SB 180 by **Evers**; (Similar to CS/H 0019) School Safety

371974	A	S	WD	CJ, Evers	Delete L.147:	03/23 11:53 AM

SB 372 by **Dean**; (Identical to H 0267) Confidential Informants

526792	D	S	RCS	CJ, Bradley	Delete everything after	03/23 08:32 PM

SB 488 by **Detert**; (Compare to H 0183) Expunction of Criminal Records

269734	D	S	RCS	CJ, Bradley	Delete everything after	03/23 08:32 PM

SB 534 by **Latvala**; (Compare to CS/CS/H 0369) Human Trafficking

908272	A	S	RCS	CJ, Bradley	Delete L.43:	03/23 08:32 PM
444482	A	S	RCS	CJ, Bradley	btw L.45 - 46:	03/23 08:32 PM

SB 1000 by **Hays**; (Identical to CS/H 4023) Slungshot

SB 1010 by **Braynon**; (Identical to H 0117) False Personation

SB 1016 by **Abruzzo (CO-INTRODUCERS) Negron**; (Similar to H 0711) Care for Retired Law Enforcement Dogs

SB 1082 by **Altman (CO-INTRODUCERS) Soto, Gibson**; (Compare to CS/H 0783) Juvenile Justice

399804	A	S	RCS	CJ, Brandes	Delete L.129 - 735:	03/23 08:32 PM

SB 1098 by **Bradley**; (Similar to CS/H 0897) Controlled Substances

240386	A	S	RCS	CJ, Bradley	Delete L.306 - 308:	03/23 08:32 PM
207936	A	S	RCS	CJ, Bradley	Delete L.1217:	03/23 08:32 PM

SB 1106 by **Flores**; (Compare to CS/CS/H 0465) Human Trafficking

SB 1108 by **Flores**; (Identical to H 0467) Public Records/Identity of a Victim/Human Trafficking Offenses

SB 1110 by **Flores**; (Similar to H 0469) Public Records/Residential Facilities Serving Victims of Sexual Exploitation and Human Trafficking

SB 1112 by **Abruzzo**; (Similar to CS/H 0845) Sexting

917056	A	S	RCS	CJ, Brandes	Delete L.94:	03/30 08:23 PM
650934	A	S	WD	CJ, Brandes	Delete L.94 - 98:	03/27 11:56 AM

SB 1270 by **Soto**; (Identical to CS/H 0133) Sexual Offenses

SB 1464 by **Dean**; (Compare to CS/CS/H 0583) Public Facilities

SB 1514 by **Flores**; (Similar to H 7059) Offenses Concerning Racketeering and Illegal Debts

120332	D	S	RCS	CJ, Bradley	Delete everything after	03/23 08:33 PM
942788	AA	S	WD	CJ, Brandes	Delete L.453 - 592:	03/23 08:33 PM

SB 1536 by **Flores**; (Similar to H 7061) Public Records/Florida RICO Act Investigations

601734	D	S	RCS	CJ, Bradley	Delete everything after	03/30 08:23 PM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Evers, Chair
Senator Gibson, Vice Chair

MEETING DATE: Monday, March 23, 2015
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	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Testimony by employees of the Department of Corrections, other state employees, and other individuals on the safety and security of the state correctional system.		Not Considered

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
	Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointments to the offices indicated.		
	Executive Director of Department of Law Enforcement		
2	Swearingen, Richard L. ()	Pleasure of Governor and Cabinet	Recommend Confirm Yeas 5 Nays 0
	Secretary of Juvenile Justice		
3	Daly, Christina K. (Tallahassee)	Pleasure of Governor	Recommend Confirm Yeas 5 Nays 0
	Florida Commission on Offender Review		
4	Davison, Richard D. ()	06/30/2020	Not Considered

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	**SB 180** Evers (Similar CS/H 19)	School Safety; Permitting a school superintendent, with approval of the school board, to authorize a school safety designee to carry a concealed weapon or firearm on school property; requiring school boards to formulate policies and procedures for managing active-shooter and hostage situations; permitting district school boards to commission one or more school safety officers on each school campus, etc. CJ 03/23/2015 Favorable ED AP	Favorable Yeas 3 Nays 2

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	**SB 372** Dean (Identical H 267)	Confidential Informants; Requiring a law enforcement agency that uses confidential informants to adopt policies and procedures providing reasonable protective measures; requiring law enforcement agencies that solicit persons to act as confidential informants to provide them with the opportunity to consult with an attorney before signing an assistance agreement; requiring a law enforcement agency to annually collect and submit confidential informant data to the Department of Law Enforcement, etc. CJ 03/23/2015 Fav/CS ACJ AP	Fav/CS Yeas 5 Nays 0
7	**SB 488** Detert (Compare H 183, H 7107, S 1334, Link S 1612)	Expunction of Criminal Records; Requiring the Department of Law Enforcement to expunge a minor's nonjudicial arrest record upon successful completion of a prearrest or postarrest diversion program; revising the information that must be provided in the written statement from the state attorney or statewide prosecutor in order for a person to be eligible for a criminal history record expunction, etc. CJ 03/23/2015 Fav/CS ACJ FP	Fav/CS Yeas 5 Nays 0
8	**SB 534** Latvala (Compare CS/CS/H 369)	Human Trafficking; Requiring the Department of Transportation and certain employers to display human trafficking public awareness signs at specified locations; providing civil penalties for violations, etc. TR 03/12/2015 Favorable CJ 03/23/2015 Fav/CS AP	Fav/CS Yeas 4 Nays 0
9	**SB 1000** Hays (Identical CS/H 4023)	Slungshot; Revising the definition of "concealed weapon" to delete its inclusion of a slungshot; deleting provisions prohibiting the manufacture or sale of any instrument or weapon usually known as slungshot; deleting a provision prohibiting a dealer in arms from selling or transferring a slungshot to a minor, etc. CJ 03/23/2015 Not Considered CM RC	Not Considered

