair market value of the unavailable property);
- Authorizing the Department of Legal Affairs to bring an action for a Florida RICO Act violation to obtain injunctive relief, civil penalties, attorney fees, and costs incurred in the investigation and prosecution of any action under the Florida RICO Act;
- Providing that a natural person who violates the Florida RICO Act may be subject to a civil penalty of up to \$100,000 and any other person who violates the act may be subject to a civil penalty of up to \$1 million and requiring that moneys recovered for such civil penalties be deposited into the General Revenue Fund;
- Requiring that moneys recovered by the Department of Legal Affairs for attorney fees and costs under the Florida Rico Act be deposited into the Legal Affairs Revolving Trust Funds and authorizing use of those funds to investigate Florida RICO Act violations and enforce the act;
- Authorizing any party to a Florida RICO Act civil action to petition the court for entry of a consent decree or for approval of a settlement agreement;

- Providing that an investigative subpoena issued pursuant to the Florida RICO Act is confidential for 120 days after the date of issuance, unless extended by the court upon a showing of good cause by the investigating agency;
- Providing that the list of claims for which a court directs distribution of forfeiture funds includes claims for restitution by RICO victims; and
- Providing that where the forfeiture action was brought by the Department of Legal Affairs, the restitution is distributed through the Legal Affairs Trust Fund (otherwise, the restitution is distributed by the clerk of the court).

II. Present Situation:

Florida RICO Act

The “Florida RICO Act” is the short title for ss. 895.01-895.06, F.S. “Racketeering activity” means committing, attempting to commit, conspiring to commit, or soliciting, coercing, or intimidating another person to commit any of a number of offenses listed in the definition.¹ Section 893.04, F.S., punishes as a first degree felony:

- With criminal intent, receiving any proceeds derived, directly or indirectly, from a pattern of racketeering activity² or through the collection of an unlawful debt³ to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise;⁴
- Through a pattern of racketeering activity or through the collection of an unlawful debt, acquiring or maintaining, directly or indirectly, any interest in or control of any enterprise or real property;
- If employed by, or associated with, any enterprise, conducting or participating, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt; and
- Conspiring or endeavoring to violate any of the aforementioned unlawful acts.⁵

In addition to criminal penalties, the Florida RICO Act imposes civil liability for violations of the act, including forfeiture to the state of all property, including money, used in the course of,

¹ Section 895.02(1), F.S. These offenses include violations of specified Florida laws (e.g., Medicaid fraud, kidnapping, human trafficking, and drug offenses) as well as any conduct defined as “racketeering activity” under 18 U.S.C. § 1961(1).

² “Pattern of racketeering activity” means engaging in at least two incidents of racketeering conduct that have the same or similar intents, results, accomplices, victims, or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one of such incidents occurred after the effective date of this act and that the last of such incidents occurred within 5 years after a prior incident of racketeering conduct. Section 895.02(4), F.S.

³ An “unlawful debt” is any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted in violation of any law listed in the definition. Section 895.02(2), F.S. These offenses include violations of specified Florida laws (e.g., various gambling offenses) as well as any gambling activity in violation of federal law or in the business of lending money at a rate usurious under state or federal law.

⁴ An “enterprise” is any individual, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity. The definition includes: illicit as well as licit enterprises; governmental, as well as other, entities; and a criminal gang, as defined in s. 874.03, F.S. Section 895.02(3), F.S.

⁵ Section 895.03(1)-(4), F.S. (prohibited activities).

intended for use in the course of, derived from, or realized through conduct in violation of the act.⁶

Recovery of Property Unavailable for Forfeiture

Section 895.05, F.S., provides that if property subject to forfeiture is conveyed, alienated, disposed of, or otherwise rendered unavailable for forfeiture after the filing of a RICO lien notice⁷ or after the filing of a civil or criminal proceeding pursuant to the act, whichever is earlier, an investigative agency may institute an action to recover an amount equal to the fair market value of the property, together with investigative costs and attorney's fees incurred by the investigative agency in the action.⁸ "[I]f a defendant conveys or otherwise disposes of property subject to forfeiture before the filing of a civil RICO action or the filing of a RICO lien notice, or if the property's value has been diminished, no money judgment can be obtained against the defendant for the dissipated or devalued property and the property in question cannot be forfeited."⁹

Investigative Subpoenas

Section 895.06, F.S., provides that during the course of a civil enforcement investigation, an investigating agency may subpoena witnesses or materials.¹⁰ "The purpose of the subpoena power under section 895.06 is to allow an investigative agency to investigate, collect evidence and determine if a RICO violation has occurred."¹¹ An investigative agency may apply ex parte to a circuit court for an order directing that a person or entity who has been subpoenaed not disclose the existence of the subpoena for a period of 90 days to anyone except the attorney for the subpoenaed person or entity.¹² The 90-day time limit may be extended by the court for good cause shown by the investigative agency.¹³

Omissions Relevant to Civil Enforcement

Current law does not:

- Specify where an action may be filed if personal property involved in a Florida RICO Act violation is subject to forfeiture;
- Address civil penalties in a Florida RICO Act enforcement action;
- Address consent decrees or settlement agreements in civil actions for Florida RICO Act violations; and

⁶ Section 895.05(2), F.S.

⁷ An investigative agency may file a RICO lien notice in the county records when it initiates a civil proceeding. The RICO lien notice creates a lien in favor of the state on the real property or beneficial interest situated in the county where the lien is filed. Section 895.07, F.S. An "investigative agency" is the Department of Legal Affairs, the Office of Statewide Prosecution, or the office of a state attorney. Section 895.02(7), F.S.

⁸ Section 895.05(2), F.S.

⁹ Analysis of SB 850 (January 20, 2016), Department of Legal Affairs (on file with the Senate Committee on Criminal Justice). This analysis is further cited as "Department of Legal Affairs Analysis."

¹⁰ Section 895.06, F.S.

¹¹ *Check 'N Go of Florida, Inc. v. State*, 790 So.2d 454, 457 (Fla. 5th DCA 2001).

¹² Section 895.06(3), F.S. "Investigative subpoenas issued by the enforcement agency can be disclosed unless the agency obtains a court order preventing disclosure of the subpoena for 90 days." Department of Legal Affairs Analysis.

¹³ *Id.*

- Authorize restitution to RICO victims.

Public Records Exemption

In 2015, the Legislature created s. 895.06(7), F.S.¹⁴ Section 895.06(7)(a), F.S., provides that information held by an investigative agency pursuant to an investigation of a violation of s. 895.03, F.S., is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. Information made confidential and exempt under paragraph (a) may be disclosed by the investigative agency to a government entity in the performance of its official duties and to a court or tribunal.¹⁵ This information is no longer confidential and exempt once all investigations to which the information pertains are completed, unless the information is otherwise protected by law.¹⁶ An investigation is considered complete once the investigative agency either files an action or closes its investigation without filing an action.¹⁷

III. Effect of Proposed Changes:

The bill amends civil enforcement provisions of the Florida RICO Act to:

- Authorize an investigative agency, on behalf of the state, to institute a RICO civil proceeding for forfeiture in the circuit court for the judicial circuit in which the real or personal tangible property¹⁸ is located, or in a circuit court in the state for intangible property;¹⁹
- Authorize an investigative agency to pursue an action to recover fair market value of unavailable property regardless of when the property is conveyed, alienated, disposed of, diminished in value, or otherwise rendered unavailable for forfeiture;
- Authorize a court to order the forfeiture of any other property of the defendant up to the value of the unavailable property (as an alternative to the court ordering an amount equal to the fair market value of the unavailable property);
- Authorize the Department of Legal Affairs to bring an action for a Florida RICO Act violation to obtain injunctive relief, civil penalties, attorney fees, and costs incurred in the investigation and prosecution of any action under the Florida RICO Act;
- Provide that a natural person who violates the Florida RICO Act may be subject to a civil penalty of up to \$100,000 and any other person who violates the act may be subject to a civil penalty of up to \$1 million and require that moneys recovered for civil penalties be deposited into the General Revenue Fund;
- Require that moneys recovered by the Department of Legal Affairs for attorney fees and costs under the Florida Rico Act be deposited into the Legal Affairs Revolving Trust Funds and authorize use of those funds to investigate Florida RICO Act violations and enforce the act;

¹⁴ Ch. 2015-99, L.O.F.

¹⁵ Section 895.06(7)(b), F.S.

¹⁶ Section 895.06(7)(c), F.S.

¹⁷ Section 895.06(7)(d), F.S.

¹⁸ The bill states that the terms “real or personal tangible property” and “intangible property” are described in s. 895.05(2)(a), F.S. This paragraph states that all property, real or personal, including money, used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of a provision of ss. 895.01-895.05, F.S., is subject to civil forfeiture to the state.

¹⁹ *Id.*

- Authorize any party to a Florida RICO Act civil action to petition the court for entry of a consent decree or for approval of a settlement agreement;
- Require that the proposed decree or settlement specify the alleged violations, the future obligations of the parties, the relief agreed upon, and the reasons for entering into the consent decree or settlement agreement;
- Provide that current law relating to the suspension of the running of the period of limitations with respect to certain causes of action will apply to actions for injunctive relief, civil penalties, attorney fees, and costs incurred in the investigation and prosecution of any Florida RICO Act violation;²⁰
- Provide that an investigative subpoena issued pursuant to the Florida RICO Act is confidential for 120 days after the date of issuance, unless the period is extended by the court upon a showing of good cause by the investigating agency;
- Prohibit a subpoenaed person or entity from disclosing the existence of the subpoena to any person or entity other than the attorney of the subpoenaed person or entity during the 120-day period;
- Require that the subpoena include a reference to the confidentiality of the subpoena and a notice to the recipient of the subpoena that disclosure of the existence of the subpoena to any person or entity other than the attorney of the subpoenaed person or entity is prohibited;
- Authorize an investigative agency to stipulate to protective orders with respect to documents and information submitted in response to an investigative subpoena;
- Provide that the list of claims for which a court directs distribution of forfeiture funds includes claims for restitution by RICO victims; and
- Provide that where the forfeiture action was brought by the Department of Legal Affairs, the restitution is distributed through the Legal Affairs Trust Fund (otherwise, the restitution is distributed by the clerk of the court).

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²⁰ A criminal or civil action or proceeding under the Florida RICO Act may be commenced at any time within 5 years after the conduct in violation of the act terminates or the cause of action accrues. If a criminal prosecution or civil action or other proceeding is brought, or intervened in, to punish, prevent, or restrain any violation of the act, the running of the period of limitations prescribed with respect to certain causes of action (e.g., an action for damages brought by the state) which is based in whole or in part upon any matter complained of in any such prosecution, action, or proceeding is suspended during the pendency of such prosecution, action, or proceeding and for 2 years following its termination. Section 895.05(10), F.S.

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

None.

B. Private Sector Impact:

None

C. Government Sector Impact:

According to the Department of Legal Affairs, “[t]he civil penalties of up to \$100,000 for a natural person and up to \$1 million for any other person for RICO Act violations created by the bill may have an indeterminate positive revenue impact on the General Revenue Fund.”²¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 16.53, 16.56, 895.05, 895.06, 895.09, and 905.34.

This bill reenacts provisions of the following sections of the Florida Statutes to incorporate the amendment made to s. 895.05, F.S, in references to that statute: 16.53, 27.345, and 92.142.

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

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

None.

B. Amendments:

None.

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

²¹ Department of Legal Affairs Analysis.



748982

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/01/2016	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 292 - 294
and insert:
agency in the action. If a civil proceeding is

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

And the title is amended as follows:

Delete lines 12 - 14
and insert:



748982

11

action;

By Senator Bradley

7-01019-16

2016850__

1 A bill to be entitled
 2 An act relating to offenses concerning racketeering
 3 and illegal debts; reordering and amending s. 895.02,
 4 F.S.; specifying the earliest date that incidents
 5 constituting a pattern of racketeering activity may
 6 have occurred; conforming a cross-reference; amending
 7 s. 895.05, F.S.; authorizing an investigative agency
 8 to institute a civil proceeding for forfeiture in a
 9 circuit court in certain circumstances; adding
 10 diminution in value as a ground for an action under
 11 certain circumstances; removing certain grounds for an
 12 action; authorizing a court to order the forfeiture of
 13 other property of the defendant up to the value of
 14 unavailable property in certain circumstances;
 15 authorizing the Department of Legal Affairs to bring
 16 an action for certain violations to obtain specified
 17 relief, fees, and costs for certain purposes;
 18 providing for civil penalties for natural persons and
 19 other persons who commit certain violations; providing
 20 for deposit of moneys received for certain violations;
 21 authorizing a party to a specific civil action to
 22 petition the court for entry of a consent decree or
 23 for approval of a settlement agreement; providing
 24 requirements for such decrees or agreements; amending
 25 s. 895.06, F.S.; deleting the definition of
 26 "investigative agency" for purposes of provisions
 27 relating to civil investigative subpoenas; providing
 28 that a subpoena must be confidential for a specified
 29 time; restricting to whom the subpoenaed person or

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7-01019-16

2016850__

30 entity may disclose the existence of the subpoena;
 31 requiring certain information be included in the
 32 subpoena; authorizing the investigative agency to
 33 apply for an order extending the amount of time the
 34 subpoena remains confidential rather than having it
 35 extended by the court for a specified period;
 36 providing that the investigative agency has the
 37 authority to stipulate to protective orders with
 38 respect to documents and information submitted in
 39 response to a subpoena; amending s. 895.09, F.S.;
 40 conforming a cross-reference; providing for
 41 distribution of forfeiture proceeds to victims;
 42 amending ss. 16.56 and 905.34, F.S.; conforming cross-
 43 references; amending s. 16.53, F.S., and reenacting
 44 subsection (4) and paragraph (5) (a), relating to the
 45 Legal Affairs Revolving Trust Fund, to incorporate the
 46 amendment made by the act to s. 895.05, F.S., a
 47 reference thereto; conforming a cross-reference;
 48 reenacting ss. 27.345(1) and 92.142(3), F.S., relating
 49 to the State Attorney RICO Trust Fund and witness pay,
 50 respectively, to incorporate the amendment made by the
 51 act to s. 895.05, F.S., in references thereto;
 52 providing an effective date.

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

55
 56 Section 1. Section 895.02, Florida Statutes, is reordered
 57 and amended to read:
 58 895.02 Definitions.—As used in ss. 895.01-895.08, the term:

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2016850__

59 (8)(1) "Racketeering activity" means to commit, to attempt
 60 to commit, to conspire to commit, or to solicit, coerce, or
 61 intimidate another person to commit:

62 (a) Any crime that is chargeable by petition, indictment,
 63 or information under the following provisions of the Florida
 64 Statutes:

65 1. Section 210.18, relating to evasion of payment of
 66 cigarette taxes.

67 2. Section 316.1935, relating to fleeing or attempting to
 68 elude a law enforcement officer and aggravated fleeing or
 69 eluding.

70 3. Section 403.727(3)(b), relating to environmental
 71 control.

72 4. Section 409.920 or s. 409.9201, relating to Medicaid
 73 fraud.

74 5. Section 414.39, relating to public assistance fraud.

75 6. Section 440.105 or s. 440.106, relating to workers'
 76 compensation.

77 7. Section 443.071(4), relating to creation of a fictitious
 78 employer scheme to commit reemployment assistance fraud.

79 8. Section 465.0161, relating to distribution of medicinal
 80 drugs without a permit as an Internet pharmacy.

81 9. Section 499.0051, relating to crimes involving
 82 contraband and adulterated drugs.

83 10. Part IV of chapter 501, relating to telemarketing.

84 11. Chapter 517, relating to sale of securities and
 85 investor protection.

86 12. Section 550.235 or s. 550.3551, relating to dogracing
 87 and horseracing.

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7-01019-16

2016850__

88 13. Chapter 550, relating to jai alai frontons.

89 14. Section 551.109, relating to slot machine gaming.

90 15. Chapter 552, relating to the manufacture, distribution,
 91 and use of explosives.

92 16. Chapter 560, relating to money transmitters, if the
 93 violation is punishable as a felony.

94 17. Chapter 562, relating to beverage law enforcement.

95 18. Section 624.401, relating to transacting insurance
 96 without a certificate of authority, s. 624.437(4)(c)1., relating
 97 to operating an unauthorized multiple-employer welfare
 98 arrangement, or s. 626.902(1)(b), relating to representing or
 99 aiding an unauthorized insurer.

100 19. Section 655.50, relating to reports of currency
 101 transactions, when such violation is punishable as a felony.

102 20. Chapter 687, relating to interest and usurious
 103 practices.

104 21. Section 721.08, s. 721.09, or s. 721.13, relating to
 105 real estate timeshare plans.

106 22. Section 775.13(5)(b), relating to registration of
 107 persons found to have committed any offense for the purpose of
 108 benefiting, promoting, or furthering the interests of a criminal
 109 gang.

110 23. Section 777.03, relating to commission of crimes by
 111 accessories after the fact.

112 24. Chapter 782, relating to homicide.

113 25. Chapter 784, relating to assault and battery.

114 26. Chapter 787, relating to kidnapping or human
 115 trafficking.

116 27. Chapter 790, relating to weapons and firearms.

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28. Chapter 794, relating to sexual battery, but only if such crime was committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purpose of increasing a criminal gang member's own standing or position within a criminal gang.

29. Former s. 796.03, former s. 796.035, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution.

30. Chapter 806, relating to arson and criminal mischief.

31. Chapter 810, relating to burglary and trespass.

32. Chapter 812, relating to theft, robbery, and related crimes.

33. Chapter 815, relating to computer-related crimes.

34. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

35. Chapter 825, relating to abuse, neglect, or exploitation of an elderly person or disabled adult.

36. Section 827.071, relating to commercial sexual exploitation of children.

37. Section 828.122, relating to fighting or baiting animals.

38. Chapter 831, relating to forgery and counterfeiting.

39. Chapter 832, relating to issuance of worthless checks and drafts.

40. Section 836.05, relating to extortion.

41. Chapter 837, relating to perjury.

42. Chapter 838, relating to bribery and misuse of public office.

43. Chapter 843, relating to obstruction of justice.

44. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or

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7-01019-16

2016850__

s. 847.07, relating to obscene literature and profanity.

45. Chapter 849, relating to gambling, lottery, gambling or gaming devices, slot machines, or any of the provisions within that chapter.

46. Chapter 874, relating to criminal gangs.

47. Chapter 893, relating to drug abuse prevention and control.

48. Chapter 896, relating to offenses related to financial transactions.

49. Sections 914.22 and 914.23, relating to tampering with or harassing a witness, victim, or informant, and retaliation against a witness, victim, or informant.

50. Sections 918.12 and 918.13, relating to tampering with jurors and evidence.

(b) Any conduct defined as "racketeering activity" under 18 U.S.C. s. 1961(1).

(12)~~(2)~~ "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following provisions of law:

1. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

2. Chapter 550, relating to jai alai frontons.

3. Section 551.109, relating to slot machine gaming.

4. Chapter 687, relating to interest and usury.

5. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

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7-01019-16

2016850__

(b) In gambling activity in violation of federal law or in the business of lending money at a rate usurious under state or federal law.

~~(5)(3)~~ "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and it includes illicit as well as licit enterprises and governmental, as well as other, entities. A criminal gang, as defined in s. 874.03, constitutes an enterprise.

~~(7)(4)~~ "Pattern of racketeering activity" means engaging in at least two incidents of racketeering conduct that have the same or similar intents, results, accomplices, victims, or methods of commission or that otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one of such incidents occurred after October 1, 1977, ~~the effective date of this act~~ and that the last of such incidents occurred within 5 years after a prior incident of racketeering conduct.

~~(4)(5)~~ "Documentary material" means any book, paper, document, writing, drawing, graph, chart, photograph, phonorecord, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

~~(10)(6)~~ "RICO lien notice" means the notice described in s. 895.05(13) ~~s. 895.05(12)~~ or in s. 895.07.

~~(6)(7)~~ "Investigative agency" means the Department of Legal

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Affairs, the Office of Statewide Prosecution, or the office of a state attorney.