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	**SB 1010** Braynon (Identical H 117)	False Personation; Revising the list of officials who are prohibited from being falsely personated; prohibiting the sale or transfer of specified badges bearing in any manner or combination the words “fire department” and the ownership or operation of vehicles marked or identified by the words “fire department”, etc. CJ 03/23/2015 Not Considered CA FP	Not Considered
11	**SB 1016** Abruzzo (Similar H 711)	Care for Retired Law Enforcement Dogs; Creating the “Care for Retired Law Enforcement Dogs Program Act”; creating the Care for Retired Law Enforcement Dogs Program within the Department of Law Enforcement; requiring the department to contract with a corporation not for profit to administer and manage the program; providing requirements for the disbursement of funds for the veterinary care of eligible retired law enforcement dogs; placing an annual cap on the amount of funds available for the care of an eligible retired law enforcement dog, etc. CJ 03/23/2015 Favorable ACJ AP	Favorable Yeas 5 Nays 0
12	**SB 1082** Altman (Compare CS/H 783, H 7103, S 498)	Juvenile Justice; Deleting provisions requiring the court to order the delivery of a child to a jail or other facility intended or used to detain adults; deleting a provision that transfers and certifies a child’s criminal case for trial as an adult if a parent or guardian demands his or her child to be tried as an adult; providing that a court may impose juvenile sanctions or adult sanctions, etc. CJ 03/23/2015 Fav/CS ACJ AP	Fav/CS Yeas 4 Nays 1
13	**SB 1098** Bradley (Similar CS/H 897)	Controlled Substances; Adding certain substances to the Schedule I list of controlled substances, etc. CJ 03/23/2015 Fav/CS ACJ FP	Fav/CS Yeas 5 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
14	**SB 1106** Flores (Compare CS/H 465, H 467, H 469, Link S 1108, S 1110)	Human Trafficking; Providing enhanced criminal penalties for soliciting another to commit prostitution and similar offenses; providing for impoundment of a vehicle used in soliciting another to commit prostitution and similar offenses; requiring a judge to allow an advocate to be present with a human trafficking victim in an expunction hearing in certain circumstances, etc. CJ 03/23/2015 Favorable ACJ AP	Favorable Yeas 5 Nays 0
15	**SB 1108** Flores (Identical H 467, Compare CS/H 465, Link S 1106)	Public Records/Identity of a Victim/Human Trafficking Offenses; Revising an exemption from public records requirements for certain criminal intelligence and investigative information to exempt information that reveals the identity of a victim of certain human trafficking offenses; providing an exemption from public records requirements for investigative information relating to criminal history records of human trafficking victims that have been ordered expunged; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CJ 03/23/2015 Favorable GO AP	Favorable Yeas 5 Nays 0
16	**SB 1110** Flores (Similar H 469, Compare CS/H 465, Link S 1106)	Public Records/Residential Facilities Serving Victims of Sexual Exploitation and Human Trafficking; Providing an exemption from public records requirements for information held by an agency about the location of safe houses, safe foster homes, and other residential facilities serving victims of sexual exploitation; providing an exemption from public records requirements for information held by an agency about the location of residential facilities serving adult victims of human trafficking involving commercial sexual activity; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CJ 03/23/2015 Favorable GO AP	Favorable Yeas 5 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
17	**SB 1112** Abruzzo (Similar CS/H 845)	Sexting; Removing the court's discretion to impose a specified penalty for a first violation of sexting; requiring a minor cited for a first violation to sign and accept a citation to appear before juvenile court or, in lieu of appearing in court, to complete community service work, pay a civil penalty, or participate in a cyber-safety program within a certain period of time, if such program is locally available, etc. CJ 03/23/2015 Not Considered ACJ FP	Not Considered
18	**SB 1270** Soto (Identical CS/H 133)	Sexual Offenses; Citing this act as the "43 Days Initiative Act"; revising time limitations for the criminal prosecution of specified sexual battery offenses if the victim is 16 years of age or older, etc. CJ 03/23/2015 Favorable ACJ FP	Favorable Yeas 5 Nays 0
19	**SB 1464** Dean (Compare CS/CS/H 583)	Public Facilities; Providing penalties for specified crimes; providing for a private cause of action for damages, costs, and fees; providing for liability for an owner of public accommodations under certain circumstances for damages, costs, and fees, etc. CJ 03/23/2015 Not Considered ACJ FP	Not Considered
20	**SB 1514** Flores (Similar H 7059, Compare H 7061, Link S 1536)	Offenses Concerning Racketeering and Illegal Debts; Authorizing an investigative agency to institute a civil proceeding for forfeiture of personal property in a circuit court; revising when the investigative agency may bring an action under certain circumstances; providing that a subpoena must be confidential for a certain time; adding a specified way for certain funds to be expended, etc. CJ 03/23/2015 Fav/CS ACJ AP	Fav/CS Yeas 5 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
21	**SB 1536** Flores (Similar H 7061, Compare H 7059, Link S 1514)	Public Records/Florida RICO Act Investigations; Providing that certain documents and information held by an investigative agency pursuant to an investigation relating to an activity prohibited under the Florida RICO Act are confidential and exempt; providing for legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing exceptions to the exemption; providing a statement of public necessity, etc. CJ 03/23/2015 Not Considered GO AP	Not Considered
	Other Related Meeting Documents		

A black and white copy of this document is not official

1385

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

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

Richard L. Swearingen

is duly appointed

Executive Director,
Department of Law Enforcement

for a term beginning on the
Thirteenth day of January, A.D., 2015,
for a term ending at the pleasure of the Cabinet
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 Eleventh day of February, A.D., 2015.

Ken Detzner
Secretary of State

DSDE 99 (3/03)

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

"State of Florida" appears in small letters across the face of this 8½ x 11" document.

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

OATH OF OFFICE

(Art. II. § 5(b), Fla. Const.)

RECEIVED
DEPARTMENT OF STATE
2015 FEB 11 PM 12:44
DIVISION OF ELECTIONS
TALLAHASSEE, FL

STATE OF FLORIDA

County of Leon

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

Executive Director, Florida Department of Law Enforcement

(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 10 *day of* February 2015

Signature of Officer Administering Oath or of Notary Public

CINDY BRIDGES
Commission # FF 139192
Expires November 3, 2018

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

Richard L. Swearingen

Print name as you desire commission issued

Signature

DS-DE 56 (Rev. 02/10)

RICK SCOTT
GOVERNOR

RECEIVED
DEPARTMENT OF STATE
2015 FEB -4 AM 10:02
DIVISION OF ELECTIONS
TALLAHASSEE, FL

January 13, 2015

Secretary Kenneth W. Detzner
Department 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 appointment under the provisions of Section 20.201, Florida Statutes with approval of the Florida Cabinet:

Rick Swearingen

as Executive Director of the Florida Department of Law Enforcement. This appointment is effective January 13, 2015, for a term ending at the pleasure of the Cabinet.

Sincerely,

Rick Scott
Governor

RS/vh

THE CAPITOL
TALLAHASSEE, FLORIDA 32399 • (850) 488-2272

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.

Date Completed

1. Name: Mr. | Swearingen | Richard | 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

   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

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
N/A			

RECEIVED
2016 FEB 11 PM 12:44
DIVISION OF ELECTIONS
TALLAHASSEE, FL
DEPARTMENT OF STATE

5. Date of Birth: _____ Place of Birth: _____

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

_____
_____
_____
_____

Amended

9. Are you a United States citizen? Yes ■ No ☐ If "No" explain:
N/A

If you are a naturalized citizen, date of naturalization: N/A

10. Since what year have you been a continuous resident of Florida? 1984

11. Are you a registered Florida voter? Yes ■ No ☐ If "Yes" list:
A. County of Registration: Leon B. Current Party Affiliation: NPA

12. Education
A. High School: Taylor County High School, Perry, Florida (Name and Location) Year Graduated: 1977

B. List all postsecondary educational institutions attended:

Name & Location	Dates Attended	Certificates/Degrees Received
Auburn University	1977-1982	B.A

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: N/A
B. Branch or Component: N/A
C. Date & type of discharge: N/A

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
N/A			

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
FDLE P.O. Box 1489 Tallahassee, Fl	State Agency	Executive Director	Dec/2014-Present
FDLE	State Agency	Director of Capitol Police	May/2013-Dec/2014
FDLE	State Agency	ASAC/Protective Ops	Sept/2010-May/2013
FDLE	State Agency	Special Agent Supervisor/OSI	Apr/2007-Sep/2010

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
Inspector/IFS Field Services	FDLE	Mar/2003-Apr/2007
Special Agent	FDLE	Sept/1989-Mar/2003
Crime Intelligence Analyst	FDLE	Sept/1986-Sept/1988

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

I have always been interested in law enforcement and focused my post secondary education and career in this field.

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:

B.A. from Auburn University in Criminal Justice, Basic Law Enforcement Recruit Academy, DEA Basic Narcotics Investigators Course, SKYNARC Narcotics Interdiction National Incident Management System training, Air Smugglers Investigators Association Narcotics Interdiction, Basic Narcotic Academy (St. Pete College) FDLE Mentoring Program as well as numerous other Law Enforcement related training courses during my 30 year career.

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

FDLE High Performance Productivity Award (2000-2001), FDLE Annual Award Winner, Drug Abuse Task Force (1987), Silver Medal of Valor, Metro-Dade PD (1996),

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

Florida Sheriff's Association (FSA), Florida Police Chief's Association (FPCA) Association of State Criminal Investigative Agencies (ASCIA) International Association of Chief's of Police (IACP)

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:

N/A

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):

Office Title	Date of Election or Appointment	Term of Office	Level of Government
N/A			

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
N/A		

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
N/A		

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: N/A

C. Reason for suspension: N/A

B. Date of suspension: N/A

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: Director of Capitol Police

B. Term of Appointment: Confirmation by Speaker, Senate President, Governor every 2 years

C. Confirmation results: Confirmed

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

N/A

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 Title & Number	Original Issue Date	Issuing Authority	Disciplinary Action/Date
N/A			

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
N/A		

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:

Name of Business	Family Member's Relationship to You	Family Member's Relationship to Business	Business' Relationship to Agency
N/A			

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:

Agency Lobbied	Principal Represented
N/A	

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.

Name	Mailing Address	Zip Code	Area Code/Phone Number
Don Odham			
Mark Zadra			
Scott McAllister			

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).

Name	Mailing Address	Office(s) Held & Term	Date(s) of Membership
N/A			

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:

N/A

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.) 119.071 (4) (d) 2. a. (I)-(II)

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

Amended

CERTIFICATION

STATE OF FLORIDA, COUNTY OF

Before me, the undersigned Notary Public of Florida, personally appeared Richard L. Swearingen who, after being duty 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.

Signature of Applicant-Affiant

Sworn to and subscribed before me
this 10 day of March 2015

Cindy Bridges
Signature of Notary Public-State of Florida

CINDY BRIDGES
Commission # FF 139192
Expires November 3, 2018
Bonded Thru Troy Fain Insurance 800-385-7019

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

My commission expires: 11.3.18

Personally Known ☑ OR Produced Identification ☐

Type of Identification Produced _____

(seal)

The Florida Senate

Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of

Richard L. Swearingen

Executive Director of Department of Law Enforcement

NOTICE OF HEARING

TO: Mr. Richard L. Swearingen

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Monday, March 23, 2015, 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 18th day of March, 2015

Committee on Criminal Justice

Greg Evers
Senator Greg Evers
As Chair and by authority of the committee

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

The Florida Senate

COMMITTEE RECOMMENDATION ON EXECUTIVE APPOINTMENT

COMMITTEE: Committee on Criminal Justice
MEETING DATE: Monday, March 23, 2015
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: Executive Director of Department of Law Enforcement

Appointee: Swearingen, Richard L.

Term: 1/13/2015-Pleasure of Governor and Cabinet

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

REPORTING INSTRUCTION: With Chair's approval, file 1 copy with Secretary of the Senate (303 Capitol) and 2 copies with the Committee on Ethics and Elections

A black and white copy of this document is not official

Amended

1300

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

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

Christina K. Daly

is duly appointed

Secretary,
Department of Juvenile Justice

for a term beginning on the
Sixth day of January, 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-Sixth day of February, A.D., 2015.

Ken Detzner

Secretary of State

DSDE 99 (3/03)

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

"State of Florida" appears in small letters across the face of this 8½ x 11" document.

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

OATH OF OFFICE

(Art. II. § 5(b), Fla. Const.)

15 JAN 26 PM 4:14

SECRETARY OF STATE

STATE OF FLORIDA

County of Leon

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, Florida Department of Juvenile Justice

(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.]

Christina K. Daly

Signature

Sworn to and subscribed before me this 22nd *day of* January, 2015.

Linda L. Fish

Signature of Officer Administering Oath or of Notary Public

LINDA L. FISH
MY COMMISSION # EE 840691
EXPIRES: October 20, 2016
Bonded Thru Notary Public Underwriters

Linda L. Fish

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

2737 Centerview Drive

Street or Post Office Box

Tallahassee, Florida 32399

City, State, Zip Code

Christina K. Daly

Print name as you desire commission issued

Christina K. Daly

Signature

DS-DE 56 (Rev. 02/10)

Amended

RICK SCOTT
GOVERNOR

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15 FEB 25 PM 1:1
DIVISION OF ELECTIONS
SECRETARY OF STATE

February 24, 2015

Secretary Kenneth W. Detzner
Department 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 20.316, Florida Statutes:

Secretary Christina K. Daly

as Secretary of the Department of Juvenile Justice, subject to confirmation by the Senate. This appointment is effective January 6, 2015, for a term ending at the pleasure of the Governor.

Sincerely,

Rick Scott
Governor

RS/vh

THE CAPITOL
TALLAHASSEE, FLORIDA 32399 • (850) 488-2272

111649

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.

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DIVISION OF ELECTIONS
SECRETARY OF STATE

January 22, 2015
Date Completed

1. Name: Ms. | Daly | Christina | Kay
Mr./Mrs./Ms. | Last | First | Middle/Maiden

2. Business Address: 2737 Centerview Drive | | Tallahassee
Street | Office # | City
Florida | 32399 | 850-413-7313
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

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
n/a			

5. Date of Birth: _____ Place of Birth: Pensacola, Florida

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

_____
_____
_____
_____

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? 1974

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

A. County of Registration: Leon B. Current Party Affiliation: Republican

12. Education

A. High School: Leon High School, Tallahassee, Florida Year Graduated: 1993
(Name and Location)

B. List all postsecondary educational institutions attended:

Name & Location	Dates Attended	Certificates/Degrees Received
Tallahassee Community College	1993-1995	A.A.
Florida State University	1995-1997	B.S. in Social Work

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
FL Dept. of Juvenile Justice	State Government	*see below	2007 - present
2737 Centerview Drive		*Legislative Affairs Director, External Affairs	
Tallahassee, FL 32399		Director, FL Juvenile Justice Foundation Director,	
		Chief of Staff, Deputy Secretary, Interim Secretary	

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
Please see above	FL. Dept. of Juvenile Justice	2007 - present

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

I have dedicated the past nearly 2 decades to improving the lives of at-risk youth. I played an integral role in the aggressive reform of juvenile justice under Governor Scott and former Secretary Walters. I have held numerous leadership positions at DJJ over the past 7 years, along with 10 years of experience in the private sector with organizations aimed to prevent delinquency.