~~(1)(8)~~ "Beneficial interest" means any of the following:

(a) The interest of a person as a beneficiary under a trust established pursuant to s. 689.07 or s. 689.071 in which the trustee for the trust holds legal or record title to real property;

(b) The interest of a person as a beneficiary under any other trust arrangement pursuant to which a trustee holds legal or record title to real property for the benefit of such person; or

(c) The interest of a person under any other form of express fiduciary arrangement pursuant to which any other person holds legal or record title to real property for the benefit of such person.

The term "beneficial interest" does not include the interest of a stockholder in a corporation or the interest of a partner in either a general partnership or a limited partnership. A beneficial interest shall be deemed to be located where the real property owned by the trustee is located.

(9) "Real property" means any real property or any interest in such real property, including, but not limited to, any lease of or mortgage upon such real property.

~~(11)(10)~~ "Trustee" means any of the following:

(a) Any person acting as trustee pursuant to a trust established under s. 689.07 or s. 689.071 in which the trustee holds legal or record title to real property.

(b) Any person who holds legal or record title to real

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property in which any other person has a beneficial interest.

(c) Any successor trustee or trustees to any or all of the foregoing persons.

However, the term "trustee" does not include any person appointed or acting as a personal representative as defined in s. 731.201 or appointed or acting as a trustee of any testamentary trust or as a trustee of any indenture of trust under which any bonds have been or are to be issued.

(3) ~~(11)~~ "Criminal proceeding" means any criminal proceeding commenced by an investigative agency under s. 895.03 or any other provision of the Florida RICO Act.

(2) ~~(12)~~ "Civil proceeding" means any civil proceeding commenced by an investigative agency under s. 895.05 or any other provision of the Florida RICO Act.

Section 2. Subsections (2), (5), and (8) through (12) of section 895.05, Florida Statutes, are amended to read:

895.05 Civil remedies.—

(2) (a) All property, real or personal, including money, used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of a provision of ss. 895.01-895.05 is subject to civil forfeiture to the state.

(b) An investigative agency may, on behalf of the state, institute a civil proceeding for forfeiture in the circuit court for the judicial circuit in which the real or personal tangible property, as described in paragraph (a), is located. An investigative agency may, on behalf of the state, institute a civil proceeding for forfeiture in a circuit court in the state

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regarding intangible property as described in paragraph (a).

(c) Upon the entry of a final judgment of forfeiture in favor of the state, the title of the state to the forfeited property shall relate back:

1. In the case of real property or a beneficial interest, to the date of filing of the RICO lien notice in the official records of the county where the real property or beneficial trust is located; if no RICO lien notice is filed, then to the date of the filing of any notice of lis pendens under s. 895.07(5)(a) in the official records of the county where the real property or beneficial interest is located; and if no RICO lien notice or notice of lis pendens is filed, then to the date of recording of the final judgment of forfeiture in the official records of the county where the real property or beneficial interest is located.

2. In the case of personal property, to the date the personal property was seized by the investigating agency.

(d) If property subject to forfeiture is conveyed, alienated, disposed of, diminished in value, or otherwise rendered unavailable for forfeiture ~~after the filing of a RICO lien notice or after the filing of a civil proceeding or criminal proceeding, whichever is earlier~~, the investigative agency may, on behalf of the state, institute an action in any circuit court against the person named in the RICO lien notice or the defendant in the civil proceeding or criminal proceeding, and the court shall enter final judgment against the person named in the RICO lien notice or the defendant in the civil proceeding or criminal proceeding in an amount equal to the fair market value of the property, together with investigative costs

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and ~~attorney~~ ~~attorney's~~ fees incurred by the investigative agency in the action. As an alternative, the court may order the forfeiture of any other property of a defendant up to the value of the property subject to forfeiture. If a civil proceeding is pending, such action shall be filed only in the court where the civil proceeding is pending.

~~(e)-(e)~~ The state shall dispose of all forfeited property as soon as commercially feasible. If property is not exercisable or transferable for value by the state, it shall expire. All forfeitures or dispositions under this section shall be made with due provision for the rights of innocent persons. The proceeds realized from such forfeiture and disposition shall be promptly distributed in accordance with the provisions of s. 895.09.

(5) The Department of Legal Affairs, any state attorney, or any state agency having jurisdiction over conduct in violation of a provision of this chapter ~~act~~ may institute civil proceedings under this section. In any action brought under this section, the circuit court shall proceed as soon as practicable to the hearing and determination. Pending final determination, the circuit court may at any time enter such injunctions, prohibitions, or restraining orders, or take such actions, including the acceptance of satisfactory performance bonds, as the court may deem proper.

(8) A final judgment or decree rendered in favor of the state in any criminal proceeding under this chapter ~~act~~ or any other criminal proceeding under state law shall estop the defendant in any subsequent civil action or proceeding under this chapter ~~act~~ or under s. 772.104 as to all matters as to

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which such judgment or decree would be an estoppel as between the parties.

(9) The Department of Legal Affairs may bring an action for a violation of s. 895.03 to obtain injunctive relief, civil penalties as provided in this subsection, attorney fees, and costs incurred in the investigation and prosecution of any action under this chapter.

(a) A natural person who violates s. 895.03 is subject to a civil penalty of up to \$100,000. Any other person who violates s. 895.03 is subject to a civil penalty of up to \$1 million. Moneys recovered for civil penalties under this paragraph shall be deposited into the General Revenue Fund.

(b) Moneys recovered by the Department of Legal Affairs for attorney fees and costs under this subsection shall be deposited into the Legal Affairs Revolving Trust Fund, which may be used to investigate and enforce this chapter.

(c) In a civil action brought under this subsection by the Department of Legal Affairs, any party to such action may petition the court for entry of a consent decree or for approval of a settlement agreement. The proposed decree or settlement shall specify the alleged violations, the future obligations of the parties, the relief agreed upon, and the reasons for entering into the consent decree or settlement agreement.

~~(10)-(9)~~ The Department of Legal Affairs may, upon timely application, intervene in any civil action or proceeding brought under subsection (6) or subsection (7) if it certifies that, in its opinion, the action or proceeding is of general public importance. In such action or proceeding, the state shall be entitled to the same relief as if the Department of Legal

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Affairs had instituted the action or proceeding.

~~(11)(10)~~ Notwithstanding any other provision of law, a criminal or civil action or proceeding under this chapter act may be commenced at any time within 5 years after the conduct in violation of ~~a provision of this chapter act~~ terminates or the cause of action accrues. If a criminal prosecution or civil action or other proceeding is brought, or intervened in, to punish, prevent, or restrain any violation of ~~the provisions of this chapter act~~, the running of the period of limitations prescribed by this section with respect to any cause of action arising under subsection (6), ~~or~~ subsection (7), or subsection (9) which is based in whole or in part upon any matter complained of in any such prosecution, action, or proceeding shall be suspended during the pendency of such prosecution, action, or proceeding and for 2 years following its termination.

~~(12)(11)~~ The application of one civil remedy under any provision of this chapter act does not preclude the application of any other remedy, civil or criminal, under this chapter act or any other provision of law. Civil remedies under this chapter act are supplemental, and not mutually exclusive.

~~(13)(12)~~ (a) In addition to the authority to file a RICO lien notice set forth in s. 895.07(1), the Department of Legal Affairs, the Office of Statewide Prosecution, or the office of a state attorney may apply ex parte to a criminal division of a circuit court and, upon petition supported by sworn affidavit, obtain an order authorizing the filing of a RICO lien notice against real property upon a showing of probable cause to believe that the property was used in the course of, intended for use in the course of, derived from, or realized through

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conduct in violation of ~~a provision of~~ ss. 895.01-895.05. If the lien notice authorization is granted, the department shall, after filing the lien notice, forthwith provide notice to the owner of the property by one of the following methods:

1. By serving the notice in the manner provided by law for the service of process.

2. By mailing the notice, postage prepaid, by ~~registered or~~ certified mail to the person to be served at his or her last known address and evidence of the delivery.

3. If neither of the foregoing can be accomplished, by posting the notice on the premises.

(b) The owner of the property may move the court to discharge the lien, and such motion shall be set for hearing at the earliest possible time.

(c) The court shall discharge the lien if it finds that there is no probable cause to believe that the property was used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of ~~a provision of~~ ss. 895.01-895.05 or if it finds that the owner of the property neither knew nor reasonably should have known that the property was used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of ~~a provision of~~ ss. 895.01-895.05.

(d) No testimony presented by the owner of the property at the hearing is admissible against him or her in any criminal proceeding except in a criminal prosecution for perjury or false statement, nor shall such testimony constitute a waiver of the owner's constitutional right against self-incrimination.

(e) A lien notice secured under ~~the provisions of~~ this

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subsection is valid for a period of 90 days from the date the court granted authorization, which period may be extended for an additional 90 days by the court for good cause shown, unless a civil proceeding is instituted under this section and a lien notice is filed under s. 895.07, in which event the term of the lien notice is governed by s. 895.08.

(f) The filing of a lien notice, whether or not subsequently discharged or otherwise lifted, shall constitute notice to the owner and knowledge by the owner that the property was used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of a provision of ss. 895.01-895.05, such that lack of such notice and knowledge shall not be a defense in any subsequent civil or criminal proceeding under this chapter.

Section 3. Section 895.06, Florida Statutes, is amended to read:

895.06 Civil investigative subpoenas; public records exemption.—

~~(1) As used in this section, the term "investigative agency" means the Department of Legal Affairs, the Office of Statewide Prosecution, or the office of a state attorney.~~

~~(1)(2)~~ If, pursuant to the civil enforcement provisions of s. 895.05, an investigative agency has reason to believe that a person or other enterprise has engaged in, or is engaging in, activity in violation of this chapter ~~act~~, the investigative agency may administer oaths or affirmations, subpoena witnesses or material, and collect evidence.

~~(2)(3)~~ A subpoena issued pursuant to this chapter is confidential for 120 days after the date of its issuance. The

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subpoenaed person or entity may not disclose the existence of the subpoena to any person or entity other than his or her attorney during the 120-day period. The subpoena must include a reference to the confidentiality of the subpoena and a notice to the recipient of the subpoena that disclosure of the existence of the subpoena to any person or entity other than the subpoenaed person's or entity's attorney is prohibited. The investigative agency may apply ex parte to the circuit court for the circuit in which a subpoenaed person or entity resides, is found, or transacts business for an order directing that the subpoenaed person or entity not disclose the existence of the subpoena to any other person or entity except the subpoenaed person's attorney for an additional ~~a~~ period of time 90 days, ~~which time may be extended by the court~~ for good cause shown by the investigative agency. The order shall be served on the subpoenaed person or entity with the subpoena, and the subpoena must ~~shall~~ include a reference to the order and a notice to the recipient of the subpoena that disclosure of the existence of the subpoena to any other person or entity in violation of the order may subject the subpoenaed person or entity to punishment for contempt of court. Such an order may be granted by the court only upon a showing:

(a) Of sufficient factual grounds to reasonably indicate a violation of ss. 895.01-895.06;

(b) That the documents or testimony sought appear reasonably calculated to lead to the discovery of admissible evidence; and

(c) Of facts that ~~which~~ reasonably indicate that disclosure of the subpoena would hamper or impede the investigation or

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would result in a flight from prosecution.

~~(3)(4)~~ If matter that the investigative agency seeks to obtain by the subpoena is located outside the state, the person or enterprise subpoenaed may make such matter available to the investigative agency or its representative for examination at the place where such matter is located. The investigative agency may designate representatives, including officials of the jurisdiction in which the matter is located, to inspect the matter on its behalf and may respond to similar requests from officials of other jurisdictions.

~~(4)(5)~~ Upon failure of a person or enterprise, without lawful excuse, to obey a subpoena issued under this section or a subpoena issued in the course of a civil proceeding instituted pursuant to s. 895.05, and after reasonable notice to such person or enterprise, the investigative agency may apply to the circuit court in which such civil proceeding is pending or, if no civil proceeding is pending, to the circuit court for the judicial circuit in which such person or enterprise resides, is found, or transacts business for an order compelling compliance. Except in a prosecution for perjury, an individual who complies with a court order to provide testimony or material after asserting a privilege against self-incrimination to which the individual is entitled by law shall not have the testimony or material so provided, or evidence derived therefrom, received against him or her in any criminal investigation or proceeding.

~~(5)(6)~~ A person who fails to obey a court order entered pursuant to this section may be punished for contempt of court.

(6) The investigative agency may stipulate to protective orders with respect to documents and information submitted in

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response to a subpoena issued under this section.

(7) (a) Information held by an investigative agency pursuant to an investigation of a violation of s. 895.03 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Information made confidential and exempt under paragraph (a) may be disclosed by the investigative agency to:

1. A government entity in the performance of its official duties.

2. A court or tribunal.

(c) Information made confidential and exempt under paragraph (a) is no longer confidential and exempt once all investigations to which the information pertains are completed, unless the information is otherwise protected by law.

(d) For purposes of this subsection, an investigation is considered complete once the investigative agency either files an action or closes its investigation without filing an action.

(e) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4. Paragraph (b) of subsection (1) of section 895.09, Florida Statutes, is amended, and paragraph (d) is added to that subsection, to read:

895.09 Disposition of funds obtained through forfeiture proceedings.—

(1) A court entering a judgment of forfeiture in a proceeding brought pursuant to s. 895.05 shall retain jurisdiction to direct the distribution of any cash or of any

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cash proceeds realized from the forfeiture and disposition of the property. The court shall direct the distribution of the funds in the following order of priority:

(b) Any claims against the property by persons who have previously been judicially determined to be innocent persons, pursuant to s. 895.05(2)(e) ~~the provisions of s. 895.05(2)(e)~~, and whose interests are preserved from forfeiture by the court and not otherwise satisfied. Such claims may include any claim by a person appointed by the court as receiver pending litigation.

(d) Any claims for restitution by victims of racketeering activity. If the forfeiture action was brought by the Department of Legal Affairs, the restitution shall be distributed through the Legal Affairs Revolving Trust Fund; otherwise, the restitution shall be distributed by the clerk of the court.

Section 5. Paragraph (a) of subsection (1) of section 16.56, Florida Statutes, is amended to read:

16.56 Office of Statewide Prosecution.—

(1) There is created in the Department of Legal Affairs an Office of Statewide Prosecution. The office shall be a separate "budget entity" as that term is defined in chapter 216. The office may:

(a) Investigate and prosecute the offenses of:

1. Bribery, burglary, criminal usury, extortion, gambling, kidnapping, larceny, murder, prostitution, perjury, robbery, carjacking, and home-invasion robbery;

2. Any crime involving narcotic or other dangerous drugs;

3. Any violation of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act, including any offense listed in

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the definition of racketeering activity in s. 895.02(8)(a) ~~895.02(1)(a)~~, providing such listed offense is investigated in connection with a violation of s. 895.03 and is charged in a separate count of an information or indictment containing a count charging a violation of s. 895.03, the prosecution of which listed offense may continue independently if the prosecution of the violation of s. 895.03 is terminated for any reason;

4. Any violation of the Florida Anti-Fencing Act;

5. Any violation of the Florida Antitrust Act of 1980, as amended;

6. Any crime involving, or resulting in, fraud or deceit upon any person;

7. Any violation of s. 847.0135, relating to computer pornography and child exploitation prevention, or any offense related to a violation of s. 847.0135 or any violation of chapter 827 where the crime is facilitated by or connected to the use of the Internet or any device capable of electronic data storage or transmission;

8. Any violation of chapter 815;

9. Any criminal violation of part I of chapter 499;

10. Any violation of the Florida Motor Fuel Tax Relief Act of 2004;

11. Any criminal violation of s. 409.920 or s. 409.9201;

12. Any crime involving voter registration, voting, or candidate or issue petition activities;

13. Any criminal violation of the Florida Money Laundering Act;

14. Any criminal violation of the Florida Securities and

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Investor Protection Act; or

15. Any violation of chapter 787, as well as any and all offenses related to a violation of chapter 787;

or any attempt, solicitation, or conspiracy to commit any of the crimes specifically enumerated above. The office shall have such power only when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction, or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits. Informations or indictments charging such offenses shall contain general allegations stating the judicial circuits and counties in which crimes are alleged to have occurred or the judicial circuits and counties in which crimes affecting such circuits or counties are alleged to have been connected with an organized criminal conspiracy.

Section 6. Subsection (3) of section 905.34, Florida Statutes, is amended to read:

905.34 Powers and duties; law applicable.—The jurisdiction of a statewide grand jury impaneled under this chapter shall extend throughout the state. The subject matter jurisdiction of the statewide grand jury shall be limited to the offenses of:

(3) Any violation of the provisions of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act, including any offense listed in the definition of racketeering activity in s. 895.02(8)(a) ~~895.02(1)(a)~~, providing such listed offense is investigated in connection with a violation of s. 895.03 and is charged in a separate count of an information or indictment containing a count charging a violation of s. 895.03, the

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prosecution of which listed offense may continue independently if the prosecution of the violation of s. 895.03 is terminated for any reason;

or any attempt, solicitation, or conspiracy to commit any violation of the crimes specifically enumerated above, when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits. The statewide grand jury may return indictments and presentments irrespective of the county or judicial circuit where the offense is committed or triable. If an indictment is returned, it shall be certified and transferred for trial to the county where the offense was committed. The powers and duties of, and law applicable to, county grand juries shall apply to a statewide grand jury except when such powers, duties, and law are inconsistent with the provisions of ss. 905.31-905.40.

Section 7. For the purpose of incorporating the amendment made by this act to section 895.05, Florida Statutes, in a reference thereto, subsection (4) and paragraph (a) of subsection (5) of section 16.53, Florida Statutes, are reenacted, and subsection (6) of that section is amended, to read:

16.53 Legal Affairs Revolving Trust Fund.—

(4) Subject to the provisions of s. 895.09, when the Attorney General files an action pursuant to s. 895.05, funds provided to the Department of Legal Affairs pursuant to s. 895.09(2)(a) or, alternatively, attorneys' fees and costs,

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whichever is greater, shall be deposited in the fund.

(5) (a) In the case of a forfeiture action pursuant to s. 895.05, the remainder of the moneys recovered shall be distributed as set forth in s. 895.09.

(6) "Moneys recovered" means damages or penalties or any other monetary payment, including monetary proceeds from property forfeited to the state pursuant to s. 895.05 remaining after satisfaction of any valid claims made pursuant to s. 895.09(1)(a)-(d) ~~895.09(1)(a)-(e)~~, which damages, penalties, or other monetary payment is made by any defendant by reason of any decree or settlement in any Racketeer Influenced and Corrupt Organization Act or state or federal antitrust action prosecuted by the Attorney General, but excludes attorney ~~attorneys'~~ fees and costs.

Section 8. For the purpose of incorporating the amendment made by this act to section 895.05, Florida Statutes, in a reference thereto, subsection (1) of section 27.345, Florida Statutes, is reenacted to read:

27.345 State Attorney RICO Trust Fund; authorized use of funds; reporting.—

(1) Subject to the provisions of s. 895.09, when a state attorney files an action pursuant to s. 895.05, funds provided to the state attorney pursuant to s. 895.09(2)(a) or, alternatively, attorneys' fees and costs, whichever is greater, shall be deposited in the State Attorney RICO Trust Fund.

Section 9. For the purpose of incorporating the amendment made by this act to section 895.05, Florida Statutes, in a reference thereto, subsection (3) of section 92.142, Florida Statutes, is reenacted to read:

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92.142 Witnesses; pay.—

(3) Any witness subpoenaed to testify on behalf of the state in any action brought pursuant to s. 895.05 or chapter 542 who is required to travel outside his or her county of residence and more than 50 miles from his or her residence, or who is required to travel from out of state, shall be entitled to per diem and travel expenses at the same rate provided for state employees under s. 112.061 in lieu of any state witness fee.

Section 10. This act shall take effect July 1, 2016.

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The Florida Senate

Committee Agenda Request



To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: December 9, 2015

I respectfully request that **Senate Bill # 850**, relating to Offenses Concerning Racketeering and Illegal Debts, be placed on the:

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

A handwritten signature in dark ink, appearing to read "Rob Bradley", written over a horizontal line.