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:

B.S. in Social Work

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

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

Florida Police Chiefs Association

Council of Juvenile Correctional Administrators

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):

Office Title	Date of Election or Appointment	Term of Office	Level of Government
Interim Secretary of DJJ	July, 2014	July, 2014 - December, 2014	State
Secretary of DJJ	December, 2014		State

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

(1) How frequently were meetings scheduled: Florida Children & Youth Cabinet: Quarterly; CareerSource Florida Board of Directors: bi-monthly

(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
	No meetings missed	

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DIVISION OF ELECTIONS
SECRETARY OF STATE

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 Title & Number	Original 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. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: _____

(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 Title & Number	Original 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:

Name of Business	Family Member's Relationship to You	Family Member's Relationship to Business	Business' Relationship to Agency
North Highland	Sister	Former Employee	*Provided consulting services to DJJ

*Company provided services, but my sister did not work on any project related to DJJ.

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:

Agency Lobbied	Principal Represented
	FL Department of Juvenile Justice

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.

Name	Mailing Address	Zip Code	Area Code/Phone Number
Cozy Bixler			
Wansley Walters			
Debbie Touchton			

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).

Name	Mailing Address	Office(s) Held & Term	Date(s) of Membership
Leadership Tallahassee	P.O. Box 1639	None	August 2007- Present

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 ☐

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SECRETARY OF STATE

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.)_____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OFANY 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

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15 JAN 26 PM 4:14
DIVISION OF ELECTIONS
SECRETARY OF STATE

CERTIFICATION

STATE OF FLORIDA
COUNTY OF Leon

Before me, the undersigned Notary Public of Florida, personally appeared Christina K. Daly, who, after being duty 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.

Signature of Applicant-Affiant

Sworn to and subscribed before me this 22ND day of January, 2015.

Signature of Notary Public-State of Florida

Linda L. Fish
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 10/20/16

Personally Known ☒ **OR** Produced Identification ☐

Type of Identification Produced _____

LINDA L. FISH
MY COMMISSION # EE 840691
EXPIRES: October 20, 2016
Bonded Thru Notary Public Underwriters

The Florida Senate

Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of

Christina K. Daly

Secretary of Juvenile Justice

NOTICE OF HEARING

TO: Ms. Christina K. Daly

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Monday, March 23, 2015, 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 18th day of March, 2015

Committee on Criminal Justice

Greg Evers

Senator Greg Evers
As Chair and by authority of the committee

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23/15
Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Confirmation

Name Christina Daly

Job Title Secretary, Dept. of Juvenile Justice

Address 2737 Centerview Dr. Tallahassee FL
Street

Tallahassee FL. 32399
City *State* *Zip*

Phone (850) 717-2717

Email Christina.Daly@dj.state.fl.us

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Department of Juvenile Justice

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)

3-23-15
Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Confirmation of Secretary Daly

Name Nick Millar

Job Title Director

Address 3302 Dartmoor Dr
Street

Phone 850-508-2971

Tallahassee FL 32312
City *State* *Zip*

Email nmillar@amzhdrs.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing AMZ Hdrs

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)

3/23/2015
Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Confirmation of Juvenile Justice Secretary

Name Cathy Craig-Myers

Job Title Ex Director

Address 3333 W Pensacola Suite 240
Street

Tallahassee
City *State* *Zip*

Phone 850 294 9960

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

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

3.23.15
Meeting Date

Bill Number (if applicable)

Topic Senate Confirmation of DJJ Secretary

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Pres & CEO

Address 204 S. Monroe St. Ste. 201
Street

Phone 577.3032

Tal FL 32301
City *State* *Zip*

Email barney@smartjustice alliance.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)

3/23/15
Meeting Date

Confirmation
Bill Number (if applicable)

Topic Confirmation DSS Secretary

Amendment Barcode (if applicable)

Name Wansley Walters

Job Title former Sec. of DSS

Address 121 N Monroe St #7006
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 305 333 1469

Email wansleyw@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Myself

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

COMMITTEE RECOMMENDATION ON EXECUTIVE APPOINTMENT

COMMITTEE: Committee on Criminal Justice
MEETING DATE: Monday, March 23, 2015
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 Juvenile Justice

Appointee: Daly, Christina K.

Term: 1/6/2015-Pleasure of Governor

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

A black and white copy of this document is not official

1705

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

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

Richard D. Davison

is duly appointed a member of the

Florida Commission on Offender Review

for a term beginning on the
Nineteenth day of August, A.D., 2014,
until the Thirtieth day of June, A.D., 2020
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 Eighteenth day of September, A.D., 2014.

Ken Detzner

Secretary of State

DSDE 99 (3/03)

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

"State of Florida" appears in small letters across the face of this 8½ x 11" document.

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

OATH OF OFFICE

(Art. II. § 5(b), Fla. Const.)

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2014 SEP 16 PM 2:44
DIVISION OF ELECTIONS
TALLAHASSEE, FL

STATE OF FLORIDA

County of Leon

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

Commissioner, Florida Commission on Offender Review

(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.]

Richard K Davison

Signature

Sworn to and subscribed before me this 16th *day of* September, 2014

Cindy J. Waymon

Signature of Officer Administering Oath or of Notary Public

Cindy J. Waymon

Print, Type, or Stamp Commissioned Name of Notary Public

NOTARY PUBLIC STATE OF FLORIDA
CINDY J. WAYMON
MY COMMISSION # EE 204133
EXPIRES: July 9, 2016
Bonded Thru Budget Notary Services

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

Richard D. Davison

Print name as you desire commission issued

Richard K Davison

Signature

RICK SCOTT
GOVERNOR

RECEIVED
DEPARTMENT OF STATE
2014 SEP 16 AM 10:28
DIVISION OF ELECTIONS
TALLAHASSEE, FL

September 15, 2014

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 the Cabinet and I have made the following appointment under the provisions of Section 947.02, Florida Statutes:

as a member of the Florida Parole Commission, succeeding Mr. Bernard Cohen, subject to confirmation by the Senate. This appointment is effective August 19, 2014, for a term ending June 30, 2020.

Sincerely,

Rick Scott
Governor

RS/cm

THE CAPITOL
TALLAHASSEE, FLORIDA 32399 • (850) 488-2272

110134

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.

September 17, 2014
Date Completed

1. Name: Mr. | Davison | Richard | Donnell
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

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: _____

6. Social Security Number: _____

7. Driver License Number: _____ State: Florida

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

Rickey Donnell Davis - name given at birth

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2014 SEP 15 PM 2:44
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? 1963

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

A. County of Registration: Leon B. Current Party Affiliation: Democrat

12. Education

A. High School: Seminole High School, Sanford, Florida Year Graduated: 1981
(Name and Location)

B. List all postsecondary educational institutions attended:

Name & Location	Dates Attended	Certificates/Degrees Received
Florida State University	Aug. 1981 - Dec. 1984	Bachelor of Science
University of Florida	Aug. 1985 - May 1988	Juris Doctor

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
FCOR, 4070 Esplanade Way Tallah., FL	Offender Reviews	Commissioner	Sept. 4, 2014 - Present
Gadsden County Sheriff's Office, 339 E. Jefferson St. Quincy, FL	Law Enforcement	Legal Counsel	Sept. 2012 - Sept. 2014
City of Tallahassee, 912 Myers Park Dr.	Juvenile Justice	Program Coordinator	May 2011 - March 2014
Florida Department of Corrections, 2601 Blair Stone Tallah.	Corrections	Deputy Secretary	Feb. 2008 - Feb. 2011

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
Legal Counsel	Gadsden County Sheriff's Office	Sept. 2012 - Sept. 2014
Deputy Secretary	Florida Department of Corrections	Feb. 2008 - Feb. 2011
Legisl Dir., Asst Gen. Counsel, Dep. Sec.	Florida Department of Juvenile Justice	Aug. 1994 - Feb. 2008

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

I have worked in the criminal justice field since 1989. My background and experiences as an assistant state attorney, assistant statewide prosecutor, legislative staff attorney, juvenile justice executive manager, corrections executive manager, and law enforcement executive manager have provided me with a breadth of knowledge in the criminal justice arena. Additionally, I possess the temperament and understanding to knowledgeably and thoroughly consider the issues that come before Florida Commission on Offender Review.