Senator Rob Bradley
Florida Senate, District 7

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/1/16

Meeting Date

850

Bill Number (if applicable)

Topic Civil RTLO

Amendment Barcode (if applicable)

Name Andrew Fay

Job Title Special Counsel

Address PL 02

Phone 850-245-0155

Street

Tallahassee

City

State

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Office of the Attorney General

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 862

INTRODUCER: Criminal Justice Committee and Senator Legg

SUBJECT: Mental Health Treatment

DATE: February 2, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	Fav/CS
2.			CF	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 862 amends s. 916.107(3), F.S., by authorizing a physician in a state forensic or civil facility to continue the administration of psychotropic medication previously prescribed in jail when a forensic client lacks the capacity to make an informed decision and in the physician's opinion, the abrupt cessation of the medication could pose a risk to the health or safety of the client.

The bill amends ss. 916.13 and 916.15, F.S., to require a competency hearing to be held within 30 days after the court has been notified that a defendant is competent to proceed, or no longer meets the criteria for continued commitment. The bill also requires that the defendant be transported to the committing court's jurisdiction for these hearings.

The bill permits a court to dismiss charges for specified nonviolent offenses for an individual whom the court has determined to be incompetent to proceed and who remains incompetent for 3 years after the original determination.

The bill changes the timeframe for mandatory dismissal of all charges for an individual whom the court has determined to be incompetent to proceed and who remains incompetent to 5 continuous, uninterrupted years since the court's original determination of incompetency.

II. Present Situation:

Competency

The Due Process Clause of the 14th Amendment prohibits the states from trying and convicting defendants who are incompetent to stand trial.¹ The states must have procedures in place that adequately protect the defendant's right to a fair trial, which includes his or her participation in all material stages of the process.² Defendants must be able to appreciate the range and nature of the charges and penalties that may be imposed, understand the adversarial nature of the legal process, and disclose to counsel facts pertinent to the proceedings. Defendants also must manifest appropriate courtroom behavior and be able to testify relevantly.³

If a defendant is suspected of being incompetent, the court, counsel for the defendant, or the state may file a motion for examination to have the defendant's cognitive state assessed.⁴ If the motion is well-founded the court will appoint experts to evaluate the defendant's cognitive state. The defendant's competency is then determined by the judge in a subsequent hearing.⁵ If the defendant is found to be competent, the criminal proceeding resumes.⁶ If the defendant is found to be incompetent to proceed, the proceeding may not resume unless competency is restored.⁷

Chapter 916, F.S., governs the state forensic system, which is a network of state facilities and community services for persons who have mental health issues and who are involved with the criminal justice system. Offenders who are charged with a felony and adjudicated incompetent to proceed⁸ and offenders who are adjudicated not guilty by reason of insanity may be involuntarily committed to state civil⁹ and forensic¹⁰ treatment facilities by the circuit court,¹¹ or in lieu of such commitment, may be released on conditional release¹² by the circuit court if the person is

¹ See *Pate v. Robinson*, 383 U.S. 375, 86 S.Ct. 836, 15 L.Ed. 815 (1966); *Bishop v. U.S.*, 350 U.S.961, 76 S.Ct. 440, 100 L.Ed. 835 (1956); *Jones v. State*, 740 So.2d 520 (Fla. 1999).

² *Id.* See also Rule 3.210(a)(1), Fla.R.Crim.P.

³ *Id.* See also s. 916.12, 916.3012, and 985.19, F.S.

⁴ Rule 3.210, Fla.R.Crim.P.

⁵ *Id.*

⁶ Rule 3.212, Fla.R.Crim.P.

⁷ *Id.*

⁸ "Incompetent to proceed" means "the defendant does not have sufficient present ability to consult with her or his lawyer with a reasonable degree of rational understanding" or "the defendant has no rational, as well as factual, understanding of the proceedings against her or him." s. 916.12(1), F.S.

⁹ A "civil facility" is: a mental health facility established within the Department of Children and Families (DCF) or by contract with DCF to serve individuals committed pursuant to chapter 394, F.S., and defendants pursuant to chapter 916, F.S., who do not require the security provided in a forensic facility; or an intermediate care facility for the developmentally disabled, a foster care facility, a group home facility, or a supported living setting designated by the Agency for Persons with Disabilities (APD) to serve defendants who do not require the security provided in a forensic facility. Section 916.106(4), F.S. DCF oversees two state-operated forensic facilities, Florida State Hospital and North Florida Evaluation and Treatment Center, and two privately-operated, maximum security forensic treatment facilities, South Florida Evaluation and Treatment Center and Treasure Coast Treatment Center.

¹⁰ A "forensic facility" is a separate and secure facility established within DCF or APD to service forensic clients. A separate and secure facility means a security-grade building for the purpose of separately housing persons who have mental illness from persons who have intellectual disabilities or autism and separately housing persons who have been involuntarily committed pursuant to chapter 916, F.S., from non-forensic residents. s. 916.106(10), F.S.

¹¹ Sections 916.13, 916.15, and 916.302, F.S.

¹² Conditional release is release into the community accompanied by outpatient care and treatment. s. 916.17, F.S.

not serving a prison sentence.¹³ Conditional release is release into the community accompanied by outpatient care and treatment. The committing court retains jurisdiction over the defendant while the defendant is under involuntary commitment or conditional release.¹⁴

Sections 916.13 and 916.15, F.S., set forth the criteria under which a court may involuntarily commit a defendant charged with a felony who has been adjudicated incompetent to proceed, or who has been found not guilty by reason of insanity. If a person is committed pursuant to either statute, the administrator at the commitment facility must submit a report to the court:

- No later than 6 months after a defendant's admission date and at the end of any period of extended commitment; or
- At any time the administrator has determined that the defendant has regained competency or no longer meets the criteria for involuntary commitment.¹⁵

The statutes are silent as to a time frame in which the court must hold a hearing to determine continued competency or the continued need for involuntary commitment. The statutes are additionally silent as to transportation of the defendant to the committing court's jurisdiction for these hearings. The time frame for the hearings are set forth in Florida Rules of Criminal Procedure which require the court to hold a hearing within 30 days of receiving a report from a facility administrator that indicates that a person adjudicated incompetent to proceed or not guilty by reason of insanity no longer meets the criteria for commitment.¹⁶ However, there is no express requirement within the Florida Rules of Criminal Procedure to transport the defendant to the committing court's jurisdiction for these hearings.

Dismissal of Charges

Section 916.145, F.S., requires all charges against any defendant adjudicated incompetent to proceed due to mental illness be dropped if the defendant remains incompetent to proceed 5 years after the initial determination. However, a court may extend the time period to dismiss the charges beyond 5 years if in its order specifies its reasons for believing that a defendant will become competent to proceed within the foreseeable future and specifies the time within which a defendant is expected to become competent to proceed.¹⁷ Any charges dismissed under this section are dismissed without prejudice which allows the state to refile the charges should a defendant be declared competent to proceed in the future.¹⁸

Psychotropic Medication Treatment

Currently, forensic clients¹⁹ must give express and informed consent to treatment.²⁰ If they refuse and the situation is deemed an emergency that puts the client's safety at risk, treatment may be

¹³ Section 916.17(1), F.S.

¹⁴ Section 916.16(1), F.S.

¹⁵ Section 916.13(2), F.S.; section 916.15(3), F.S.

¹⁶ Rules 3.212(c)(6) and 3.218(b) Florida Rules of Criminal Procedure.

¹⁷ Section 916.145, F.S.

¹⁸ Id.

¹⁹ Forensic clients are individuals who have been committed to DCF, pursuant to ch. 916, F.S., because they have been charged with committing a felony but have been adjudicated incompetent, adjudicated not guilty by reason of insanity, or determined to be incompetent to proceed.

²⁰ Section 916.107(3)(a), F.S.

given for 48 hours.²¹ If the person still refuses to give consent, a court order must be sought for continuation of the treatment.²² In non-emergency situations, treatment may not be given without the client's consent.²³ Instead, the facility administrator or designee must petition the court for an order authorizing necessary and essential treatment for the client, including administration of psychotropic medication.²⁴ There will be a delay between the time in which the petition is filed and the hearing for the petition. In this interim the client will not receive any psychotropic medication, even if he or she was receiving this medication at the jail. This creates a delay in treatment which could potentially lead to a client's decompensation and prolong the client's length of stay at the facility.

If a person is committed pursuant to either statute, the administrator at the commitment facility must submit a report to the court:

- No later than 6 months after a defendant's admission date and at the end of any period of extended commitment; or
- At any time the administrator has determined that the defendant has regained competency or no longer meets the criteria for involuntary commitment.²⁵

The statutes are silent as to a time frame in which the court must hold a hearing to determine continued competency or the continued need for involuntary commitment. The statutes are additionally silent as to transportation of the defendant to the committing court's jurisdiction for these hearings. The time frame for the hearings are set forth in Florida Rules of Criminal Procedure which require the court to hold a hearing within 30 days of receiving a report from a facility administrator that indicates that a person adjudicated incompetent to proceed or not guilty by reason of insanity no longer meets the criteria for commitment.²⁶ However, there is no express requirement within the Florida Rules of Criminal Procedure to transport the defendant to the committing court's jurisdiction for these hearings.

III. Effect of Proposed Changes:

Rights of Forensic Clients

The bill amends s. 916.107(3), F.S., by authorizing a physician in a state forensic or civil facility to continue the administration of psychotropic medication previously prescribed in jail when a forensic client lacks the capacity to make an informed decision and in the physician's opinion, the abrupt cessation of the medication could pose a risk to the health or safety of the client.

This authority is limited to the time period required to obtain a court order for the medication. Within 5 days after admission, the administrator or designee of the civil or forensic facility may petition the committing court or the circuit court of the county the facility is located, for an order authorizing the continued treatment of a client using the psychotropic medication. The jail

²¹ Section 916.107(3)(a)1., F.S.

²² Id.

²³ Section 916.107(3)(a)2., F.S.

²⁴ Id.

²⁵ Section 916.13(2), F.S.; section 916.15(3), F.S.

²⁶ Rules 3.212(c)(6) and 3.218(b) Florida Rules of Criminal Procedure.

physician must provide a current psychotropic medication order at the time of transfer to the forensic or civil facility or upon request of the admitting physician after the client is evaluated.

Dismissal of Charges

The bill amends s. 916.145, F.S., to require that all charges be dismissed if the defendant remains incompetent to proceed for 5 continuous, uninterrupted years after the initial determination. The bill also permits a court to dismiss charges for an individual whom the court has determined to be incompetent to proceed and who remains incompetent for at least 3 years and no more than 5 years after the original determination, unless the charge is:

- Arson;
- Sexual battery;
- Robbery;
- Kidnapping;
- Aggravated child abuse;
- Aggravated abuse of an elderly person or disabled adult;
- Aggravated assault with a deadly weapon;
- Murder;
- Manslaughter;
- Aggravated manslaughter of an elderly person or disabled adult;
- Aggravated manslaughter of a child;
- Unlawful throwing, projecting, placing, or discharging of a destructive device or bomb;
- Armed burglary;
- Aggravated battery;
- Aggravated stalking;
- A forcible felony as defined in s. 776.08, F.S., that is not otherwise listed;
- An offense involving the possession, use, or discharge of a firearm; or an attempt to commit any of these offenses;
- Any offense allegedly committed by a defendant who has had a forcible or violent felony conviction within the five years preceding the date of arrest for the nonviolent felony sought to be dismissed;
- Any offense allegedly committed by a defendant who, after having been found incompetent and under court supervision in a community-based program, is formally charged by a State Attorney with a new felony offense; or
- An offense for which there is an identifiable victim and the victim has not consented to the dismissal.

Competency

The bill amends ss. 916.13 and 916.15, F.S., to require a competency hearing to be held within 30 days after the court has been notified that a defendant is competent to proceed, or no longer meets the criteria for continued commitment. The bill also requires that the defendant be transported to the committing court's jurisdiction for these hearings. These requirements are consistent with Rule 3.212(c)(6), Florida Rules of Criminal Procedure, and should help make vacancies available at secure facilities for individuals awaiting admission. As statutorily

mandated, forensic individuals committed to the care of DCF for involuntary hospitalization must be admitted within 15 days of commitment.

The bill has an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 916.107, 916.13, 916.15, 916.106, 916.145, and 394.467.

IX. Additional Information:

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

CS by Criminal Justice on February 1, 2016:

The Committee Substitute permits a court to dismiss charges for specified nonviolent offenses for an individual whom the court has determined to be incompetent to proceed and who remains incompetent for 3 years after the original determination.

It also changes the timeframe for mandatory dismissal of all charges for an individual whom the court has determined to be incompetent to proceed and who remains incompetent to 5 continuous, uninterrupted years since the court's original determination of incompetency.

- B. **Amendments:**

None.



161052

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 137 and 138

insert:

Section 3. Section 916.145, Florida Statutes, is amended to read:

916.145 Dismissal of charges.—

(1) The charges against a any defendant adjudicated incompetent to proceed due to ~~the defendant's~~ mental illness shall be dismissed without prejudice to the state if the



161052

defendant remains incompetent to proceed 5 continuous
uninterrupted years after such determination, unless the court in
its order specifies its reasons for believing that the defendant
will become competent to proceed within the foreseeable future
and specifies the time within which the defendant is expected to
become competent to proceed. The court may dismiss such charges
at least 3 and no more than 5 years after such determination,
unless the charge is:

- (a) Arson;
- (b) Sexual battery;
- (c) Robbery;
- (d) Kidnapping;
- (e) Aggravated child abuse;
- (f) Aggravated abuse of an elderly person or disabled
adult;
- (g) Aggravated assault with a deadly weapon;
- (h) Murder;
- (i) Manslaughter;
- (j) Aggravated manslaughter of an elderly person or
disabled adult;
- (k) Aggravated manslaughter of a child;
- (l) Unlawful throwing, projecting, placing, or discharging
of a destructive device or bomb;
- (m) Armed burglary;
- (n) Aggravated battery;
- (o) Aggravated stalking;
- (p) A forcible felony as defined in s. 776.08 and not
listed elsewhere in this subsection;
- (q) An offense involving the possession, use, or discharge



161052

of a firearm;

(r) An attempt to commit an offense listed in this subsection;

(s) An offense allegedly committed by a defendant who has had a forcible or violent felony conviction within the 5 years preceding the date of arrest for the nonviolent felony sought to be dismissed;

(t) An offense allegedly committed by a defendant who, after having been found incompetent and under court supervision in a community-based program, is formally charged by a State Attorney with a new felony offense; or

(u) One for which there is an identifiable victim and such victim has not consented to the dismissal.

(2) This section does not prohibit the state from refileing dismissed charges if the defendant is declared to be competent to proceed in the future ~~against the defendant are dismissed without prejudice to the state to refile the charges should the defendant be declared competent to proceed in the future.~~

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

And the title is amended as follows:

Delete line 11

and insert:

specified time; amending s. 916.145, F.S.; revising the time for dismissal of certain charges for defendants that remain incompetent to proceed to trial; providing exceptions; amending s. 916.15, F.S.; requiring

By Senator Legg

17-00963-16

2016862__

A bill to be entitled

An act relating to mental health treatment; amending s. 916.107, F.S.; authorizing forensic and civil facilities to order the continuation of psychotropic medications for clients receiving such medication in the jail before admission to those facilities under certain circumstances; requiring a jail physician to provide a current psychotropic medication order under certain circumstances; amending s. 916.13, F.S.; requiring that a competency hearing be held within a specified time; amending s. 916.15, F.S.; requiring that a commitment hearing be held within a specified time; reenacting s. 916.106(9), F.S., relating to the definition of the terms "forensic client" or "client," to incorporate the amendments made to ss. 916.13 and 916.15, F.S., in references thereto; reenacting s. 394.467(7)(a), F.S., relating to involuntary inpatient placement, to incorporate the amendments made to s. 916.15, F.S., in a reference thereto; providing an effective date.

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

Section 1. Paragraph (a) of subsection (3) of section 916.107, Florida Statutes, is amended to read:

916.107 Rights of forensic clients.—

(3) RIGHT TO EXPRESS AND INFORMED CONSENT.—

(a) A forensic client shall be asked to give express and informed written consent for treatment. If a client refuses such

Page 1 of 6

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

17-00963-16

2016862__

treatment as is deemed necessary and essential by the client's multidisciplinary treatment team for the appropriate care of the client, such treatment may be provided under the following circumstances:

1. In an emergency situation in which there is immediate danger to the safety of the client or others, such treatment may be provided upon the written order of a physician for up to a ~~period not to exceed~~ 48 hours, excluding weekends and legal holidays. If, after the 48-hour period, the client has not given express and informed consent to the treatment initially refused, the administrator or designee of the civil or forensic facility shall, within 48 hours, excluding weekends and legal holidays, petition the committing court or the circuit court serving the county in which the facility is located, at the option of the facility administrator or designee, for an order authorizing the continued treatment of the client. In the interim, the need for treatment shall be reviewed every 48 hours and may be continued without the consent of the client upon the continued written order of a physician who has determined that the emergency situation continues to present a danger to the safety of the client or others.

2. In a situation other than an emergency situation, the administrator or designee of the facility shall petition the court for an order authorizing necessary and essential treatment for the client.

a. If the client has been receiving psychotropic medication while incarcerated at the time of transfer to the forensic or civil facility and lacks the capacity to make an informed decision regarding mental health treatment at the time of

Page 2 of 6

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

17-00963-16

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admission, the admitting physician may order continued administration of psychotropic medication if, in the clinical judgment of the physician, abrupt cessation of psychotropic medication could pose a risk to the health or safety of the client while a court order to medicate is pursued. The administrator or designee of the civil or forensic facility may, within 5 days after admission, excluding weekends and legal holidays, petition the committing court or the circuit court serving the county in which the facility is located, at the option of the facility administrator or designee, for an order authorizing the continued treatment of a client using the psychotropic medication. The jail physician shall provide a current psychotropic medication order at the time of transfer to the forensic or civil facility or upon request of the admitting physician after the client is evaluated.

b. The court order shall allow such treatment for up to a period not to exceed 90 days after following the date that of the entry of the order was entered. Unless the court is notified in writing that the client has provided express and informed written consent in writing or that the client has been discharged by the committing court, the administrator or designee of the facility shall, before the expiration of the initial 90-day order, petition the court for an order authorizing the continuation of treatment for an additional 90 days another 90-day period. This procedure shall be repeated until the client provides consent or is discharged by the committing court.

3. At the hearing on the issue of whether the court should enter an order authorizing treatment for which a client was

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unable to or refused to give express and informed consent, the court shall determine by clear and convincing evidence that the client has mental illness, intellectual disability, or autism, that the treatment not consented to is essential to the care of the client, and that the treatment not consented to is not experimental and does not present an unreasonable risk of serious, hazardous, or irreversible side effects. In arriving at the substitute judgment decision, the court must consider at least the following factors:

- a. The client's expressed preference regarding treatment;
- b. The probability of adverse side effects;
- c. The prognosis without treatment; and
- d. The prognosis with treatment.

The hearing shall be as convenient to the client as may be consistent with orderly procedure and shall be conducted in physical settings not likely to be injurious to the client's condition. The court may appoint a general or special magistrate to preside at the hearing. The client or the client's guardian, and the representative, shall be provided with a copy of the petition and the date, time, and location of the hearing. The client has the right to have an attorney represent him or her at the hearing, and, if the client is indigent, the court shall appoint the office of the public defender to represent the client at the hearing. The client may testify or not, as he or she chooses, and has the right to cross-examine witnesses and may present his or her own witnesses.

Section 2. Subsection (2) of section 916.13, Florida Statutes, is amended to read:

17-00963-16

2016862

117 916.13 Involuntary commitment of defendant adjudicated
118 incompetent.—

119 (2) A defendant who has been charged with a felony and ~~who~~
120 ~~has been~~ adjudicated incompetent to proceed due to mental
121 illness, ~~and~~ who meets the criteria for involuntary commitment
122 ~~to the department under the provisions of this chapter,~~ may be
123 committed to the department, and the department shall retain and
124 treat the defendant.