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:

Undergraduate Minor - Law and Society

Juris Doctor

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

Service Awards from: State Attorney's Office; Florida House Committee on Criminal Justice; Statewide Prosecutor's Office; Florida Department of Juvenile Justice; Florida Department of Corrections; Gadsden County Sheriff's Office

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

Florida Violent Crime and Drug Control Council; Florida Task Force on Treatment Based Drug Courts; Florida Council on the Social Status of Black Men and Boys; Tallahassee Community College Criminal Justice Advisory Board; Keiser University Criminal Justice Advisory Board; Second Judicial Circuit Juvenile Justice Advisory Board; Florida Bar Criminal Justice and Public Employees Sections

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):

Office Title	Date of Election or Appointment	Term of Office	Level of Government

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

(1) How frequently were meetings scheduled: _____

(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 Title & Number	Original Issue Date	Issuing Authority	Disciplinary Action/Date
Florida Bar - 0776920	October 31, 1988	The Florida Bar	None

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

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

(1) How frequently were meetings scheduled: _____

(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 Title & Number	Original Issue Date	Issuing Authority	Disciplinary Action/Date
Florida Bar - 0776920	October 31, 1988	The Florida Bar	None

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:

Name of Business	Family Member's Relationship to You	Family Member's Relationship to Business	Business' Relationship to Agency

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:

Agency Lobbied	Principal Represented
Legislative and Executive	Gadsden County Sheriff's Office
Legislative and Executive	Florida Department of Corrections

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.

Name	Mailing Address	Zip Code	Area Code/Phone Number
Reginald Luster			
Sean Pittman			
Damian Fletcher			

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).

Name	Mailing Address	Office(s) Held & Term	Date(s) of Membership
Tallahassee Barristers Assoc	1961 Quail Grove Lane Tallahassee, FL	None	August 2014- Present
Tallahassee Alumni Kappa Alpha Psi Fraternity	2047 Summer Ln Tallahassee, FL	Lt. Strategus 1996	April 1982 - Present

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.) Sec. 119.071(4) d.(I)Florida Statutes

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OFANY 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

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TALLAHASSEE, FL

CERTIFICATION

STATE OF FLORIDA
COUNTY OF (EON)

Before me, the undersigned Notary Public of Florida, personally appeared Richard D. Davison, who, after being duty 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.

Richard Davison
Signature of Applicant-Affiant

Sworn to and subscribed before me this 16th day of September, 2014.

Cindy J. Waymon
Signature of Notary Public-State of Florida

Cindy J. Waymon
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 7/9/2016

Personally Known [X] **OR** Produced Identification [ ]

Type of Identification Produced _____

NOTARY PUBLIC STATE OF FLORIDA
CINDY J. WAYMON
MY COMMISSION # EE 204133
EXPIRES: July 9, 2016
Bonded Thru Budget Notary Services

(seal)

The Florida Senate

Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of

Richard D. Davison

Florida Commission on Offender Review

NOTICE OF HEARING

TO: Mr. Richard D. Davison

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Monday, March 23, 2015, 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 18th day of March, 2015

Committee on Criminal Justice

Greg Evers
Senator Greg Evers
As Chair and by authority of the committee

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

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 180
INTRODUCER:	Senator Evers
SUBJECT:	School Safety
DATE:	March 20, 2015
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	**Favorable**
2.			ED	
3.			AP	

I. Summary:

SB 180 authorizes school boards to implement armed security measures on school property. It expands the definition of "school" within s. 790.115, F.S., to include adult education facilities and any combination of schools, facilities, or centers listed in the definition of school.

The bill creates restrictions and requirements related to persons who are authorized to provide armed security in the school setting.

The "school safety designees" must be licensed to carry a concealed weapon or firearm pursuant to the requirements of s. 790.06, F.S., and be:

- An honorably discharged military veteran with no firearm-related disciplinary infraction;
- An active-duty member of the military, National Guard, or reserves, with no firearm-related disciplinary infraction; or
- A law enforcement officer in good standing or a former officer who has retired or terminated employment in good standing and not during the course of an internal investigation.

The designee is required to carry the weapon or firearm, on his or her person, in a concealed manner at all times while performing official school or school safety designee duties.

School safety designees must undergo a Level 2 background screening. They must also complete a training program created by the Florida Department of Law Enforcement (FDLE).

An appropriation of nonrecurring funds from General Revenue in the amount of $157,927 is made to FDLE for FY 2015-2016. The funds are designated for the Criminal Justice Standards and Training Commission to develop the school safety training curriculum required by the bill. The school safety program will be created by January 1, 2016.

The bill requires school boards to coordinate or consult with local law enforcement about active-shooter situation procedures. The bill also provides that both public and private schools must allow campus tours by law enforcement first responders at least every three years.

II. Present Situation:

Gun Free School Zones

Federal Law

Federal law prohibits the knowing possession of a firearm that has been transported across state lines in interstate commerce or that otherwise affects interstate or foreign commerce in a school zone. The prohibition does not apply to possession of a firearm:

- On private property not part of school grounds;
- By individuals licensed to possess a firearm by the state or a political subdivision of the state in which the school zone is located if the licensing law requires law enforcement verification that the individual meets the law's qualifications to receive the license before issuance;
- That is not loaded and stored in a locked container in a motor vehicle;
- Authorized pursuant to a program approved by the school in the school zone;
- Pursuant to a contract entered into between a school and the individual or an employer of the individual;
- By a law enforcement officer acting in his or her official capacity; or
- That is unloaded and is possessed by an individual who is authorized by the school to cross school grounds for the purpose of gaining access to public or private lands open to hunting.[1]

Federal law also prohibits the knowing or reckless discharge or attempted discharge of a firearm that has been transported across state lines in interstate commerce or that otherwise affects interstate or foreign commerce in a school zone. The prohibition does not apply to the discharge of a firearm:

- On private property not part of school grounds;
- Authorized pursuant to a program approved by the school in the school zone;
- Pursuant to a contract entered into between a school and the individual or an employer of the individual; or
- By a law enforcement officer acting in his or her official capacity.[2]

Federal law further provides that it is not Congress' intent to occupy the field of firearms regulation, unless there is a direct, positive, and irreconcilable conflict between a federal and state firearms law regulating the same subject matter. Thus, states may regulate firearms in a manner that is consistent with federal law.[3]

[1] 18 U.S.C. s. 922(q)(2)(A)-(B).
[2] 18 U.S.C. s. 922(q)(3)(A)-(B).
[3] 18 U.S.C. s. 927.