125 (a) Within No later than 6 months after the date of
126 admission and at the end of any period of extended commitment,
127 or at any time the administrator or designee determines ~~shall~~
128 ~~have determined~~ that the defendant has regained competency to
129 proceed or no longer meets the criteria for continued
130 commitment, the administrator or designee shall file a report
131 with the court pursuant to the applicable Florida Rules of
132 Criminal Procedure.

133 (b) A competency hearing shall be held within 30 days after
134 the court receives notification that the defendant is competent
135 to proceed or no longer meets the criteria for continued
136 commitment. The defendant must be transported back to the
137 committing court's jurisdiction for the hearing.

138 Section 3. Subsection (5) is added to section 916.15,
139 Florida Statutes, to read:

140 916.15 Involuntary commitment of defendant adjudicated not
141 guilty by reason of insanity.—

142 (5) The commitment hearing shall be held within 30 days
143 after the court receives notification that the defendant is
144 competent to proceed and no longer meets the criteria for
145 continued commitment. The defendant must be transported back to

17-00963-16

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146 the committing court's jurisdiction for the hearing.

147 Section 4. For the purpose of incorporating the amendments
148 made by this act to sections 916.13 and 916.15, Florida
149 Statutes, in reference theretos, subsection (9) of section
150 916.106, Florida Statutes, is reenacted to read:

151 916.106 Definitions.—For the purposes of this chapter, the
152 term:

153 (9) "Forensic client" or "client" means any defendant who
154 has been committed to the department or agency pursuant to s.
155 916.13, s. 916.15, or s. 916.302.

156 Section 5. For the purpose of incorporating the amendment
157 made by this act to section 916.15, Florida Statutes, in a
158 reference thereto, paragraph (a) of subsection (7) of section
159 394.467, Florida Statutes, is reenacted to read:

160 394.467 Involuntary inpatient placement.—

161 (7) PROCEDURE FOR CONTINUED INVOLUNTARY INPATIENT
162 PLACEMENT.—

163 (a) Hearings on petitions for continued involuntary
164 inpatient placement shall be administrative hearings and shall
165 be conducted in accordance with the provisions of s. 120.57(1),
166 except that any order entered by the administrative law judge
167 shall be final and subject to judicial review in accordance with
168 s. 120.68. Orders concerning patients committed after
169 successfully pleading not guilty by reason of insanity shall be
170 governed by the provisions of s. 916.15.

171 Section 6. This act shall take effect July 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

✓ COMMITTEES:

Education Pre-K - 12, Chair
Ethics and Elections, Vice Chair
Appropriations Subcommittee on Education
Fiscal Policy
Government Oversight and Accountability
Higher Education

SENATOR JOHN LEGG
17th District

Legg.John.web@FLSenate.gov

December 7, 2015

The Honorable Greg Evers
Committee on Criminal Justice, Chair
510 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 862 - Mental Health Treatment

Dear Chair Evers:

SB 862: Mental Health Treatment has been referred to your committee. I respectfully request that it be placed on the Committee on Criminal Justice Agenda, at your convenience. Your leadership and consideration are appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "John Legg".

John Legg
State Senator, District 17

cc: Amanda Cannon, Staff Director
Sue Arnold, Administrative Assistant

REPLY TO:

- ☐ 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
- ☐ 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16
Meeting Date

SB 862
Bill Number (if applicable)

Topic Mental Health Treatment

Amendment Barcode (if applicable)

Name Denise Marzullo

Job Title Executive Director

Address 8280 Princeton Sq. Blvd. W. #8
Street
Jacksonville, FL 32256
City State Zip

Phone 904-738-8426

Email denise@mhajax.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Mental Health America of Northeast Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2.1.16

Meeting Date

SB 862

Bill Number (if applicable)

Topic Mental Health Treatment

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Pres & CEO

Address 209 S. Monroe St., Ste. 201

Street

Phone 577-3032

Tall

City

FL

State

32301

Zip

Email barney@smart
justicealliance.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Fla. 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)

2/1/16

Meeting Date

862

Bill Number (if applicable)

Topic Forensic Mental Health

Amendment Barcode (if applicable)

Name Dan Hendrickson

Job Title Chair Advocacy Committee

Address 319 E Park

Phone 8505701967

Street

Tallahassee

FL

32301

Email danbhendrickson@comcast.net

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Big Bend Mental Health Coalition, NAMI Tallahassee

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Education Pre-K - 12, Chair
Ethics and Elections, Vice Chair
Appropriations Subcommittee on Education
Fiscal Policy
Government Oversight and Accountability
Higher Education

SENATOR JOHN LEGG
17th District

Legg.John.web@FLSenate.gov

February 1, 2016

The Honorable Greg Evers
Committee on Criminal Justice, Chair
510 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 862 - Mental Health Treatment

Dear Chair Evers:

SB 862: Mental Health Treatment is on the Committee on Criminal Justice agenda February 1, 2016. I will not be in Tallahassee.

Please recognize my Legislative Assistant, Jim Browne, to present SB 862 on my behalf. Should you have any questions, please feel free to contact me. Your consideration is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "John Legg".

John Legg
State Senator, District 17

cc: Amanda Cannon, Staff Director
Sue Arnold, Administrative Assistant

REPLY TO:

- ☐ 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
- ☐ 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 930

INTRODUCER: Senator Evers

SUBJECT: Trust Funds/State-Operated Institutions Inmate Welfare Trust Fund/DOC

DATE: January 8, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	Favorable
2.			ACJ	
3.			AP	

I. Summary:

SB 930 creates the State-Operated Institutions Inmate Welfare Trust Fund (Trust Fund) within the Department of Corrections (department). The purpose of the new Trust Fund is for the benefit and welfare of inmates incarcerated in state-operated correctional facilities. In accordance with s. 19(f)(2), Art. III of the State Constitution, the Trust Fund will be terminated on July 1, 2020, unless terminated sooner or renewed.

II. Present Situation:

Inmate Welfare Trust Funds for Public Correctional Facilities

From 1979 until 2003, s. 945.215, F.S., provided for a trust fund that allowed the department to use revenue from the purchase of inmate canteen items and from inmate telephone calls to fund chapels, education, and wellness programs at publically operated correctional facilities. The source of most the revenue was from family and friends of the inmate. Chapter 2003-179, Laws of Florida, eliminated the former trust fund for public correctional facilities and required the revenue from inmate canteens and telephone usage to go directly into the General Revenue Fund.

According to a January 15, 2015, Auditor General audit of the department's canteen operations (which are outsourced to Keefe Commissary Network, LLC), from July 2012 through February 2014 sales in department institution canteens totaled approximately \$133.31 million and catalog sales totaled \$868,474. In addition, the department received MP3 music program commissions from Keefe totaling \$940,412 relating to MP3 music program sales of approximately \$5.99 million. The department's contract with Keefe expired March 31, 2015.

Canteens operate on a cashless system. Inmates use photo identification cards like bank debit cards. Inmates may make purchases on a weekly basis not to exceed \$100.¹ MP3 sales and catalog items do not count toward the purchase limit.

The chart below shows the department's revenue collections from funding sources for the Inmate Welfare Trust Fund before s. 945.215, F.S., was amended to direct those revenues to the General Revenue Fund:

REVENUE COLLECTION SUMMARY PREVIOUS INMATE WELFARE TRUST FUND SOURCES FY 2010-2011 – FY 2014-2015						
Description	Authorizing Statute	Fiscal Year 2010-2011	Fiscal Year 2011-2012	Fiscal Year 2012-2013	Fiscal Year 2013-2014	Fiscal Year 2014-2015
General Revenue Unallocated (GRU) Collections:						
Subsistence	s. 944.485 FS	6,748,740	7,712,150	8,035,040	8,092,206	5,768,529
Interest Income – ITF	s. 944.516(1)(f) FS	230,677	204,227	204,368	103,669	124,382
ITF Balances < \$1.00	s. 944.516(5) FS	1,194	1,219	1,197	1,211	1,217
Canteen Commissions ²	s. 945.215(1)(a) FS	31,162,387	30,970,697	30,907,621	31,027,325	34,237,290
Vending Commissions	s. 945.215(1)(e) FS	343,096	357,371	369,591	212,345	475,637
Telephone Commissions	s. 945.215(1)(b) FS	5,205,804	5,156,269	5,334,549	6,142,399	4,975,584
Medical Copay	s. 945.6037 FS	737,410	713,823	661,604	673,325	645,159
Inmate Bank - GR		\$44,429,308	\$45,115,756	\$45,513,970	\$46,252,480	\$46,227,797

Inmate Welfare Trust Fund for Privately Operated Institutions

An Inmate Welfare Trust Fund for private correctional facilities created in 1998 continues to operate.³ This trust fund is for the benefit and welfare of inmates incarcerated in private correctional facilities under contract with the Department of Management Services (DMS). Net proceeds from inmate canteens, vending machines used primarily by inmates, telephone commissions, and other similar sources of proceeds are deposited in the fund. The DMS compiles an annual report documenting the receipts and expenditures at each private facility. For Fiscal Year 2013-2014, the DMS reported total revenues of \$3,252,201.41. The total expenditures for vocational programs, canine detection training programs, and community service programs was \$1,014,038.88.

III. Effect of Proposed Changes:

The bill creates the State-Operated Institutions Inmate Welfare Trust Fund within the Department of Corrections. The language of the bill closely mirrors the language that was in s. 945.215, F.S., when the former trust fund was originally created. The purpose of the new Trust Fund is for the benefit and welfare of inmates incarcerated in state-operated correctional facilities. The new Trust Fund will terminate on July 1, 2020, unless terminated sooner.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹ Rule 33-203.101, F.A.C.

² Canteen commissions include MP3 music program sales.

³ Section 944.72, F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Florida Department of Corrections, the bill will benefit the welfare of inmates incarcerated in State-Operated Correctional Institutions. The revenues deposited will be taken from operating inmate canteens (vending machines used primarily by inmates and visitors, hobby shops, and other such facilities).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 944.73 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.

THE FLORIDA SENATE
APPEARANCE RECORD

2/1/2016

Meeting Date

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

930

Bill Number (if applicable)

Topic Inmate Trust Fund

Amendment Barcode (if applicable)

Name Blair Payne

Job Title Public Defender, 3rd Circuit

Address 173 N.E. Hernando Avenue, Suite 115

Phone 386.362.7235

Street

Lake City

Florida

32055

City

State

Zip

Email mbp@pd3.coj.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 932

INTRODUCER: Criminal Justice Committee and Senator Evers

SUBJECT: Inmate Welfare and Employee Benefit Trust Funds

DATE: February 2, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	Fav/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 932 establishes the purpose, revenue sources, and uses for the State Operated Institutions Inmate Welfare Trust Fund (trust fund), contingent upon creation of the trust fund by passage of SB 930. The bill provides that the Department of Corrections (DOC) hold this trust fund for the benefit and welfare of inmates incarcerated in correctional facilities operated directly by the department. Deposits into the trust fund are limited to five million dollars in any fiscal year. Revenues in excess of five million dollars during a fiscal year will be deposited into the General Revenue Fund.

II. Present Situation:

Inmate Welfare Trust Fund and Revenue Received from Canteen Sales

For many years prior to 2003, a trust fund created in s. 945.215, F.S., allowed the department to use revenue from the purchase of inmate canteen items and inmate telephone calls to fund chapels, education, and wellness programs at publicly operated correctional facilities. The source of most of the revenue was family and friends of the inmates. Chapter 2003-179, Laws of Florida, eliminated the trust fund and required the revenue from inmate canteens, telephone usage, and other revenue generators to go directly into the General Revenue Fund. Although s. 945.215, F.S., was amended to eliminate the Inmate Welfare Trust Fund for state operated correctional facilities, the Inmate Welfare Trust Fund for privately operated facilities was maintained in the law. Consequently, under current law, revenue from the purchase of canteen

items and from telephone usage in the department operated institutions is deposited into General Revenue and not earmarked for inmate welfare or betterment programs.

According to a January 15, 2015, Auditor General audit of the department's canteen operations, from July 2012 through February 2014 sales in department institution canteens totaled approximately \$133.31 million and catalog sales totaled \$868,474. The department received MP3 program commissions from Keefe Commissary Network totaling \$940,412 from MP3 program sales totaling \$5.99 million.

The chart below shows the department's revenue collections from funding sources for the Inmate Welfare Trust Fund before s. 945.215, F.S., was amended to direct those revenues to the General Revenue Fund:

REVENUE COLLECTION SUMMARY PREVIOUS INMATE WELFARE TRUST FUND SOURCES FY 2010-2011 – FY 2014-2015						
Description	Authorizing Statute	Fiscal Year 2010-2011	Fiscal Year 2011-2012	Fiscal Year 2012-2013	Fiscal Year 2013-2014	Fiscal Year 2014-2015
General Revenue Unallocated (GRU) Collections:						
Subsistence	s. 944.485 FS	6,748,740	7,712,150	8,035,040	8,092,206	5,768,529
Interest Income – ITF	s. 944.516(1)(f) FS	230,677	204,227	204,368	103,669	124,382
ITF Balances < \$1.00	s. 944.516(5) FS	1,194	1,219	1,197	1,211	1,217
Canteen Commissions ¹	s. 945.215(1)(a) FS	31,162,387	30,970,697	30,907,621	31,027,325	34,237,290
Vending Commissions	s. 945.215(1)(e) FS	343,096	357,371	369,591	212,345	475,637
Telephone Commissions	s. 945.215(1)(b) FS	5,205,804	5,156,269	5,334,549	6,142,399	4,975,584
Medical Copay	s. 945.6037 FS	737,410	713,823	661,604	673,325	645,159
Inmate Bank - GR		\$44,429,308	\$45,115,756	\$45,513,970	\$46,252,480	\$46,227,797

III. Effect of Proposed Changes:

The bill establishes the purpose, revenue sources, and uses for the State Operated Institutions Inmate Welfare Trust Fund (trust fund), contingent upon creation of the trust fund by passage of SB 930. The bill provides that the department hold this trust fund for the benefit and welfare of inmates incarcerated in correctional facilities operated directly by the department. Deposits into the trust fund are limited to five million dollars in any fiscal year. Revenues in excess of five million dollars during a fiscal year will be deposited into the General Revenue Fund.

The funds in the trust fund must be used exclusively for correctional facilities operated by the department to:

- Provide literacy programs, vocational training programs, and educational programs;
- Operate inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, and libraries;
- Provide inmate substance abuse treatment programs and transition and life skills training programs;
- Provide for the purchase, rental, maintenance or repair of electronic or audio visual equipment and service used by inmates;
- Provide for the purchase, rental, maintenance or repair of recreation and wellness equipment; or

¹ Canteen commissions include MP3 music program sales.

- Provide for the purchase, rental, maintenance, or repair of bicycles used by inmates traveling to and from employment in the work release program.

There is a specific prohibition against using the trust fund to purchase weight-training equipment. Funds in the trust fund may be expended only pursuant to legislative appropriation.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Florida Department of Corrections states that the bill will assist in the reduction of recidivism and inmate violence by allowing the department to:

- Fund educational and vocational programs;
- Operate chapels and faith based programs;
- Provide visitation, substance abuse and transitional programs;
- Provide libraries; and
- Purchase, rent and repair wellness equipment, audio visual equipment, and bicycles used by the work release program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 945.215 of the Florida Statutes.

IX. Additional Information:

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

CS by Criminal Justice on February 1, 2016:

The CS authorizes purchase of the service of electronic or audiovisual equipment in areas where free broadcasts might not be available, or if the broadcasting industry does not support free service in the future.

- B. **Amendments:**

None.

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



836554

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 108 - 109

and insert:

4. Providing for the purchase, rental, maintenance, or repair of electronic or audiovisual equipment and service used by inmates;

By Senator Evers

2-00375A-16

2016932__

A bill to be entitled

An act relating to inmate welfare and employee benefit trust funds; amending s. 945.215, F.S.; requiring that specified proceeds and funds be deposited in the State-Operated Institutions Inmate Welfare Trust Fund or the General Revenue Fund, rather than only the General Revenue Fund; requiring that the State-Operated Institutions Inmate Welfare Trust Fund be a trust held by the Department of Corrections for the benefit and welfare of certain inmates; prohibiting deposits in the trust fund from exceeding a specified amount per fiscal year; requiring that deposits in excess of that amount be deposited in the General Revenue Fund; requiring that funds from the trust fund be used exclusively for specified purposes at correctional facilities operated by the department; requiring that funds from the trust fund be expended only pursuant to legislative appropriation; requiring the department to annually compile a report, at the statewide and institutional levels, documenting the trust fund's receipts and expenditures; requiring that the report be submitted by a certain date for the previous fiscal year to specified officers of the Legislature and to the Executive Office of the Governor; prohibiting the funds from the trust fund or any other fund from being used for the purchase of weight training equipment; providing an effective date.

Page 1 of 5

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

2-00375A-16

2016932__

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

Section 1. Subsection (1) of section 945.215, Florida Statutes, is amended, present subsections (2) and (3) are redesignated as subsections (3) and (4), respectively, and a new subsection (2) is added to that section, to read:

945.215 Inmate welfare and employee benefit trust funds.—

(1) INMATE PURCHASES; DEPARTMENT OF CORRECTIONS; STATE-OPERATED INSTITUTIONS INMATE WELFARE TRUST FUND.—

(a) ~~From~~ The net proceeds from operating inmate canteens, vending machines used primarily by inmates and visitors, hobby shops, and other such facilities must be deposited in the State-Operated Institutions Inmate Welfare Trust Fund or, as set forth in this section, in the General Revenue Fund; however, funds necessary to purchase items for resale at inmate canteens and vending machines must be deposited into local bank accounts designated by the department.

(b) All proceeds from contracted telephone commissions must be deposited in the State-Operated Institutions Inmate Welfare Trust Fund or, as set forth in this section, in the General Revenue Fund. The department shall develop and update, as necessary, administrative procedures to verify that:

1. Contracted telephone companies accurately record and report all telephone calls made by inmates incarcerated in correctional facilities under the department's jurisdiction;

2. Persons who accept collect calls from inmates are charged the contracted rate; and

3. The department receives the contracted telephone commissions.

Page 2 of 5

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

2-00375A-16

2016932

(c) Any funds that may be assigned by inmates or donated to the department by the general public or an inmate service organization must be deposited in the State-Operated Institutions Inmate Welfare Trust Fund or, as set forth in this section, in the General Revenue Fund; however, the department ~~may shall~~ not accept any donation from, or on behalf of, any individual inmate.

(d) All proceeds from the following sources must be deposited in the State-Operated Institutions Inmate Welfare Trust Fund or, as set forth in this section, in the General Revenue Fund:

1. The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate;
2. Disciplinary fines imposed against inmates;
3. Forfeitures of inmate earnings; and
4. Unexpended balances in individual inmate trust fund accounts of less than \$1.

(e) Items for resale at inmate canteens and vending machines maintained at the correctional facilities shall be priced comparatively with like items for retail sale at fair market prices.

(f) Notwithstanding any other provision of law, inmates with sufficient balances in their individual inmate bank trust fund accounts, after all debts against the account are satisfied, shall be allowed to request a weekly draw of up to an amount set by the Secretary of Corrections, not to exceed \$100, to be expended for personal use on canteen and vending machine items.

(2) STATE-OPERATED INSTITUTIONS INMATE WELFARE TRUST FUND.-

2-00375A-16

2016932

(a) The State-Operated Institutions Inmate Welfare Trust Fund shall be a trust held by the department for the benefit and welfare of inmates incarcerated in correctional facilities operated directly by the department.

(b) Deposits in the State-Operated Institutions Inmate Welfare Trust Fund may not exceed a total of \$5 million in any fiscal year. Any proceeds or funds that would cause deposits in the State-Operated Institutions Inmate Welfare Trust Fund to exceed the restriction shall be deposited in the General Revenue Fund.

(c) Funds in the State-Operated Institutions Inmate Welfare Trust Fund shall be used exclusively for the following purposes at correctional facilities operated by the department:

1. Providing literacy programs, vocational training programs, and educational programs;
2. Operating inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, and libraries;
3. Providing inmate substance abuse treatment programs and transition and life skills training programs;
4. Providing for the purchase, rental, maintenance, or repair of electronic or audiovisual equipment used by inmates;
5. Providing for the purchase, rental, maintenance, or repair of recreation and wellness equipment; or
6. Providing for the purchase, rental, maintenance, or repair of bicycles used by inmates traveling to and from employment in the work-release program authorized in s. 945.091(1)(b).

(d) Funds in the State-Operated Institutions Inmate Welfare

2-00375A-16

2016932__

117 Trust Fund shall be expended only pursuant to legislative
118 appropriation.

119 (e) The department shall annually compile a report that
120 specifically documents the State-Operated Institutions Inmate
121 Welfare Trust Fund receipts and expenditures. This report shall
122 be compiled at both the statewide and institutional levels. The
123 department must submit this report for the previous fiscal year
124 by September 1 of each year to the chairs of the appropriate
125 substantive and fiscal committees of the Senate and the House of
126 Representatives and to the Executive Office of the Governor.

127 (f) Funds in the State-Operated Institutions Inmate Welfare
128 Trust Fund or any other fund may not be used to purchase weight
129 training equipment.

130 Section 2. This act shall take effect July 1, 2016.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/2016

Meeting Date

932

Bill Number (if applicable)

Topic Inmate Trust Fund

Amendment Barcode (if applicable)

Name Blair Payne

Job Title Public Defender, 3rd Circuit

Address 173 N.E. Hernando Avenue, Suite 115

Phone 386.362.7235

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Florida

32055

City

State

Zip

Email mbp@pd3.coj.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 936

INTRODUCER: Criminal Justice Committee and Senator Ring

SUBJECT: Criminal Justice System Interviews of Persons with Autism, an Autism Spectrum Disorder, or a Related Developmental Disability

DATE: February 2, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	Fav/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 936 encourages the use of state-of-the-art digital devices to assist law enforcement, correctional, or other public safety officials in quickly identifying individuals who have been diagnosed with autism, an autism spectrum disorder, or a related developmental disability and notifying the family members, caregivers, and primary intervention professionals of these individuals when a crisis occurs.

The bill provides that unless extenuating circumstances exist, a psychiatrist, psychologist, mental health counselor, special education instructor, clinical social worker, speech therapist, or related professional, that have experience in treating, teaching, or assisting persons with autism, an autism spectrum disorder, or a related developmental disability be present to assist law enforcement and other public safety officials whether the individual being interviewed is the victim of a crime, the suspect in a crime, or the defendant formally accused of a crime. It provides for law enforcement officers or other public safety officers to document the interview in writing when a professional is not available and make a professional available as soon as practicable. It provides that the cost of the professional shall be borne by the individual.

II. Present Situation:

The Center for Disease Control (CDC) estimates that 1 in 68 children have been identified with Autism Spectrum Disorder (ASD).¹ The CDC defines “Autism spectrum disorder” as a developmental disability that can cause significant social, communication, and behavioral challenges. Though there is nothing about how ASD people look that sets them apart from other people, the CDC states that people with ASD may communicate, interact, behave, and learn in ways that are different from most other people. The range of abilities of people with ASD can span from gifted to severely challenged.²

Though formerly diagnosed separately, autistic disorder, pervasive developmental disorder, and Asperger syndrome are now included in the diagnosis of ASD.³

The following definitions are codified in Florida law:

“Autism” is defined as a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.⁴

“Developmental disability” is defined as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.⁵

“Autism spectrum disorder” is any of the following disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association:

1. Autistic disorder;
2. Asperger’s syndrome; and
3. Pervasive developmental disorder not otherwise specified.⁶

III. Effect of Proposed Changes:

The bill, cited the act as the “Wes Kleinert Fair Interview Act,” encourages the use of state-of-the-art digital devices, such as bracelets, necklaces, and pocket cards that are similar to those kept upon the person of individuals who have certain medical conditions or age-related disabilities, to assist law enforcement, correctional, or other public safety officials and other

¹ Data from the Autism and Developmental Disabilities Monitoring (ADDM) Network. <http://www.cdc.gov/ncbddd/autism/research.html> (last visited January 26, 2016).

² <http://www.cdc.gov/ncbddd/autism/facts.html> (last visited January 26, 2016).

³ Id.

⁴ Section 393.063(3), F.S.

⁵ Section 393.063(9), F.S.

⁶ Sections 627.6686(2)(b) and 641.31098(2), F.S.

concerned persons in quickly identifying individuals who have been diagnosed with autism, an autism spectrum disorder, or a related developmental disability and notifying the family members, caregivers, and primary intervention professionals of these individuals when a crisis occurs.

The bill provides that unless extenuating circumstances exist, a psychiatrist, psychologist, mental health counselor, special education instructor, clinical social worker, speech therapist, or related professional, that have experience in treating, teaching, or assisting persons with autism, an autism spectrum disorder, or a related developmental disability be present to assist law enforcement and other public safety officials whether the individual being interviewed is the victim of a crime, the suspect in a crime, or the defendant formally accused of a crime. It provides for law enforcement officers or other public safety officers to document the interview in writing when a professional is not available and make a professional available as soon as practicable. It provides that the cost of the professional shall be borne by the individual.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Without quantifiable data this bill could have an indeterminate impact.

VI. Technical Deficiencies:

The bill does not provide a statute reference for the language of the bill.

The bill requires law enforcement officers to have a specified professional present for interview of an individual with a specified disorder, but does not specify what types of interviews this

requirement applies to. Additionally, the bill does not specify what options a law enforcement officer has available in an emergency situation involving an individual with a specified disorder.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill does not include sections of the Florida Statutes.

IX. Additional Information:

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

CS by Criminal Justice on February 1, 2016:

The Committee Substitute includes speech therapists in the list of trained professionals that can be present to assist law enforcement and other public safety officials whether the individual being interviewed is the victim of a crime, the suspect in a crime, or the defendant formally accused of a crime. It provides for law enforcement officers or other public safety officers to document the interview in writing when a professional is not available and make a professional available as soon as practicable. It provides that the cost of the professional shall be borne by the individual.

- B. **Amendments:**

None.



390296

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 31 - 45
and insert:

(2) Unless extenuating circumstances exist, a psychiatrist, psychologist, mental health counselor, special education instructor, clinical social worker, speech therapist, or related professional, each of whom must have experience treating, teaching, or assisting patients or clients who have been diagnosed with autism, an autism spectrum disorder, or a related



390296

developmental disability, or must be certified in special
education with a concentration focused on persons with autism,
an autism spectrum disorder, or a related developmental
disability, must be present to assist a law enforcement officer,
a correctional officer, or another public safety official during
all interviews of an individual with autism, an autism spectrum
disorder, or a related developmental disability, whether the
individual being interviewed is the victim of a crime, the
suspect in a crime, or the defendant formally accused of a crime
or is otherwise involved in the criminal justice system. If
extenuating circumstances exist and it is not possible to delay
the interview until such a professional is available, a law
enforcement officer, a correctional officer, or another public
safety official must document the circumstances in writing and
make a professional available as soon as practicable. An
individual with autism, an autism spectrum disorder, or a
related developmental disability may be held for a reasonable
period of time until a professional is retained by the
individual or his or her representative. The cost of the
professional must be borne by the individual.

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

And the title is amended as follows:

 Delete line 14

and insert:

 persons unless extenuating circumstances exist;
 requiring a law enforcement officer, a correctional
 officer, or another public safety official to document
 in writing any extenuating circumstances; authorizing



390296

a law enforcement officer, a correctional officer, or
another public safety official to hold persons with
autism, an autism spectrum disorder, or a related
developmental disability for a reasonable period of
time under certain circumstances; providing that the
cost of retaining a professional must be borne by such
persons; providing an effective date.

By Senator Ring

29-00362B-16

2016936__

A bill to be entitled

An act relating to criminal justice system interviews of persons with autism, an autism spectrum disorder, or a related developmental disability; providing a short title; encouraging the use of certain state-of-the-art digital devices for the purposes of identification and notification; requiring that certain professionals with experience in treating, teaching, or assisting persons with autism, an autism spectrum disorder, or a related developmental disability be present during an interview of a person with autism, an autism spectrum disorder, or a related developmental disability conducted by specified persons; providing an effective date.

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

Section 1. This act may be cited as "The Wes Kleinert Fair Interview Act."

Section 2. (1) The Legislature encourages the use of state-of-the-art digital devices, such as bracelets, necklaces, and pocket cards that are similar to those kept upon the person of individuals who have certain medical conditions or age-related disabilities, to assist law enforcement, correctional, or other public safety officials and other concerned persons in quickly identifying individuals who have been diagnosed with autism, an autism spectrum disorder, or a related developmental disability and notifying the family members, caregivers, and primary intervention professionals of such individuals when a crisis

Page 1 of 2

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

29-00362B-16

2016936__

occurs.

(2) A psychiatrist, psychologist, mental health counselor, special education instructor, clinical social worker, or related professional, each of whom must have experience treating, teaching, or assisting patients or clients who have been diagnosed with autism, an autism spectrum disorder, or a related developmental disability, or must be certified in special education with a concentration focused on persons with autism, an autism spectrum disorder, or a related developmental disability, must be present to assist a law enforcement officer, a correctional officer, or another public safety official during all interviews of an individual with autism, an autism spectrum disorder, or a related developmental disability, whether the individual being interviewed is the victim of a crime, the suspect in a crime, or the defendant formally accused of a crime or is otherwise involved in the criminal justice system.

Section 3. This act shall take effect July 1, 2016.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Governmental Oversight and Accountability, *Chair*
Judiciary, *Vice Chair*
Appropriations
Appropriations Subcommittee on Education
Children, Families, and Elder Affairs
Commerce and Tourism

JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining

SENATOR JEREMY RING

29th District

December 7, 2015

Honorable Senator Greg Evers, Chair
Committee on Criminal Justice
510 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Evers,

I am writing to respectfully request your cooperation in placing Senate Bill 936, relating to Criminal Justice System Interviews of Persons with Autism, an Autism Spectrum Disorder, or a Related Developmental Disability, on the Criminal Justice agenda at your earliest convenience. I would greatly appreciate the opportunity to discuss the bill at greater length before your committee.

Thank you in advance for your assistance. As always, please do not hesitate to contact me with any questions or comments you may have.

Very Truly Yours,

A handwritten signature in cursive script that reads "Jeremy Ring".

Jeremy Ring
Senator District 29

cc: Amanda Cannon, Staff Director
Sue Arnold, Committee Administrative Assistant

REPLY TO:

- ☐ 5790 Margate Boulevard, Margate, Florida 33063 (954) 917-1392 FAX: (954) 917-1394
- ☐ 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

Feb 1, 2014

Meeting Date

58936

Bill Number (if applicable)

Topic Criminal Justice System Interviews

Amendment Barcode (if applicable)

Name Dixie Sansom

Job Title Lobbyist

Address PO Box 98
Street

Phone 321-543-7195

Cocoa FL 32923
City State Zip

Email dixiesansom@aol.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing The ARC of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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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)

2 / 1 / 2016

Meeting Date

Topic _____ Bill Number 936
Name BRIAN PITTS (if applicable)
Job Title TRUSTEE Amendment Barcode _____ (if applicable)
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705
City State Zip
E-mail JUSTICE2JESUS@YAHOO.COM
Speaking: ☐ For ☐ Against ☒ Information
Representing JUSTICE-2-JESUS
Appearing at request of Chair: ☐ Yes ☒ No
Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1256

INTRODUCER: Criminal Justice Committee and Senator Brandes

SUBJECT: Alternative Sanctioning

DATE: February 2, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	Fav/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1256 creates an alternative sanctioning program (“program”) for technical violations of probation. The bill defines “technical violation” as any alleged violation of supervision that is not a new felony offense, misdemeanor offense, or criminal traffic offense. The bill allows the chief judge of each judicial circuit, in consultation with the state attorney, public defender, and Department of Corrections, to establish an alternative sanctioning program and determine which technical violations will be eligible for alternative sanctioning.

An eligible probationer who commits a technical violation may choose to participate in the program and admit to the violation, comply with a probation officer’s recommended sanctions, and waive his or her right to a hearing on the violation. A probation officer’s recommended alternative sanction must be reviewed by the court, which may approve the sanction or remove the probationer from the program.

II. Present Situation:

Probation

Any person who is found guilty by a jury or the court sitting without a jury or who enters a plea of guilty or nolo contendere may be placed on probation regardless of whether adjudication is

withheld.¹ The court determines the terms and conditions of probation. The standard conditions of probation that do not require oral pronouncement, include:

- Report to the probation and parole supervisors as directed;
- Permit such supervisors to visit him or her at his or her home or elsewhere;
- Work faithfully at suitable employment insofar as may be possible;
- Remain within a specified place;
- Live without violating any law;
- Make reparation or restitution to the aggrieved party;
- Repayment of debt to a county or municipal detention facility for medical care, treatment received;
- Payment of any fees due;
- Not associate with persons engaged in criminal activities; and
- Submit to random testing.²

When a defendant is placed on probation the Department of Corrections (“department”) provides immediate officer supervision. Private entities may not provide probationary or supervision services to felony or misdemeanor offenders sentenced or placed on probation or other supervision by the circuit court.³

Section 948.06, F.S., provides procedures regarding a violation of the terms and conditions required of a person on probation. Upon violation, the probationer is arrested and brought before the sentencing court. At the first hearing on the violation, the probationer is advised of the charge. If the probationer admits the charge, the court may immediately revoke, modify, or continue the probation or place the probationer into a community control program.

If the probationer denies having violated the terms of the probation, the court may commit him or her to jail or release him or her with or without bail to await further hearing, or it may dismiss the charge of probation violation. Unless dismissed, the court must conduct a hearing and determine whether the probationer has violated the terms of his or her probation. If the court finds that the probationer has violated, the court may immediately revoke, modify, or continue the probation or place the probationer into a community control program.

If probation is revoked, the court must adjudicate the probationer guilty of the offense charged and proven or admitted, unless he or she has previously been adjudicated guilty. The court may then impose any sentence that it might have originally imposed for the offense for which the probationer was placed on probation or into community control.

Technical Violations

Section 948.06(1)(g), F.S., provides that the chief judge of each judicial circuit may direct the department to use a notification letter of a technical violation in lieu of a violation report when the alleged violation is not a new felony or misdemeanor.

¹ Section 948.01(1) F.S.

² Section 948.03(1), F.S.

³ Section 948.01(1)(a), F.S.

During Fiscal Year 2014-15, approximately 94,000 violation reports were submitted to the court due to probation violations. Of this number, 61,777 (or 66%) were technical violations. Because of overcrowded court dockets, it often takes weeks and multiple hearings for a probationer to be sentenced as the result of a violation of probation. If the probationer is charged with a technical violation, these hearings often result in the court reinstating or modifying the probation with additional sanctions imposed. If the probationer is held in jail pending a violation hearing, he or she may lose employment and be unable to pay victim restitution, attend treatment, or comply with supervision requirements.⁴

In an effort to improve the violation of probation process, the department's Office of Community Corrections developed the Alternative Sanctions Program to reduce recidivism for supervised probationers by utilizing collaborative efforts between courts, probation, and law enforcement. The program, created through administrative order in each circuit, allows a technical violation to be addressed immediately with the probationer through an administrative process. Circuit court judges in 12 counties within six judicial circuits have agreed to implement the Alternative Sanctions Program via administrative order, including Alachua, Brevard, Desoto, Flagler, Manatee, Palm Beach, Pinellas, Putnam, Sarasota, Seminole, St. Johns, and Volusia.⁵

III. Effect of Proposed Changes:

The bill codifies current practice by creating an alternative sanctioning program ("program") for technical violations of probation. The bill defines technical violations as any alleged violation of supervision that is not a new felony offense, misdemeanor offense, or criminal traffic offense. The bill allows the chief judge of each judicial circuit, in consultation with the state attorney, public defender, and the department, to establish an alternative sanctioning program and determine which technical violations will be eligible for alternative sanctioning.

If an eligible offender on probation is alleged to have committed a technical violation, the offender may either waive participation in the program or elect to participate. By participating in the program, the offender admits to the violation, agrees to the probation officer's recommended sanction, and waives the right to:

- Be represented by legal counsel;
- Require the state to prove his or her guilt before a neutral and detached hearing body;
- Subpoena witnesses and present to a judge evidence in his or her defense;
- Confront and cross-examine adverse witnesses; and
- Receive a written statement from a factfinder as to the evidence relied on and the reasons for the sanction imposed.

Before imposing the sanction, the probation officer must submit the recommended sanction and documentation of the offender's admission of violation and agreement with the sanction to the court. The court has the discretion to impose the recommended sanction or to direct the department to submit a violation report, affidavit, and warrant like a normal case not in the program. Any participation by the offender in the program is solely voluntary and the offender

⁴ Department of Corrections Legislative Bill Analysis 2016 SB 1256. (On file with the Florida Senate Criminal Justice Committee.)

⁵ Id.

may elect to discontinue participation in the program as long as it is before the issuance of the court order imposing the recommended sanction. When an offender quits the program, the probation officer may submit a violation report, affidavit, and warrant to the court concerning the violation. Any prior admission by the offender may not be used as evidence in subsequent proceedings.

The chief judge, in order to establish the program, must issue an administrative order specifying eligibility, which technical violations will be eligible for program, which sanctions may be recommended by a probation officer, and the process for reporting violations of the program.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the department, alternative sanctioning programs may decrease expenditures by reducing law enforcement arrests, jail incarceration of offenders pending technical violation hearings, probation officer time spent at these violation hearings, and court personnel involved in the violation hearing process.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 948.06 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.)

CS by Criminal Justice on February 1, 2016:

Makes a technical change by replacing the word “paragraph” for “section.”

B. Amendments:

None.

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



704748

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2016	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 42
and insert:
supervision. For purposes of this paragraph, the term "technical



688244

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/29/2016	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 45
and insert:
traffic offense. However, if the criminal traffic offense is a
violation of s. 322.34(10), it shall be considered a technical
violation.

By Senator Brandes

22-01081C-16

20161256__

A bill to be entitled

An act relating to alternative sanctioning; amending s. 948.06, F.S.; authorizing the chief judge of each judicial circuit, in consultation with specified entities, to establish an alternative sanctioning program; defining the term "technical violation"; requiring the chief judge to issue an administrative order when creating an alternative sanctioning program; specifying requirements for the order; authorizing an offender who allegedly committed a technical violation of supervision to waive participation in or elect to participate in the program, admit to the violation, agree to comply with the recommended sanction, and agree to waive certain rights; requiring the probation officer to submit the recommended sanction and certain documentation to the court if the offender admits to committing the violation; authorizing the court to impose the recommended sanction or direct the Department of Corrections to submit a violation report, affidavit, and warrant to the court; specifying that an offender's participation in an alternative sanctioning program is voluntary; authorizing a probation officer to submit a violation report, affidavit, and warrant to the court in certain circumstances; providing an effective date.

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

Section 1. Paragraph (h) of subsection (1) of section 948.06, Florida Statutes, is redesignated as paragraph (i), and a new paragraph (h) is added to that subsection, to read:

Page 1 of 4

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

22-01081C-16

20161256__

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

(1)

(h)1. The chief judge of each judicial circuit, in consultation with the state attorney, the public defender, and the department, may establish an alternative sanctioning program in which the department, after receiving court approval, may enforce specified sanctions for certain technical violations of supervision. For purposes of this section, the term "technical violation" means any alleged violation of supervision that is not a new felony offense, misdemeanor offense, or criminal traffic offense.

2. To establish an alternative sanctioning program, the chief judge must issue an administrative order specifying:

a. Eligibility criteria.

b. The technical violations that are eligible for the program.

c. The sanctions that may be recommended by a probation officer for each technical violation.

d. The process for reporting technical violations through the alternative sanctioning program, including approved forms.

3. If an offender is alleged to have committed a technical violation of supervision that is eligible for the program, the offender may:

a. Waive participation in the alternative sanctioning program, in which case the probation officer may submit a violation report, affidavit, and warrant to the court in accordance with this section; or

Page 2 of 4

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

22-01081C-16

20161256__

b. Elect to participate in the alternative sanctioning program after receiving written notice of an alleged technical violation and a disclosure of the evidence against the offender, admit to the technical violation, agree to comply with the probation officer's recommended sanction if subsequently ordered by the court, and agree to waive the right to:

(I) Be represented by legal counsel.