Florida Law

Florida law prohibits, with exceptions, the possession or discharge of weapons or firearms at a preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic.[4] The law prohibits:

- Exhibition of a weapon[5] or firearm in the presence of another in a rude, careless, angry, or threatening manner on school property or a school bus, at a school bus stop or school-sponsored event, or within 1,000 feet[6] of a K-12 public or private school, during school hours or at the time of a school activity.[7] Such exhibition is a third degree felony,[8] unless it is made in lawful self-defense.[9]
- Possession of a weapon[10] or firearm, "except as authorized in support of school-sanctioned activities, at a school-sponsored event or on the property of any school, school bus, or school bus stop." Penalties for such possession vary, as follows:
  - A person who willfully and knowingly unlawfully possesses a firearm on school property or a school bus or at a school bus stop or school-sponsored activity or event commits a third degree felony.[11]
  - A person who fails to securely store a firearm, enabling a minor to access it who then unlawfully possesses it on school property or a school bus or at a school bus stop or school-sponsored activity or event, commits a second degree misdemeanor.[12]
  - A person who discharges a firearm while unlawfully possessing it on school property or a school bus or at a school bus stop or school-sponsored activity or event, commits a second degree felony,[13] unless discharged for lawful defense of self or others or for a lawful purpose.[14]

The law provides several exceptions allowing individuals to carry a firearm on school property or a school bus or at a school bus stop or school-sponsored activity or event without express approval by school officials. A firearm may be carried:

- To a school-approved firearms program;
- To a career center having a firearms training range; or

[4] s. 790.115(2)(a), F.S. (flush left provision at end of paragraph).
[5] "Weapon" means any dirk, knife, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon except a firearm or a common pocketknife, plastic knife, or blunt-bladed table knife. s. 790.001(13), F.S. Exhibiting a sword, sword cane, electric weapon or device, destructive device, razor blade, box cutter, or common pocketknife is also prohibited. s. 790.115(1), F.S.
[6] The prohibition on exhibition of a firearm or weapon on private real property within 1,000 feet of a school does not apply to the property owner or those whose presence is authorized by the owner. s. 790.115(1), F.S.
[7] s. 790.115(1), F.S.
[8] A third degree felony is punishable by a term of imprisonment not exceeding five years and a fine not exceeding $5,000. ss. 775.082(3)(d) and 775.083(1)(c), F.S.
[9] s. 790.115(1), F.S.
[10] In addition to firearms and items defined as weapons, this provision also applies to possession of an electric weapon or device, destructive device, and a razor blade or box cutter. Section 790.115(2)(a), F.S.; *see footnote text, supra* note 4.
[11] s. 790.115(2)(e), F.S.
[12] s. 790.115(2)(c), F.S. This does not apply if the firearm was securely stored and the minor obtains the firearm as a result of an unlawful entry by any person. Also exempt from this section are members of the Armed Forces, National Guard, State Militia, or law enforcement officers, if the minor gains possession during or incidental to the performance of their official duties.
[13] A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine not exceeding $10,000. ss. 775.082 and 775.083, F.S.
[14] s. 790.115(2)(d), F.S.

- In a vehicle by a person who is at least 18 years of age and the firearm is securely encased or not readily accessible for immediate use.

School districts may adopt policies waiving the vehicle exception for purposes of student and campus parking privileges.[15]

Concealed Weapon and Firearm Permits

Florida law authorizes the Department of Agriculture and Consumer Services (DACS) to issue a concealed weapons and firearm license to individuals who meet statutory qualifications. Among other criteria, applicants must pass a fingerprint-based criminal background check and complete a firearm proficiency training class. The concealed carry license is a photo identification that enables the holder to carry a concealed weapon or firearm in public, except for specified locations, e.g., school or college athletic events; elementary, secondary, and postsecondary schools; and career centers.[16]

The Florida Department of Law Enforcement (FDLE) Criminal Justice Standards and Training Commission certifies law enforcement officers and correctional probation officers after training curriculum has been successfully completed and other conditions are met.[17] Officers who hold an active certification are not required to possess a concealed carry license in order to carry a concealed weapon or firearm while they are off-duty.[18]

Concealed Carry Licenses for Retired Law Enforcement, Active and Discharged Military

With a passing score on the firing range testing component of the minimum firearms proficiency course for active law enforcement officers, a retired law enforcement officer is authorized under federal law to carry a concealed firearm with proper state identification.[19]

Military firearms training is recognized as evidence of competence with a firearm for purposes of the concealed carry license but all other requirements must be met for both active and retired military.[20] A person applying for a concealed carry license may show proficiency with a firearm by presenting evidence of experience with a firearm during military service.[21]

Safe Storage

Florida law requires persons to store loaded firearms securely to prevent minors from gaining access to them.[22]

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[15] s. 790.115(2)(c), F.S.; *see, e.g.,* Policy 7217, Leon County School Board.
[16] s. 790.06, F.S.
[17] s. 943.13, F.S., and related provisions within chapter 943, F.S. The curriculum includes "high liability training" which requires the recruit to demonstrate safety and marksmanship with a firearm.
[18] s. 790.052, F.S., applies to officers defined in ss. 943.10(1), (2), (6), (7), (8) and (9), F.S.
[19] Generally**,** retired in good standing after at least 15 years of service. s. 943.132, F.S.
[20] The 21 years of age requirement has been waived for active and honorably discharged veteran military. ss. 790.06(2)(b) and 790.062, F.S.
[21] s. 790.06(2)(h)5., F.S.
[22] ss. 790.115(2)(c)2. and 790.174, F.S.

School Safety

Emergency Policies

Florida law requires each district school board to formulate policies and procedures for emergency response drills and actual emergencies. These policies must include procedures for responding to various emergencies, such as fires, natural disasters, and bomb threats. Commonly used alarm system responses for specific types of emergencies must be incorporated into such policies.[23]

The *Safety and Security Best Practices* (Best Practices) is a self-assessment tool that each school district must use to annually assess the effectiveness of district emergency response policies. Among other "best practices," the self-assessment suggests that school districts:

- Develop a district-wide plan for potential attacks against school sites.
- Develop a checklist with step-by-step emergency procedures for use in every classroom which includes, among other things, procedures for weapons and hostage situations.
- Share emergency plans and procedures with designated school and school district personnel, identify training for all types of school staff and staff that require specialized training, and incorporate such training into the Master Plan for In-Service Training.[24]

Each district school superintendent must make recommendations to the school board for improving emergency response policies based upon the self-assessment results. The self-assessment results and superintendent's recommendations must be addressed in a publicly noticed school board meeting. The results of the self-assessment and any school board action on the superintendent's recommendations must be reported to the Commissioner of Education within 30 days after the school board meeting.[25]

School Resource Officers

School resource officers are employed by a law enforcement agency. They are certified law enforcement officers who retain all the powers and duties of a law enforcement officer during their tenure as a school resource officer.[26]

School Safety Officers

School safety officers are certified law enforcement officers, who are employed by either a law enforcement agency or a district school board. A school safety officer has the authority to carry weapons when performing official duties.[27] School boards are authorized, but not required, to commission and assign to schools school safety officers for the protection of school personnel,

[23] s. 1006.07(4)(a), F.S. Additionally, district school boards must establish model emergency management and preparedness procedures for weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies, including hurricanes, tornadoes, and severe storms; and exposure resulting from manmade emergencies. s. 1006.07(4)(b), F.S.

[24] s. 1006.07(6), F.S.; Florida Department of Education, *District Safety and Security Best Practices*, http://www.fldoe.org/EM/security-practices.asp (last visited March 12, 2013). The self-assessment is developed by the Office of Program Policy Analysis and Government Accountability. *Id.*

[25] s. 1006.07(6), F.S.

[26] s. 1006.12(1)(a), F.S.

[27] ss. 1006.12(2)(a) and (c), F.S.

property, and students within the school district. School boards may enter into mutual aid agreements with one or more law enforcement agencies. A school safety officer's salary may be paid jointly by the school board and the law enforcement agency, if mutually agreed to.[28]

Background Screening

Florida law requires school district employees to undergo a fingerprint-based background screening as a condition of employment.[29] Instructional and noninstructional personnel[30] and noninstructional school district employees and contracted personnel[31] must undergo a Level 2 background screening.[32] A Level 2 background screening requires individuals to be screened against a statutorily prescribed list of 51 criminal offenses.[33] Such employees must be rescreened every five years.[34]

III. Effect of Proposed Changes:

Section 790.115, F.S., is amended by the bill to allow certain school district employees or volunteers to carry a concealed firearm on school property. These persons must be licensed to carry a concealed weapon or firearm pursuant to the requirements of s. 790.06, F.S., and be:

- An honorably discharged military veteran with no firearm-related disciplinary infraction;
- An active-duty member of the military, National Guard, or reserves, with no firearm-related disciplinary infraction; or
- A law enforcement officer in good standing or a former officer who has retired or terminated employment in good standing and not during the course of an internal investigation.

The school district employees or volunteers who meet the criteria are called "school safety designees" in the bill. They may be authorized to carry a concealed firearm on school property by a school superintendent with the approval of the school board.

School safety designees are specifically exempted from current law that prohibits possessing a firearm on school property, school buses, or school bus stops. The designee is required to carry the weapon or firearm, on his or her person, in a concealed manner at all times while performing official school or school safety designee duties.

A school safety designee who stores or leaves a firearm within the reach or easy access of a minor who obtains the firearm commits a second degree misdemeanor.

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[28] ss. 1006.12(2)(b) and (d), F.S.

[29] ss. 1012.32, 1012.465, and 1012.467, F.S. Private schools participating in educational choice scholarship programs must also submit fingerprints of employees and contracted personnel with direct student contact to FDLE. See ss. 943.0542 and 1002.421(2)(i), F.S.

[30] Instructional and noninstructional personnel are individuals who are hired or contracted to fill positions that require direct contact with students in any public school. s. 1012.32(2), F.S.

[31] Noninstructional school district employees and contracted personnel are individuals who are permitted access to school grounds when students are present; who have direct contact with students; or who have access to, or control of, school funds. s. 1012.465(1), F.S.

[32] ss. 1012.32(1)-(2), 1012.465(2), and 1012.56(10), F.S.

[33] ss. 435.04, 1012.32(2), 1012.465(1), and 1012.56(10), F.S.

[34] ss. 1012.465(2) and 1012.56(10)(b), F.S.

A school safety designee must undergo a Level 2 background screening as described above. He or she may be required to submit to additional screenings by the school superintendent at any time. The fingerprints of the school safety designee must be forwarded to the Florida Department of Law Enforcement (FDLE) for retention and future searches against state and federal arrest records. Any fingerprint search or retention fees are payable by the school safety designee or school.

The bill requires the school safety designee to submit proof of completion of a school safety program to the superintendent. The school safety program will be created and defined by the Criminal Justice Standards and Training Commission. The Commission will also develop the program curriculum. The bill requires state-operated criminal justice training centers to administer the program. The school safety program may include, but is not limited to:

- Active-shooter training;
- Firearm proficiency;
- School resource officer training;
- Crisis intervention training; weapons retention training; and
- Continuing education and training.

The school board must develop and incorporate policies related to the use of school safety designees within its overall safety plan if such designees are utilized by the school system. Likewise, best practices shall be coordinated with the local law enforcement responders so that a school safety designee can be quickly identified in an emergency situation.

If there is an emergency, the school safety designee must be under the direction of the school resource officer, if any. When local law enforcement responds, the school safety designee will be under that agency's direction.

The school property where school safety designees are utilized may contain signs that read: "Authorized Armed Defense Present and Permitted."

The bill requires that active-shooter and hostage situations be part of school board policies and procedures related to school safety and security.

The bill requires district school boards and private school principals or governing boards to provide for the first responder law enforcement agencies to tour the campuses every three years. Any changes recommended by the law enforcement agency must be documented by school officials.

An appropriation of nonrecurring funds from General Revenue in the amount of $157,927 is made to FDLE for FY 2015-2016. The funds are designated for the Criminal Justice Standards and Training Commission to develop the school safety training curriculum required by the bill. The school safety program will be created by January 1, 2016.

The bill expands the definition of "school" within s. 790.115, F.S., to include adult education facilities and any combination of schools, facilities, or centers listed in the definition of school.

The bill contains legislative intent language regarding school safety. It also makes technical, clarifying, and conforming changes in existing law. The bill will become effective July 1, 2015.

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:

The bill specifies that either the school safety designee or the school will bear the cost of state and national fingerprint processing and retention fees. Current costs as reported by FDLE are $40.50 for the background check, $13 for lifetime federal retention of the fingerprints, and $6 annually to FDLE for state retention. The cost of the background check is scheduled to decrease slightly in February 2015. Responsibility for the cost of completing the newly-created school safety designee program and any continuing education and training is not addressed in the bill. It is not known what the cost of the program will be. Persons who choose to become school safety designees may experience this fiscal impact.

C. Government Sector Impact:

FDLE reports that the appropriation in the bill is based on its analysis of HB 753 (2014) which provided for the development of three courses for the school safety designee program, two of which already exist. SB 180 does not require a specific curriculum for the school safety designee program, therefore FDLE's budget estimate from 2014 and the appropriation set forth in the bill will likely be adequate to create one course for the program.

It appears that local school districts that choose to implement the school safety designee program may be responsible for the cost of background checks, fingerprint retention, and training related to the program unless the designee bears those costs.

VI. Technical Deficiencies:

It appears that line 300 of the bill should read (7) CAMPUS TOURS BY LAW ENFORCEMENT AGENCIES.—A district school. Deleting "SAFETY IN CONSTRUCTION AND PLANNING" and inserting "CAMPUS TOURS BY LAW ENFORCEMENT AGENCIES" will more accurately reflect the content of the newly-created subsection.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 790.115, 1006.07, 1006.12, 435.04, 790.251, 921.0022, and 1012.315.

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.

371974

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/23/2015	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 147
and insert:
time, including, but not limited to, mental health screenings.