(II) Require the state to prove his or her guilt before a neutral and detached hearing body.

(III) Subpoena witnesses and present to a judge evidence in his or her defense.

(IV) Confront and cross-examine adverse witnesses.

(V) Receive a written statement from a factfinder as to the evidence relied on and the reasons for the sanction imposed.

4. If the offender admits to committing the technical violation and agrees with the probation officer's recommended sanction, the probation officer must, before imposing the sanction, submit the recommended sanction to the court as well as documentation reflecting the offender's admission to the technical violation and agreement with the recommended sanction.

5. The court may impose the recommended sanction or may direct the department to submit a violation report, affidavit, and warrant to the court in accordance with this section.

6. An offender's participation in an alternative sanctioning program is voluntary. The offender may elect to waive or discontinue participation in an alternative sanctioning program at any time before the issuance of a court order imposing the recommended sanction.

7. If an offender waives or discontinues participation in

Page 3 of 4

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22-01081C-16

20161256__

an alternative sanctioning program, the probation officer may submit a violation report, affidavit, and warrant to the court in accordance with this section. The offender's prior admission to the technical violation may not be used as evidence in subsequent proceedings.

Section 2. This act shall take effect July 1, 2016.

Page 4 of 4

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



The Florida Senate

Committee Agenda Request

✓

To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: January 11, 2016

I respectfully request that **Senate Bill #1256**, relating to **Alternative Sanctioning**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", is written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 22

THE FLORIDA SENATE
APPEARANCE RECORD

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

2.1.16

Meeting Date

SB1256

Bill Number (if applicable)

Topic Alternative Sanctions

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Pres & CEO

Address 204 S. Monroe St., Ste. 201

Phone _____

Street

Tall

City

FL

State

32301

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Fla. Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

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

SB 1256.
Bill Number (if applicable)

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THE FLORIDA SENATE
APPEARANCE RECORD

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2 / 1 / 2016

Meeting Date

1256

Topic _____ Bill Number 1256
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City State Zip

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1294

INTRODUCER: Senator Grimsley

SUBJECT: Offenses Involving Minors and Vulnerable Persons

DATE: January 29, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Favorable
2.			JU	
3.			FP	

I. Summary:

SB 1294 broadens the application of the witness or victim protections found in s. 92.54, F.S., by amending the cut-off age from under the age of 16 to under the age of 18. This will allow the court to protect a witness or victim who is a minor from “at least moderate emotional or mental harm due to the presence of the defendant” if the child is required to testify in open court in the defendant’s presence.

The bill amends the felony murder statutes to include the crime of human trafficking as a qualifying offense for the charge of felony murder as found in s. 782.04(1)(a)2. and (3), F.S.

The human trafficking statute is amended to punish great bodily harm, permanent disability, or permanent disfigurement caused to the victim of the underlying human trafficking offense.

The bill clarifies that if a person permanently brands or directs another to permanently brand another *for the purpose of committing a human trafficking offense* it is a second degree felony. The clarification limits this offense of branding to human trafficking circumstances.

The bill eliminates a potential defense to human trafficking crimes. If the victim of the human trafficking offense is under the age of 18 at the time of the crime, his or her lack of chastity or willingness or consent is not a defense to the human trafficking crime.

Section 794.022, F.S., dealing with rules of evidence is amended to include victims of human trafficking and victims of lewd or lascivious offenses in the list of offenses for which the admission of certain evidence may be limited. The amendment provides that victims of those crimes need not have their testimony corroborated nor should specific instances of prior consensual sexual activity with anyone other than the offender be admitted into evidence in a criminal prosecution except under limited circumstances. These evidentiary standards currently apply only for victims of sexual battery.

Numerous sections of the Florida Statutes are amended to clarify a citation from the human trafficking chapter that was merged with another paragraph by Chapter 2014-160, L.O.F.

The bill becomes effective on July 1, 2016.

II. Present Situation:

Victim or Witness Testimony via Closed Circuit Television

Section 92.54, F.S., provides for a victim or witness under the age of 16 or who has an intellectual disability may testify via closed circuit television under limited circumstances.

The court must first find that the victim or witness will suffer at least moderate emotional or mental harm due to the presence of the defendant if required to testify in open court.¹

There must be an adequate showing of necessity, but if shown, the State's interest in protecting child witnesses from the trauma of testifying in the presence of the defendant is sufficiently important to justify the use of a special procedure for giving testimony.² In order to balance the defendant's right to confront his or her accuser with the State's interest, the court must:

- Determine whether a procedure such as closed circuit television is necessary to protect the child's welfare;
- Find that the child would be traumatized by the presence of the defendant, not by the courtroom experience generally; and
- Find that the emotional distress suffered by the child in the presence of the defendant is not just mere nervousness, excitement, or reluctance to testify.³

The court should make specific findings of fact on the record or by court order, not simply adopt the testimony of a loved one or expert.⁴

The defendant, who may be required to view the testimony from the courtroom, must be provided with the means to have immediate and direct communication with his or her counsel conducting cross-examination.⁵

The victim or witness, his or her attorney, parent, legal guardian or guardian ad litem may file the motion for the child victim or witness to testify via closed circuit television from outside the courtroom.⁶ Only the persons specified in s. 92.54(3), F.S., may be present during the victim's or witness's testimony.⁷

¹ Section 92.54(1), F.S.

² *Maryland v. Craig*, 110 S.Ct. 3157 (1990).

³ *Id.*

⁴ *Hopkins v. State*, 632 So.2d 1372 (Fla. 1994).

⁵ Section 92.54(4), F.S.

⁶ Section 92.54(2), F.S.

⁷ These persons are: the judge, prosecutor, defense attorney, videotape equipment operators, an interpreter, and some other person approved by the court for the victim or witness's support, in addition to the defendant (presumably unless the court has ruled that he or she is required to listen and watch from the courtroom pursuant to s. 92.54(4), F.S.).

Human Trafficking

Section 787.06, F.S., punishes human trafficking, which the statute defines as the “transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining of another person for the purpose of exploitation of that person.” The statute contains a variety of provisions prohibiting persons from knowingly engaging in human trafficking using labor or services or for commercial sexual activity.⁸

Felony Murder

Felony murder occurs when a person is killed during the commission or attempted commission of a crime designated in s. 782.04(1)(a)2.a.-r. and (3)(a)-(r).

The listed crimes are any:

- a. Trafficking offense prohibited by s. 893.135(1),
- b. Arson,
- c. Sexual battery,
- d. Robbery,
- e. Burglary,
- f. Kidnapping,
- g. Escape,
- h. Aggravated child abuse,
- i. Aggravated abuse of an elderly person or disabled adult,
- j. Aircraft piracy,
- k. Unlawful throwing, placing, or discharging of a destructive device or bomb,
- l. Carjacking,
- m. Home-invasion robbery,
- n. Aggravated stalking,
- o. Murder of another human being,
- p. Resisting an officer with violence to his or her person,
- q. Aggravated fleeing or eluding with serious bodily injury or death,
- r. Felony that is an act of terrorism or is in furtherance of an act of terrorism.⁹

Felony murder in the third degree¹⁰ occurs when a person is killed, without any design to effect death, during the commission or attempted commission of any felony other than the designated crimes found in s. 782.04(4), F.S.

The listed crimes are any:

- (a) Trafficking offense prohibited by s. 893.135(1),
- (b) Arson,
- (c) Sexual battery,

⁸ See s. 787.06(3) and (4), F.S.

⁹ If the person is killed by the person committing or attempting to commit the listed crime, the murder is a capital offense punishable by death or life imprisonment. If the person is killed by a person other than the one committing or attempting to commit the listed crime, the one who is committing or attempting to commit the crime is responsible for the death. Under those circumstance, it is a second degree murder, punishable by 30 years to life imprisonment.

¹⁰ Third degree murder is punishable as a second degree felony punishable by up to 15 years imprisonment.

- (d) Robbery,
- (e) Burglary,
- (f) Kidnapping,
- (g) Escape,
- (h) Aggravated child abuse,
- (i) Aggravated abuse of an elderly person or disabled adult,
- (j) Aircraft piracy,
- (k) Unlawful throwing, placing, or discharging of a destructive device or bomb,
- (l) Unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,
- (m) Carjacking,
- (n) Home-invasion robbery,
- (o) Aggravated stalking,
- (p) Murder of another human being,
- (q) Aggravated fleeing or eluding with serious bodily injury or death,
- (r) Resisting an officer with violence to his or her person, or
- (s) Felony that is an act of terrorism or is in furtherance of an act of terrorism.

Rules of Evidence Applicable to Sexual Offenses

In many U.S. jurisdictions, laws exist to prevent specific instances of the victim's prior sexual conduct from being admitted at trial in a prosecution for sexual battery or other sexual misconduct charges.¹¹ These laws are commonly referred to as "Rape Shield" laws.¹² Section 794.022, F.S., is Florida's Rape Shield law, and it has long been considered a codification of the rule of relevancy that a victim's prior sexual conduct is generally irrelevant in determining the defendant's guilt.¹³ It applies only to criminal prosecutions for sexual battery under s. 794.011, F.S., and provides that:

- The victim's testimony doesn't have to be corroborated by other evidence;
- Specific instances of the victim's sexual history with people other than the offender are inadmissible unless:
 - The evidence is introduced to prove that the defendant wasn't the source of physical evidence, such as semen; or
 - When consent is at issue, the evidence proves a pattern of the victim's conduct or behavior that is so similar to the conduct or behavior in the case that it is relevant to the issue of consent.
- The victim's reputation for sexual behavior is inadmissible;
- Evidence presented to prove the victim's appearance prompted the sexual battery is inadmissible;

¹¹ Nat'l Dist. Attorney's Ass'n, *Rape Shield Statutes*, NAT'L DIST. ATTORNEY'S ASS'N (March 2011) (available at http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwiMl-Xc06XKAhWFHD4KHVs-ByAQFggcMAA&url=http%3A%2F%2Fwww.ndaa.org%2Fpdf%2FNCPCA%2520Rape%2520Shield%25202011.pdf&usg=AFQjCNGb9ME_OADBM-qIDOCmtYCs3dYB7g) (last visited Jan. 12, 2016).

¹² See *Lewis v. State*, 591 So. 2d 922, 924 (Fla. 1991).

¹³ *Marr v. Florida*, 494 So. 2d 1139, 1142-43 (Fla. 1986).

- When consent is a defense, evidence of the victim’s mental incapacity or defect can be admitted to prove that consent was not given;
- An offender’s use of a prophylactic device, or a victim’s request that an offender use a prophylactic device, is not independently relevant.¹⁴

The United States Code also has a Rape Shield statute. In contrast to Florida’s Rape Shield law, the federal statute is not limited to sexual battery offenses; rather, the federal statute applies to *any* criminal or civil proceeding involving alleged sexual misconduct.¹⁵ As such, federal courts have repeatedly held that a victim’s prior history of sexual behavior, such as exotic dancing or prostitution, is irrelevant and inadmissible in prosecutions for crimes such as sex trafficking, forced labor, sex trafficking by force, fraud, or coercion, and sex trafficking of a child.¹⁶

III. Effect of Proposed Changes:

The bill broadens the application of the witness or victim protections found in s. 92.54, F.S., by amending the cut-off age from under the age of 16 to under the age of 18. This will allow the court to protect a witness or victim who is a minor from “at least moderate emotional or mental harm due to the presence of the defendant” if the child is required to testify in open court in the defendant’s presence.

The bill amends the felony murder statutes to include the crime of human trafficking as a qualifying offense for the charge of felony murder as found in s. 782.04(1)(a)2. and (3), F.S. The bill also adds human trafficking to the list of crimes that do not qualify as an underlying third degree felony murder found in s. 782.04(4), F.S.

The human trafficking statute is amended to punish great bodily harm, permanent disability, or permanent disfigurement caused to the victim of the underlying human trafficking offense. The offense is a first degree felony punishable by a term of imprisonment of 30 years to life.

Additionally, the bill clarifies that if a person permanently brands or directs another to permanently brand another *for the purpose of committing a human trafficking offense* it is a second degree felony. Therefore the clarification limits this offense of branding to human trafficking circumstances.

The bill eliminates a potential defense to human trafficking crimes. If the victim of the human trafficking offense is under the age of 18 at the time of the crime, his or her lack of chastity or willingness or consent is not a defense to the human trafficking crime.

¹⁴ Section 794.022, F.S.

¹⁵ 28 U.S.C. § 412.

¹⁶ See *United States v. Rivera*, 799 F.3d 180, 185 (2d Cir. 2015) (holding that “[e]vidence of victims’ prior acts of commercial sex is irrelevant to whether those victims were coerced into working as prostitutes.”); *United States v. Roy*, 781 F.3d 416, 420 (8th Cir. 2015) (holding that the victim’s participation in prostitution before or after the alleged incident is irrelevant to whether the defendant threatened her, beat her, or took her money); *United States v. Cephus*, 684 F.3d 703, 708 (7th Cir. 2012) (holding that the victim’s prior history of prostitution was irrelevant to proving that she consented to having her wages withheld and be beaten).

Section 794.022, F.S., dealing with rules of evidence is amended to include victims of human trafficking and victims of lewd or lascivious offenses¹⁷ in the list of offenses for which the admission of certain evidence may be limited. The amendment provides that victims of those crimes need not have their testimony corroborated nor should specific instances of prior consensual sexual activity with anyone other than the offender be admitted into evidence in a criminal prosecution except under limited circumstances.

Sections 90.404, 775.21, 943.0435, 944.606, and 944.607 are amended to conform and clarify the proper citation for s. 787.06(3)(h), F.S. (2012). Paragraph (h) of s. 787.06(3), F.S., was merged with paragraph (g) of that section in ch. 2014-160, Laws of Florida.

The bill becomes effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Based upon the preliminary assessment of the potential prison bed impact of the bill it is anticipated that the bill may have a positive insignificant impact on the number of prison beds necessary to accommodate persons convicted under the new and amended criminal offenses.

VI. Technical Deficiencies:

None.

¹⁷ Sections 787.06 and 800.04, F.S.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 92.54, 782.04, 787.06, 794.022, 90.404, 775.21, 943.0435, 944.606, and 944.607.

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

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

None.

B. Amendments:

None.

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

By Senator Grimsley

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A bill to be entitled

An act relating to offenses involving minors and vulnerable persons; amending s. 92.54, F.S.; increasing the maximum age at which a victim or witness may be allowed to testify via closed circuit television rather than in a courtroom in certain circumstances; amending s. 782.04, F.S.; including human trafficking as an underlying felony offense to support a felony murder conviction; amending s. 787.06, F.S.; providing increased criminal penalties for human trafficking offenses if the victim suffers great bodily harm, permanent disability, or permanent disfigurement; specifying that penalties for branding must be for the purpose of committing the offense of human trafficking; prohibiting certain defense to prosecution; amending s. 794.022, F.S.; including human trafficking and lewd and lascivious offenses in the rules of evidence applicable to sexually-related offenses; amending ss. 90.404, 775.21, 943.0435, 944.606, and 944.607, 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. Section 92.54, Florida Statutes, is amended to read:

92.54 Use of closed circuit television in proceedings involving a victim or witness under the age of 18 ~~16~~ or who has an intellectual disability.—

(1) Upon motion and hearing in camera and upon a finding that there is a substantial likelihood that a victim or witness under the age of 18 ~~16~~ or who has an intellectual disability

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will suffer at least moderate emotional or mental harm due to the presence of the defendant if such victim or witness is required to testify in open court, or is unavailable as defined in s. 90.804(1), the trial court may order that the testimony of the victim or witness be taken outside of the courtroom and shown by means of closed circuit television.

(2) The motion may be filed by the victim or witness; the attorney, parent, legal guardian, or guardian ad litem of the victim or witness; the prosecutor; the defendant or the defendant's counsel; or the trial judge on his or her own motion.

(3) Only the judge, the prosecutor, the defendant, the attorney for the defendant, the operators of the videotape equipment, an interpreter, and some other person who, in the opinion of the court, contributes to the well-being of the child or the person who has an intellectual disability and who will not be a witness in the case may be in the room during the recording of the testimony.

(4) During the victim's or witness's testimony by closed circuit television, the court may require the defendant to view the testimony from the courtroom. In such a case, the court shall permit the defendant to observe and hear the testimony of the victim or witness, but must ensure that the victim or witness cannot hear or see the defendant. The defendant's right to assistance of counsel, which includes the right to immediate and direct communication with counsel conducting cross-examination, must be protected and, upon the defendant's request, such communication must be provided by any appropriate electronic method.

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(5) The court shall make specific findings of fact, on the record, as to the basis for its ruling under this section.

Section 2. Subsections (1), (3), and (4) of section 782.04, Florida Statutes, are amended to read:

782.04 Murder.—

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

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

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

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

b. Arson,

c. Sexual battery,

d. Robbery,

e. Burglary,

f. Kidnapping,

g. Escape,

h. Aggravated child abuse,

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

j. Aircraft piracy,

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

l. Carjacking,

m. Home-invasion robbery,

n. Aggravated stalking,

o. Murder of another human being,

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

q. Aggravated fleeing or eluding with serious bodily injury or death,

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

s. Human trafficking; or

3. Which resulted from the unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., opium or any synthetic or natural salt, compound, derivative, or preparation of opium, or methadone by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,

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

(b) In all cases under this section, the procedure set forth in s. 921.141 shall be followed in order to determine sentence of death or life imprisonment.

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

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

(b) Arson,

(c) Sexual battery,

(d) Robbery,

(e) Burglary,

(f) Kidnapping,

(g) Escape,

(h) Aggravated child abuse,

(i) Aggravated abuse of an elderly person or disabled adult,

(j) Aircraft piracy,

(k) Unlawful throwing, placing, or discharging of a

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120 destructive device or bomb,
 121 (l) Carjacking,
 122 (m) Home-invasion robbery,
 123 (n) Aggravated stalking,
 124 (o) Murder of another human being,
 125 (p) Aggravated fleeing or eluding with serious bodily
 126 injury or death,
 127 (q) Resisting an officer with violence to his or her
 128 person, ~~or~~
 129 (r) Felony that is an act of terrorism or is in furtherance
 130 of an act of terrorism, or
 131 (s) Human trafficking,
 132
 133 by a person other than the person engaged in the perpetration of
 134 or in the attempt to perpetrate such felony, the person
 135 perpetrating or attempting to perpetrate such felony commits
 136 murder in the second degree, which constitutes a felony of the
 137 first degree, punishable by imprisonment for a term of years not
 138 exceeding life or as provided in s. 775.082, s. 775.083, or s.
 139 775.084.
 140 (4) The unlawful killing of a human being, when perpetrated
 141 without any design to effect death, by a person engaged in the
 142 perpetration of, or in the attempt to perpetrate, any felony
 143 other than any:
 144 (a) Trafficking offense prohibited by s. 893.135(1),
 145 (b) Arson,
 146 (c) Sexual battery,
 147 (d) Robbery,
 148 (e) Burglary,

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149 (f) Kidnapping,
 150 (g) Escape,
 151 (h) Aggravated child abuse,
 152 (i) Aggravated abuse of an elderly person or disabled
 153 adult,
 154 (j) Aircraft piracy,
 155 (k) Unlawful throwing, placing, or discharging of a
 156 destructive device or bomb,
 157 (l) Unlawful distribution of any substance controlled under
 158 s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or
 159 opium or any synthetic or natural salt, compound, derivative, or
 160 preparation of opium by a person 18 years of age or older, when
 161 such drug is proven to be the proximate cause of the death of
 162 the user,
 163 (m) Carjacking,
 164 (n) Home-invasion robbery,
 165 (o) Aggravated stalking,
 166 (p) Murder of another human being,
 167 (q) Aggravated fleeing or eluding with serious bodily
 168 injury or death,
 169 (r) Resisting an officer with violence to his or her
 170 person, ~~or~~
 171 (s) Felony that is an act of terrorism or is in furtherance
 172 of an act of terrorism, or
 173 (t) Human trafficking,
 174
 175 is murder in the third degree and constitutes a felony of the
 176 second degree, punishable as provided in s. 775.082, s. 775.083,
 177 or s. 775.084.

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Section 3. Paragraph (h) is added to subsection (3) of section 787.06, Florida Statutes, paragraph (b) of subsection (4) is amended, subsections (5) through (9) are renumbered as subsections (6) through (10), respectively, and a new subsection (5) is added to that section, to read:

787.06 Human trafficking.—

(3) 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:

(h) And during the commission or attempt to commit the offense of human trafficking causes great bodily harm, permanent disability, or permanent disfigurement to the victim of the human trafficking offense or attempted offense commits a felony of the first degree, punishable for a term of years not exceeding life, as provided in s. 775.082, s. 775.083, or s. 775.084.

For each instance of human trafficking of any individual under this subsection, a separate crime is committed and a separate punishment is authorized.

(4)

(b) Any person who permanently brands, or directs to be permanently branded, for the purpose of committing an offense under this section, a victim of an offense under this section commits a second degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this subsection, the term "permanently branded" means a mark on the

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individual's body that, if it can be removed or repaired at all, can only be removed or repaired by surgical means, laser treatment, or other medical procedure.

(5) A victim's lack of chastity or the willingness or consent of a victim is not a defense to prosecution under this section if the victim was under 18 years of age at the time of the offense.

Section 4. Section 794.022, Florida Statutes, is amended to read:

794.022 Rules of evidence.—

(1) The testimony of the victim need not be corroborated in a prosecution under s. 787.06, s. 794.011, or s. 800.04.

(2) Specific instances of prior consensual sexual activity between the victim and any person other than the offender may ~~shall~~ not be admitted into evidence in a prosecution under s. 787.06, s. 794.011, or s. 800.04. However, such evidence may be admitted if it is first established to the court in a proceeding in camera that such evidence may prove that the defendant was not the source of the semen, pregnancy, injury, or disease; or, when consent by the victim is at issue, such evidence may be admitted if it is first established to the court in a proceeding in camera that such evidence tends to establish a pattern of conduct or behavior on the part of the victim which is so similar to the conduct or behavior in the case that it is relevant to the issue of consent.

(3) Notwithstanding any other provision of law, reputation evidence relating to a victim's prior sexual conduct or evidence presented for the purpose of showing that manner of dress of the victim at the time of the offense incited the sexual battery may

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shall not be admitted into evidence in a prosecution under s. 787.06, s. 794.011, or s. 800.04.

(4) When consent of the victim is a defense to prosecution under s. 787.06, s. 794.011, or s. 800.04, evidence of the victim's mental incapacity or defect is admissible to prove that the consent was not intelligent, knowing, or voluntary; and the court shall instruct the jury accordingly.

(5) An offender's use of a prophylactic device, or a victim's request that an offender use a prophylactic device, is not, by itself, relevant to either the issue of whether or not the offense was committed or the issue of whether or not the victim consented.

Section 5. Paragraphs (b) and (c) of subsection (2) of section 90.404, Florida Statutes, are amended to read:

90.404 Character evidence; when admissible.—

(2) OTHER CRIMES, WRONGS, OR ACTS.—

(b)1. In a criminal case in which the defendant is charged with a crime involving child molestation, evidence of the defendant's commission of other crimes, wrongs, or acts of child molestation is admissible and may be considered for its bearing on any matter to which it is relevant.

2. For the purposes of this paragraph, the term "child molestation" means conduct proscribed by s. 787.025(2)(c), s. 787.06(3)(g), ~~former s. 787.06(3)(h)~~, Florida Statutes 2012, s. 794.011, excluding s. 794.011(10), s. 794.05, former s. 796.03, former s. 796.035, s. 800.04, s. 827.071, s. 847.0135(5), s. 847.0145, or s. 985.701(1) when committed against a person 16 years of age or younger.

(c)1. In a criminal case in which the defendant is charged

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with a sexual offense, evidence of the defendant's commission of other crimes, wrongs, or acts involving a sexual offense is admissible and may be considered for its bearing on any matter to which it is relevant.

2. For the purposes of this paragraph, the term "sexual offense" means conduct proscribed by s. 787.025(2)(c), s. 787.06(3)(b), (d), (f), or (g), ~~former s. 787.06(3)(h)~~, Florida Statutes 2012, s. 794.011, excluding s. 794.011(10), s. 794.05, former s. 796.03, former s. 796.035, s. 825.1025(2)(b), s. 827.071, s. 847.0135(5), s. 847.0145, or s. 985.701(1).

Section 6. Paragraph (a) of subsection (4) of section 775.21, Florida Statutes, is amended to read:

775.21 The Florida Sexual Predators Act.—

(4) SEXUAL PREDATOR CRITERIA.—

(a) For a current offense committed on or after October 1, 1993, upon conviction, an offender shall be designated as a "sexual predator" under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony is:

a. A capital, life, or first degree felony violation, or any attempt thereof, of s. 787.01 or s. 787.02, where the victim is a minor and the defendant is not the victim's parent or guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a violation of a similar law of another jurisdiction; or

b. Any felony violation, or any attempt thereof, of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),

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294 or (g); ~~former~~ s. 787.06(3)(h), Florida Statutes 2012; s.
 295 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
 296 former s. 796.035; s. 800.04; s. 810.145(8)(b); s. 825.1025; s.
 297 827.071; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s.
 298 916.1075(2); or s. 985.701(1); or a violation of a similar law
 299 of another jurisdiction, and the offender has previously been
 300 convicted of or found to have committed, or has pled nolo
 301 contendere or guilty to, regardless of adjudication, any
 302 violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s.
 303 787.02, or s. 787.025(2)(c), where the victim is a minor and the
 304 defendant is not the victim's parent or guardian; s.
 305 787.06(3)(b), (d), (f), or (g); ~~former~~ s. 787.06(3)(h), Florida
 306 Statutes 2012; s. 794.011, excluding s. 794.011(10); s. 794.05;
 307 former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s.
 308 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
 309 847.0145; s. 916.1075(2); or s. 985.701(1); or a violation of a
 310 similar law of another jurisdiction;

311 2. The offender has not received a pardon for any felony or
 312 similar law of another jurisdiction that is necessary for the
 313 operation of this paragraph; and

314 3. A conviction of a felony or similar law of another
 315 jurisdiction necessary to the operation of this paragraph has
 316 not been set aside in any postconviction proceeding.

317 Section 7. Paragraph (a) of subsection (1) of section
 318 943.0435, Florida Statutes, is amended to read:

319 943.0435 Sexual offenders required to register with the
 320 department; penalty.—

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

322 (a)1. "Sexual offender" means a person who meets the

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323 criteria in sub-subparagraph a., sub-subparagraph b., sub-
 324 subparagraph c., or sub-subparagraph d., as follows:

325 a.(I) Has been convicted of committing, or attempting,
 326 soliciting, or conspiring to commit, any of the criminal
 327 offenses proscribed in the following statutes in this state or
 328 similar offenses in another jurisdiction: s. 393.135(2); s.
 329 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where
 330 the victim is a minor and the defendant is not the victim's
 331 parent or guardian; s. 787.06(3)(b), (d), (f), or (g); ~~former~~ s.
 332 787.06(3)(h), Florida Statutes 2012; s. 794.011, excluding s.
 333 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s.
 334 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s.
 335 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s.
 336 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar
 337 offense committed in this state which has been redesignated from
 338 a former statute number to one of those listed in this sub-sub-
 339 subparagraph; and

340 (II) Has been released on or after October 1, 1997, from
 341 the sanction imposed for any conviction of an offense described
 342 in sub-sub-subparagraph (I). For purposes of sub-sub-
 343 subparagraph (I), a sanction imposed in this state or in any
 344 other jurisdiction includes, but is not limited to, a fine,
 345 probation, community control, parole, conditional release,
 346 control release, or incarceration in a state prison, federal
 347 prison, private correctional facility, or local detention
 348 facility;

349 b. Establishes or maintains a residence in this state and
 350 who has not been designated as a sexual predator by a court of
 351 this state but who has been designated as a sexual predator, as

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a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender;

c. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes or similar offense in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 787.06(3)(b), (d), (f), or (g); ~~former~~ s. 787.06(3)(h), Florida Statutes 2012; s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph; or

d. On or after July 1, 2007, has been adjudicated delinquent for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction when the juvenile was 14 years of age or

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older at the time of the offense:

(I) Section 794.011, excluding s. 794.011(10);

(II) Section 800.04(4)(a)2. where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

(III) Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals; or

(IV) Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals.

2. For all qualifying offenses listed in sub-subparagraph (1)(a)1.d., the court shall make a written finding of the age of the offender at the time of the offense.

For each violation of a qualifying offense listed in this subsection, except for a violation of s. 794.011, the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall also make a written finding indicating whether the offense involved sexual activity and indicating whether the offense involved force or coercion. For a violation of s. 800.04(5), the court shall also make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve the use of force or coercion.

Section 8. Paragraph (b) of subsection (1) of section 944.606, Florida Statutes, is amended to read:

944.606 Sexual offenders; notification upon release.—

(1) As used in this section:

(b) "Sexual offender" means a person who has been convicted of committing, or attempting, soliciting, or conspiring to

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410 commit, any of the criminal offenses proscribed in the following
 411 statutes in this state or similar offenses in another
 412 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.
 413 787.02, or s. 787.025(2)(c), where the victim is a minor and the
 414 defendant is not the victim's parent or guardian; s.
 415 787.06(3)(b), (d), (f), or (g); ~~former~~ s. 787.06(3)(h), Florida
 416 Statutes 2012; s. 794.011, excluding s. 794.011(10); s. 794.05;
 417 former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8);
 418 s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
 419 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s.
 420 916.1075(2); or s. 985.701(1); or any similar offense committed
 421 in this state which has been redesignated from a former statute
 422 number to one of those listed in this subsection, when the
 423 department has received verified information regarding such
 424 conviction; an offender's computerized criminal history record
 425 is not, in and of itself, verified information.

426 Section 9. Paragraph (a) of subsection (1) of section
 427 944.607, Florida Statutes, is amended to read:

428 944.607 Notification to Department of Law Enforcement of
 429 information on sexual offenders.—

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

431 (a) "Sexual offender" means a person who is in the custody
 432 or control of, or under the supervision of, the department or is
 433 in the custody of a private correctional facility:

434 1. On or after October 1, 1997, as a result of a conviction
 435 for committing, or attempting, soliciting, or conspiring to
 436 commit, any of the criminal offenses proscribed in the following
 437 statutes in this state or similar offenses in another
 438 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.

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439 787.02, or s. 787.025(2)(c), where the victim is a minor and the
 440 defendant is not the victim's parent or guardian; s.
 441 787.06(3)(b), (d), (f), or (g); ~~former~~ s. 787.06(3)(h), Florida
 442 Statutes 2012; s. 794.011, excluding s. 794.011(10); s. 794.05;
 443 former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8);
 444 s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
 445 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s.
 446 916.1075(2); or s. 985.701(1); or any similar offense committed
 447 in this state which has been redesignated from a former statute
 448 number to one of those listed in this paragraph; or

449 2. Who establishes or maintains a residence in this state
 450 and who has not been designated as a sexual predator by a court
 451 of this state but who has been designated as a sexual predator,
 452 as a sexually violent predator, or by another sexual offender
 453 designation in another state or jurisdiction and was, as a
 454 result of such designation, subjected to registration or
 455 community or public notification, or both, or would be if the
 456 person were a resident of that state or jurisdiction, without
 457 regard as to whether the person otherwise meets the criteria for
 458 registration as a sexual offender.

459 Section 10. This act shall take effect July 1, 2016.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16

Meeting Date

1294

Bill Number (if applicable)

Topic Offenses Involving Minors and Vulnerable

Amendment Barcode (if applicable)

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FL

State

32301

Zip

Email tprichard@cfaasv.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL Council Against Sexual Violence

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Communications, Energy, and Public Utilities, *Chair*
Agriculture
Appropriations
Appropriations Subcommittee on Health
and Human Services
Health Policy
Transportation

JOINT COMMITTEES:

Joint Administrative Procedures Committee,
Alternating Chair
Joint Legislative Budget Commission

SENATOR DENISE GRIMSLEY

Deputy Majority Leader
21st District

January 27, 2016

The Honorable Greg Evers, Chairman
Committee on Criminal Justice
510 Knott Building
404 S. Monroe Street
Tallahassee, Florida 32399-1100

Dear Chairman Evers:

I have a bill scheduled on your agenda Monday. It's Senate Bill 1294, relating to Offenses Involving Minors And Vulnerable Persons. I respectfully request permission for a member of my staff, Anne Bell to present this bill due to an Agriculture Committee meeting I will be attending.

Sincerely,

A handwritten signature in cursive script that reads "Denise Grimsley".

Denise Grimsley
State Senate, District 21

cc: Amanda Cannon, Staff Director
Sue Arnold, Committee Administrative Assistant

REPLY TO:

- ☐ 205 South Commerce Avenue, Suite A, Sebring, Florida 33870 (863) 386-6016
- ☐ 212 East Stuart Avenue, Lake Wales, Florida 33853 (863) 679-4847
- ☐ 306 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



The Florida Senate

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: January 13, 2016

I respectfully request that **Senate Bill #1294**, relating to Offenses Involving Minors and Vulnerable Persons, be placed on the:

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

A handwritten signature in cursive script that reads "Denise Grimsley".

Senator Denise Grimsley
Florida Senate, District 21

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SPB 7022

INTRODUCER: Criminal Justice Committee

SUBJECT: OGSR/Agency Photograph, Video, or Audio Recording/Killing of a Person

DATE: February 2, 2016

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Dugger	Cannon		CJ Submitted as Committee Bill

I. Summary:

SPB 7022 is the result of an Open Government Sunset Review of s. 406.136, F.S., performed by the Criminal Justice Committee. That section makes confidential and exempt photographs and video and audio recordings of the killing of a person when held by an agency. It permits a surviving spouse to view and copy these records. If there is no surviving spouse, then the deceased's surviving parents may view and copy them. If there are no surviving parents, then an adult child of the deceased may view and copy them. The surviving relative who has the authority to view and copy these records is authorized to designate in writing an agent to obtain them. Additionally, federal, state, and local governmental agencies, upon written request, may have access to these records in the performance of their duties and responsibilities. Other than these exceptions, the custodian is prohibited from releasing the records to any other person not authorized under the exemption without a court order.¹

This exemption is subject to review under the Open Government Sunset Review Act.² It will expire on October 2, 2016, unless the Legislature reviews and reenacts it.

The Criminal Justice Committee voted on February 1, 2016, to reenact the exemption but limit it to photographs and video and audio recordings held by an agency that depict or record the killing of a law enforcement officer who was acting in accordance with his or her official duties.³

Since the bill narrows the scope of the public records exemption, it does not require a two-thirds vote of each house of the Legislature for passage.

¹ Section 406.136, F.S.

² Section 119.15, F.S.

³ Committee members discussed and weighed heavily that the genesis for the exemption's creation was the killing of a police officer during a traffic stop in Tampa that was captured on the patrol car's video camera.

II. Present Situation:

Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.⁴ This applies to the official business of any public body, officer or employee of the state, including all three branches of state government, local governmental entities and any person acting on behalf of the government.⁵

In addition to the Florida Constitution, the Florida Statutes provides that the public may access legislative and executive branch records.⁶ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.⁷ The Public Records Act states that

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁸

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁹ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”¹⁰ A violation of the Public Records Act may result in civil or criminal liability.¹¹

The Legislature may create an exemption to public records requirements.¹² An exemption must pass by a two-thirds vote of the House and the Senate.¹³ In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁴ A statutory

⁴ FLA. CONST., art. I, s. 24(a).

⁵ FLA. CONST., art. I, s. 24(a).

⁶ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

⁷ Public records laws are found throughout the Florida Statutes.

⁸ Section 119.01(1), F.S.

⁹ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

¹⁰ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

¹¹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹² FLA. CONST., art. I, s. 24(c).

¹³ FLA. CONST., art. I, s. 24(c).

¹⁴ FLA. CONST., art. I, s. 24(c).

exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.¹⁵

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’¹⁶ Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.¹⁷

Open Government Sunset Review Act

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR).

The OGSR prescribes a legislative review process for newly created or substantially amended public records.¹⁸ The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.¹⁹ In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

Under the OGSR the purpose and necessity of reenacting the exemption are reviewed. The Legislature must consider the following questions during its review of an exemption:²⁰

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

¹⁵ *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

¹⁶ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁷ A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

¹⁸ Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSR process is currently being followed, however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one legislature cannot bind a future legislature. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013).

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(a), F.S.

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.²¹ If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.²²

Current Exemption Under Review

In 2011, the Legislature created a public record exemption for photographs and video and audio recordings that depict or record the killing of a person when held by an agency.²³ These photographs and video and audio recordings are confidential and exempt from public records requirements, except that the exemption permits a surviving spouse to view, listen, and copy these photographs and video and audio recordings.²⁴ If there is no surviving spouse, then the deceased's surviving parents may view and copy them. If there are no surviving parents, then an adult child of the deceased may view and copy them.²⁵ The surviving relative who has the authority to view and copy these records is authorized to designate in writing an agent to obtain them.²⁶

Additionally, federal, state, and local governmental agencies, upon written request, may have access to these records in the performance of their duties and responsibilities. The identity of the deceased must remain confidential and exempt.²⁷

Persons other than those covered by the exceptions above have access to the photographs and recordings only with a court order upon a showing of good cause and are limited by any restrictions or stipulations that the court deems appropriate. In determining good cause, the court must consider the following:

- Whether such disclosure is necessary for the public evaluation of governmental performance;
- The seriousness of the intrusion into the family's right to privacy and whether such disclosure is the least intrusive means available; and
- The availability of similar information in other public records, regardless of form.²⁸

The specified family members must be given reasonable notice of a petition requesting access to the photographs and recordings, a copy of the petition, and the opportunity to be present and heard at any hearing on the matter.²⁹ Such access, if granted by the court, must be performed under the direct supervision of the custodian of the record or his or her designee.³⁰

²¹ FLA. CONST., art. I, s. 24(c).

²² Section 119.15(7), F.S.

²³ Ch. 2011-115, s. 1, Laws of Fla. (creating s. 406.136, F.S., effective July 1, 2011). "Killing of a person" is defined to mean "all acts or events that cause or otherwise relate to the death of any human being, including any related acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of death." s. 406.136(1), F.S.

²⁴ Section 406.136(2), F.S.

²⁵ *Id.*

²⁶ Section 406.136(3), F.S.

²⁷ *Id.*

²⁸ Section 406.136(4), F.S.

²⁹ Section 406.136(5), F.S.

³⁰ Section 406.136(4)(c), F.S.

It is a third degree felony for any custodian of a photograph, video, or audio recording to willingly and knowingly violate these provisions. The same penalty applies to anyone who willingly and knowingly violates a court order issued under these provisions.³¹

The exemption does not apply to photographs or video or audio recordings submitted as part of a criminal or administrative proceeding; however, nothing prohibits a court in such proceedings from restricting the disclosure of a killing, crime scene, or similar photograph or video or audio recording.³² The exemption is retroactive, except that it is not intended to overturn, abrogate, or alter any existing court order in effect on July 1, 2011, that restricts or limits access to any such photograph or recording.³³

The exemption is patterned after the public record exemption created earlier in s. 406.135, F.S., relating to photographs and video and audio recordings of an autopsy held by a medical examiner.³⁴ The same justification that was used in the public necessity statement for autopsy photographs was also used for the exemption under review:

... photographs or video or audio recordings that depict or record the killing of any person render a visual or aural representation of the deceased in graphic and often disturbing fashion. Such photographs or video or audio recordings provide a view of the deceased in the final moments of life, often bruised, bloodied, broken, with bullet wounds or other wounds, cut open, dismembered, or decapitated. As such, photographs or video or audio recordings that depict or record the killing of any person are highly sensitive representations of the deceased which, if heard, viewed, copied, or publicized, could result in trauma, sorrow, humiliation, or emotional injury to the immediate family of the deceased, as well as injury to the memory of the deceased. The Legislature recognizes that the existence of the World Wide Web and the proliferation of personal computers throughout the world encourages and promotes the wide dissemination of such photographs and video and audio recordings 24 hours a day and that widespread unauthorized dissemination of photographs and video and audio recordings would subject the immediate family of the deceased to continuous injury. The Legislature further recognizes that there continue to be other types of available information, such as crime scene reports, which are less intrusive and injurious to the immediate family members of the deceased and which continue to provide for public oversight.³⁵

The exemption is subject to the Open Government Sunset Review Act and as such, will be repealed on October 2, 2016, unless reviewed and reenacted by the Legislature.³⁶

Based upon the Open Government Sunset Review of the exemption, professional staff of the Senate Criminal Justice Committee recommends that the Legislature retain the public records

³¹ Section 406.136(6), F.S.

³² *Id.* In *State v. Schenecker*, No. 11-CF-001376A (Fla. 13th Cir.Ct. August 3, 2011), *cert. denied sub nom.*, *Media General Operations v. State*, 71 So. 3d 124 (Fla. 2d DCA 2011), the circuit court applied the exemption to crime scene photographs of homicide victims.

³³ Section 406.136(7), F.S.

³⁴ Chapter 2001-1, s. 1, Laws of Fla.

³⁵ Chapter 2011-115, s. 2, Laws of Fla.

³⁶ Section 406.136(9), F.S.

exemption created is s. 406.136, F.S. This recommendation is made in light of information gathered for the Open Government Sunset Review, indicating that there is a public necessity to continue protecting photographs and video and audio recordings that depict or record the killing of any person when held by an agency because they are highly sensitive and personal representations of the deceased. As such, widespread and continuous display of these photographs or recordings subjects the surviving family members to unwarranted trauma and emotional distress and harms the memory of the deceased.³⁷

The Senate Criminal Justice Committee voted on February 1, 2016, to reenact the exemption but limit it to photographs and video and audio recordings held by an agency that depict or record the killing of a law enforcement officer who was acting in accordance with his or her official duties.³⁸

III. Effect of Proposed Changes:

The bill narrows the public records exemption in s. 406.136, F.S., which provides that photographs and video and audio recordings that depict or record the killing of any person when held by an agency are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, except they are accessible to certain specified family members of the deceased person and public governmental agencies without a court order. Under the bill, the exemption will only apply to photographs and video and audio recordings held by an agency that depict or record the killing of a law enforcement officer who was acting in accordance with his or her official duties.

The bill also amends s. 406.136, F.S., to remove the sentence that requires its repeal.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³⁷ According to the majority of survey responses from state agencies, state universities and colleges, municipalities, and local law enforcement agencies that receive or maintain such records, the exemption should be reenacted because it protects information that is personal and highly sensitive, the release of which subjects the surviving family members to further trauma and emotional distress. The responses were as follows: out of 23 state agencies, 10 recommended reenactment (13 were not applicable); out of 20 state university and colleges, 6 recommended reenactment (14 were not applicable); out of 109 municipalities, including 49 police departments, 34 recommended reenactment (31 were from police departments) (77 were not applicable); and out of 32 sheriff's offices, 26 recommended reenactment (6 were not applicable). Several responses had no recommendation regarding repeal or reenactment. One response recommended repealing the exemption. Several responses recommended clarifying the notification provision. Reenactment was generally recommended to continue protecting the surviving family members from emotional distress and trauma and protecting the memory of the deceased.

³⁸ Committee members discussed and weighed heavily that the genesis for the exemption's creation was the killing of a police officer during a traffic stop in Tampa that was captured on the patrol car's video camera.

B. Public Records/Open Meetings Issues:

In *Campus Communications, Inc., v. Earnhardt*,³⁹ the Fifth District Court of Appeal upheld the law this exemption is patterned after (which exempts autopsy photographs and video and audio recordings) against an unconstitutional overbreadth challenge brought by a newspaper. The court held that the newspaper had not established good cause to view or copy the photographs and that the exemption applied retroactively.⁴⁰ The court found that s. 406.135, F.S., met constitutional and statutory requirements that the exemption is no broader than necessary to meet its public purpose, even though not all autopsy recordings are graphic and result in trauma when viewed. The court also found that the Legislature stated with specificity the public necessity justifying the exemption in ch. 2001-1, L.O.F.⁴¹ Furthermore, the court found the statute provides for disclosure of written autopsy reports, allows for the publication of exempted records upon good cause if the requisite statutory criterion is met, and is supported by a thoroughly articulated public policy to protect against trauma that is likely to result upon disclosure to the public.⁴²

The court concluded that it is the prerogative of the Legislature to determine that autopsy photographs are private and need to be protected and that this privacy right prevails over the right to inspect and copy public records. The court also stated that its function is to determine whether the Legislature made this determination in a constitutional manner. Finding that the statute was constitutionally enacted and that it was properly applied to the facts in this case, the Fifth District Court of Appeal affirmed the lower court's finding of constitutionality.⁴³ The court went on to certify the question of constitutionality to the Florida Supreme Court. On July 1, 2003, the Florida Supreme Court, per curiam, denied review of this case, leaving in place the appellate court's holding.⁴⁴

Since the bill narrows the scope of the public records exemption in s. 406.136, F.S., it does not require a two-thirds vote of each house of the Legislature for passage.

C. Trust Funds Restrictions:

None.

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

None.

³⁹ *Campus Communications, Inc.*, 821 So. 2d 388, 403 (Fla. 5th DCA 2002), *review dismissed* 845 So. 2d 894 (Fla. 2003), *review denied*, 848 So. 2d 1153 (Fla. 2003) *certiorari denied* 540 U.S. 1049 (2003).

⁴⁰ *Id.*

⁴¹ *Id.* at 395.

⁴² *Id.* at 394.

⁴³ *Id.* at 403.

⁴⁴ *Campus Communications, Inc. v. Earnhardt*, 845 So. 2d 894 (Fla. 2003), *review denied*, 848 So. 2d 1153 (Fla. 2003) *certiorari denied* 540 U.S. 1049 (2003).

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 406.136 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/01/2016	.	
	.	
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	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 406.136, Florida Statutes, is amended to
read:

406.136 A photograph or video or audio recording that
depicts or records the killing of a law enforcement officer who
was acting in accordance with his or her official duties a
person.—



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(1) As used in this section, the term "killing of a law enforcement officer who was acting in accordance with his or her official duties" ~~"killing of a person"~~ means all acts or events that cause or otherwise relate to the death of a law enforcement officer who was acting in accordance with his or her official duties ~~any human being~~, including any related acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of death.

(2) A photograph or video or audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties ~~a person~~ is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that a surviving spouse of the decedent may view and copy any such photograph or video recording or listen to or copy any such audio recording. If there is no surviving spouse, then the surviving parents shall have access to such records. If there is no surviving spouse or parent, then an adult child shall have access to such records.

(3) (a) The deceased's surviving relative, with whom authority rests to obtain such records, may designate in writing an agent to obtain such records.

(b) A local governmental entity, or a state or federal agency, in furtherance of its official duties, pursuant to a written request, may view or copy a photograph or video recording or may listen to or copy an audio recording of the killing of a law enforcement officer who was acting in accordance with his or her official duties ~~a person~~ and, unless otherwise required in the performance of their duties, the identity of the deceased shall remain confidential and exempt.



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(c) The custodian of the record, or his or her designee, may not permit any other person to view or copy such photograph or video recording or listen to or copy such audio recording without a court order.

(4)(a) The court, upon a showing of good cause, may issue an order authorizing any person to view or copy a photograph or video recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties ~~a person~~ or to listen to or copy an audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties ~~a person~~ and may prescribe any restrictions or stipulations that the court deems appropriate.

(b) In determining good cause, the court shall consider:

1. Whether such disclosure is necessary for the public evaluation of governmental performance;

2. The seriousness of the intrusion into the family's right to privacy and whether such disclosure is the least intrusive means available; and

3. The availability of similar information in other public records, regardless of form.

(c) In all cases, the viewing, copying, listening to, or other handling of a photograph or video or audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties ~~a person~~ must be under the direct supervision of the custodian of the record or his or her designee.

(5) A surviving spouse shall be given reasonable notice of a petition filed with the court to view or copy a photograph or



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video recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties ~~a person~~ or to listen to or copy any such audio recording, a copy of such petition, and reasonable notice of the opportunity to be present and heard at any hearing on the matter. If there is no surviving spouse, then such notice must be given to the parents of the deceased and, if the deceased has no living parent, then to the adult children of the deceased.

(6) (a) Any custodian of a photograph or video or audio recording that depicts or records the killing of a law enforcement officer who was acting in accordance with his or her official duties ~~a person~~ who willfully and knowingly violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who willfully and knowingly violates a court order issued pursuant to this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A criminal or administrative proceeding is exempt from this section but, unless otherwise exempted, is subject to all other provisions of chapter 119, provided however that this section does not prohibit a court in a criminal or administrative proceeding upon good cause shown from restricting or otherwise controlling the disclosure of a killing, crime scene, or similar photograph or video or audio recordings in the manner prescribed herein.

(7) This exemption shall be given retroactive application and shall apply to all photographs or video or audio recordings that depict or record the killing of a law enforcement officer



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who was acting in accordance with his or her official duties ~~a person~~, regardless of whether the killing of the person occurred before, on, or after July 1, 2011. However, nothing herein is intended to, nor may be construed to, overturn or abrogate or alter any existing orders duly entered into by any court of this state, as of the effective date of this act, which restrict or limit access to any photographs or video or audio recordings that depict or record the killing of a law enforcement officer who was acting in accordance with his or her official duties a person.

(8) This section only applies to such photographs and video and audio recordings held by an agency as defined in s. 119.011.

~~(9) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2016, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2016.

===== 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 a review under the Open Government Sunset Review Act; amending s. 406.136, F.S., which provides an exemption from public records requirements for a photograph or video or audio recording held by an agency that depicts or records the killing of a person; narrowing the exemption to depictions or



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127 recordings of the killing of a law enforcement officer
128 who was acting in accordance with his or her official
129 duties; removing the scheduled repeal of the
130 exemption; providing an effective date.

FOR CONSIDERATION By the Committee on Criminal Justice

591-00875-16

20167022pb

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 406.136, F.S., which provides an exemption from public records requirements for a photograph or video or audio recording held by an agency that depicts or records the killing of a person; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Section 406.136, Florida Statutes, is amended to read:

406.136 A photograph or video or audio recording that depicts or records the killing of a person.—

(1) As used in this section, the term "killing of a person" means all acts or events that cause or otherwise relate to the death of any human being, including any related acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of death.

(2) A photograph or video or audio recording that depicts or records the killing of a person is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that a surviving spouse of the decedent may view and copy any such photograph or video recording or listen to or copy any such audio recording. If there is no surviving spouse, then the surviving parents shall have access to such records. If there is no surviving spouse or parent, then an adult child shall have access to such records.

Page 1 of 4

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

591-00875-16

20167022pb

(3) (a) The deceased's surviving relative, with whom authority rests to obtain such records, may designate in writing an agent to obtain such records.

(b) A local governmental entity, or a state or federal agency, in furtherance of its official duties, pursuant to a written request, may view or copy a photograph or video recording or may listen to or copy an audio recording of the killing of a person and, unless otherwise required in the performance of their duties, the identity of the deceased shall remain confidential and exempt.

(c) The custodian of the record, or his or her designee, may not permit any other person to view or copy such photograph or video recording or listen to or copy such audio recording without a court order.

(4) (a) The court, upon a showing of good cause, may issue an order authorizing any person to view or copy a photograph or video recording that depicts or records the killing of a person or to listen to or copy an audio recording that depicts or records the killing of a person and may prescribe any restrictions or stipulations that the court deems appropriate.

(b) In determining good cause, the court shall consider:

1. Whether such disclosure is necessary for the public evaluation of governmental performance;

2. The seriousness of the intrusion into the family's right to privacy and whether such disclosure is the least intrusive means available; and

3. The availability of similar information in other public records, regardless of form.

(c) In all cases, the viewing, copying, listening to, or

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

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other handling of a photograph or video or audio recording that depicts or records the killing of a person must be under the direct supervision of the custodian of the record or his or her designee.

(5) A surviving spouse shall be given reasonable notice of a petition filed with the court to view or copy a photograph or video recording that depicts or records the killing of a person or to listen to or copy any such audio recording, a copy of such petition, and reasonable notice of the opportunity to be present and heard at any hearing on the matter. If there is no surviving spouse, then such notice must be given to the parents of the deceased and, if the deceased has no living parent, then to the adult children of the deceased.

(6) (a) Any custodian of a photograph or video or audio recording that depicts or records the killing of a person who willfully and knowingly violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who willfully and knowingly violates a court order issued pursuant to this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A criminal or administrative proceeding is exempt from this section but, unless otherwise exempted, is subject to all other provisions of chapter 119, provided however that this section does not prohibit a court in a criminal or administrative proceeding upon good cause shown from restricting or otherwise controlling the disclosure of a killing, crime scene, or similar photograph or video or audio recordings in the

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manner prescribed herein.

(7) This exemption shall be given retroactive application and shall apply to all photographs or video or audio recordings that depict or record the killing of a person, regardless of whether the killing of the person occurred before, on, or after July 1, 2011. However, nothing herein is intended to, nor may be construed to, overturn or abrogate or alter any existing orders duly entered into by any court of this state, as of the effective date of this act, which restrict or limit access to any photographs or video or audio recordings that depict or record the killing of a person.

(8) This section only applies to such photographs and video and audio recordings held by an agency as defined in s. 119.011.

~~(9) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2016, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2016.

THE FLORIDA SENATE
APPEARANCE RECORD

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

01 Feb 2016
Meeting Date

7022
Bill Number (if applicable)

Topic public records

753234
Amendment Barcode (if applicable)

Name Barbara Petersen

Job Title President

Address 336 E College Ave #101
Street
Tallahassee FL 32301
City State Zip

Phone 224-4555

Email Sunshine@floridafaf.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing First Amendment Foundation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16
Meeting Date

7022
Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Bill Peckes

Job Title _____

Address PO Box 10930
Street

Phone 850 566 3029

Tallahassee FL 32302
City State Zip

Email bill@billpeckes.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing City of Tampa

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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THE FLORIDA SENATE
APPEARANCE RECORD

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

2 / 1 / 2016

Meeting Date

Topic _____

Bill Number 7022
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/2016

Meeting Date

SB 7022

Bill Number (if applicable)

Topic Public Records Exemptions

Amendment Barcode (if applicable)

Name Matt Pickett

Job Title Lobbyist

Address 300 East Brevard St
Street

Phone _____

Tallahassee FL 32301
City State Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Police Benevolent 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)

CourtSmart Tag Report

Room: LL 37

Caption: Senate Criminal Justice Committee

Case No.:

Judge:

Type:

Started: 2/1/2016 4:01:37 PM

Ends: 2/1/2016 6:00:52 PM Length: 01:59:16

4:01:46 PM Meeting called to order - Roll Call
4:02:32 PM SB714 has been tp'd
4:03:05 PM Tab 6 CS/SB 582 Senator Gaetz - Public Corruption
4:05:00 PM Amendment Barcode 243190, Senator Brandes w/D
4:05:26 PM Phil Archer, State Attorney-18th Circuit
4:06:01 PM Debbie Harrison Rumberger
4:06:34 PM Gregg Pound, Saving Families, Largo, FL
4:08:57 PM Brian Pitts, Justice-2-Jesus, St. Petersburg
4:11:02 PM Roll call CS/SB 582
4:11:32 PM Tab 3 - SB 200 by Senator Hukill - Animals Confined in Unattended Motor Vehicles
4:12:02 PM Amendment Barcode 237038, Senator Gibson
4:12:10 PM Senator Gibson explains the amendment
4:14:33 PM Roll call for SB 200
4:14:59 PM Tab 8 - SB 634 by Senator Benacquisto - Sexual Offense Victim or Witness Testimony
4:19:28 PM Blair Payne, Public Defender, 3rd Circuit
4:22:23 PM Gregg Pound, Saving Families, Largo, FL
4:23:42 PM Jennifer Dritt, Florida Council against Sexual Violence
4:31:00 PM Roll call for SB 634
4:32:17 PM Tab 5 - SB 418 by Senator Smith - Law Enforcement Officer Body Cameras
4:33:00 PM Brian Pitts, Justice-2-Jesus, St. Petersburg, FL
4:36:10 PM Senator Smith closes on SB 418
4:36:29 PM Roll call for SB 418
4:36:56 PM Tab 7 - SB 612 by Senator Hays - Slungshot
4:38:00 PM Brian Pitts, Justice-2-Jesus, St. Petersburg, FL
4:40:07 PM Roll call for SB 612
4:40:39 PM Tab 4 - SB 356 by Senator Hutson - Mental or Physical Disabilities
4:42:21 PM Roll call for SB 356
4:43:21 PM Tab 15 - SB 936 by Senator Ring - CJ System Interviews of Persons with Autism, an Autism Spectrum Disorder
4:43:36 PM Amendment Barcode 390296, Senator Clemens
4:44:31 PM Senator Ring speaks on SB 936
4:54:40 PM Brian Pitts, Justice-2-Jesus, St. Petersburg, FL
4:58:13 PM Senator Ring closes on SB 936
4:58:35 PM Roll call for SB 936
4:59:32 PM Tab 9 - SB 700 Martin Rivera presents the bill by Senator Soto - Public Records / Juvenile Criminal History Informa
5:01:57 PM Gregg Pound
5:03:01 PM Roll call for SB 700
5:03:28 PM Tab 17 - SB 1294 by Senator Grimsley - Offenses Involving Minors and Vulnerable Persons
5:07:13 PM Roll call for SB 1294
5:08:10 PM Tab 12 - SB 862 by Senator Legg - Mental Health Treatment
5:08:57 PM Amendment Barcode 161052, Senator Bradley
5:09:47 PM Dan Hendrickson, Big Bend Mental Health Coalition
5:13:13 PM Roll call for SB 862
5:13:36 PM Tab 11 - SB 850 by Senator Bradley - Offenses Concerning Racketeering and Illegal Debts
5:14:44 PM Amendment Barcode 748982, Senator Brandes
5:15:10 PM Amendment Barcode 748982 withdrawn
5:15:40 PM Andrew Fay, Office of the Attorney General
5:15:58 PM Roll call for SB 850
5:16:27 PM Tab 16 - SB 1256 by Senator Brandes - Alternative Sanctioning
5:17:10 PM Amendment Barcode 704748, Senator Brandes
5:17:51 PM Brian Pitts, Justice-2-Jesus, St. Petersburg, FL

5:19:40 PM Roll call for SB 1256
5:20:16 PM Tab 18 - SPB 7022 by CJ-OGSR / Agency Photograph, Video, or Audio Recording/Ki
5:21:14 PM Amendment Barcode 753234, Senator Bradley
5:23:52 PM Barbara Peterson, President, First Amendment Foundation
5:27:50 PM Brian Pitts, Justice-2-Jesus, St. Petersburg, FL
5:29:24 PM Roll call for SPB 7022
5:29:40 PM Chair is turned over to Senator Gibson
5:30:04 PM Tab 13 - SB 930 by Senator Evers - Trust Funds/State-Operated Institutions Inmate We
5:31:00 PM Roll call for SB 930
5:31:30 PM Tab 14 - SB 932 by Senator Evers - Inmate Welfare and Employee Benefit Trust Fund
5:32:21 PM Senator Clemens asks a question of Senator Evers
5:34:21 PM Amendment Barcode 836554, Senator Evers
5:35:49 PM Roll call for SB 932
5:36:08 PM Senator Evers takes the chair
5:36:15 PM Presentation by Christina K. Daly, Secretary, Dept. of Juvenile Justice
5:46:08 PM Senator Gibson asks a question
5:46:21 PM Secretary Daly responds.
5:49:52 PM Senator Clemens asks a question
5:50:47 PM Secretary Daly responds
5:53:45 PM Tab 1 - Senate Confirmation Hearing: Secretary of Corrections - Julie Jones
5:59:35 PM Roll call for confirmation of Julie Jones
6:00:00 PM Meeting adjourned