By Senator Evers

2-00311-15 2015180__

A bill to be entitled

An act relating to school safety; providing legislative intent; amending s. 790.115, F.S.; permitting a school superintendent, with approval of the school board, to authorize a school safety designee to carry a concealed weapon or firearm on school property; providing requirements for school safety designees; providing exceptions to the prohibition on possession of firearms or other specified devices on school property; providing for fingerprint processing and retention; requiring that fees shall be borne by the school safety designee or school; requiring the Criminal Justice Standards and Training Commission to develop a school safety program; amending s. 1006.07, F.S.; requiring school boards to formulate policies and procedures for managing active-shooter and hostage situations; requiring that active-shooter procedures for each school be developed in consultation with local law enforcement agencies; requiring that district school boards and private schools allow campus tours by local law enforcement agencies for specified purposes; requiring that all recommendations be documented; amending s. 1006.12, F.S.; permitting district school boards to commission one or more school safety officers on each school campus; amending ss. 435.04, 790.251, 921.0022, and 1012.315, F.S.; conforming cross-references; providing an appropriation; providing an effective date.

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

Florida Senate - 2015 **SB 180**

2-00311-15 2015180__

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

Section 1. It is the intent of the Legislature to prevent violent crimes from occurring on school grounds. The Legislature acknowledges that the safekeeping of our students, teachers, and campuses is imperative. In addition, the Legislature's intent is not to mandate that a school have one or more school safety designees as described in the amendments made by this act to s. 790.115, Florida Statutes; rather, the intent of the amendments is to allow a district school board to develop policies consistent with chapter 790, Florida Statutes.

Section 2. Section 790.115, Florida Statutes, is amended to read:

790.115 Possessing or discharging weapons or firearms at a school-sponsored event or on school property prohibited; penalties; exceptions.—

(1) As used in this section, the term "school" means a preschool, elementary school, middle school, junior high school, secondary school, adult education facility, career center, or postsecondary school, whether public or nonpublic, or any combination of such schools, facilities, or centers.

(2) ~~(1)~~ A person who exhibits any sword, sword cane, firearm, electric weapon or device, destructive device, or other weapon as defined in s. 790.001(13), including a razor blade, box cutter, or common pocketknife, except as authorized in support of school-sanctioned activities, in the presence of one or more persons in a rude, careless, angry, or threatening manner and not in lawful self-defense, at a school-sponsored

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event or on the grounds or facilities of any school, school bus, or school bus stop, or within 1,000 feet of the real property that comprises a public or private elementary school, middle school, or secondary school, during school hours or during the time of a sanctioned school activity, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. This subsection does not apply to the exhibition of a firearm or weapon on private real property within 1,000 feet of a school by the owner of such property or by a person whose presence on such property has been authorized, licensed, or invited by the owner.

(3)(a) A school superintendent, with approval of the school board, may authorize a school safety designee to carry a concealed weapon or firearm on school property. For purposes of this subsection, a school safety designee is an individual who is a school district employee or volunteer who is licensed to carry a concealed weapon or firearm pursuant to s. 790.06 and who is:

1. A military veteran who was honorably discharged and who has not been found to have committed a firearms-related disciplinary infraction during his or her service;

2. An active duty member of the military, the National Guard, or military reserves who has not been found to have committed a firearms-related disciplinary infraction during his or her service; or

3. An active law enforcement officer in good standing or a law enforcement officer who retired or terminated employment in good standing and did not retire or terminate employment during the course of an internal affairs investigation.

(b) A school safety designee authorized to carry a concealed weapon or firearm on school property under this subsection may only carry such weapon or firearm in a concealed manner. The weapon or firearm must be carried on the school safety designee's person at all times while the school safety designee is performing his or her official school duties or, if the school safety designee is a volunteer, while performing his or her official school duties under this program.

(c) A school board that approves the use of a school safety designee shall develop policies consistent with this section to incorporate in its overall school safety plan. A school principal may recommend school safety designees to the school superintendent under this subsection. The school superintendent may designate individuals to serve as school safety designees who agree to accept the designation. If a superintendent designates one or more individuals pursuant to this section, the school district shall coordinate with each local law enforcement agency that may potentially respond to an emergency at a school in which a school safety designee is employed or volunteers to develop best practices and to allow the responding law enforcement agency to easily identify a school safety designee in a case of emergency. In the case of an emergency, a school safety designee shall be under the direction of the assigned school resource officer, if any. Upon the arrival of the local responding law enforcement agency, the school safety designee shall be under the direction of the responding law enforcement agency.

(d) Each school safety designee must submit to the school superintendent proof of completion of a school safety program.

The school safety program shall be created and defined by the Criminal Justice Standards and Training Commission and may include, but is not limited to, active-shooter training, firearm proficiency, school resource officer training, crisis intervention training, weapons retention training, and continuing education and training. The school safety program shall be developed and created by January 1, 2016. The school safety program shall be administered by criminal justice training centers operated by the State of Florida. Each state-operated criminal justice training center that administers the school safety program must certify and provide proof of completion of the program in a manner prescribed by the Criminal Justice Standards and Training Commission.

(e) School property at which a school safety designee may carry a concealed weapon or firearm under this subsection may be indicated with signage that reads: "Authorized Armed Defense Present and Permitted."

(f) Subsection (4) does not apply to school safety designees who are working or volunteering at the school to which they are assigned as school safety designees. A school safety designee who stores or leaves a weapon or firearm within the reach or easy access of a minor who obtains the firearm commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(g)1. If the school safety designee has not previously undergone level 2 background screening pursuant to s. 435.04 by the school board, the school superintendent must require the school safety designee to undergo the level 2 background screening pursuant to s. 435.04 at least once every 5 years. The

school superintendent may require additional screenings at any time.

2. If the school safety designee is screened pursuant to subparagraph 1., the school safety designee's fingerprints must be submitted by the school or an entity or vendor as authorized by s. 943.053(13). The fingerprints shall be forwarded to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing.

3. All fingerprints submitted to the Department of Law Enforcement as required under this subsection shall be retained by the Department of Law Enforcement as provided under s. 943.05(2)(g) and (h) and enrolled in the Federal Bureau of Investigation's national retained print arrest notification program. Fingerprints shall be enrolled in the national retained print arrest notification program when the Department of Law Enforcement begins participation with the Federal Bureau of Investigation. Arrest fingerprints shall be searched against the retained prints by the Department of Law Enforcement and the Federal Bureau of Investigation, and any arrest record that is identified shall be reported to the school by the Department of Law Enforcement.

4. The fees for state and national fingerprint processing, along with the fingerprint retention fees, shall be borne by the school safety designee or school. The state shall pay the cost for fingerprint processing as authorized in s. 943.053(3)(b) for records provided to persons or entities other than those specified as exceptions therein.

5. A school superintendent shall notify the Department of

Law Enforcement regarding any person whose fingerprints have been retained but who is no longer a school safety designee.

(4) ~~(2)~~ (a) A person shall not possess any firearm, electric weapon or device, destructive device, or other weapon as defined in s. 790.001(13), including a razor blade or box cutter, except as authorized in support of school-sanctioned activities, at a school-sponsored event or on the property of any school, school bus, or school bus stop; however, a person may carry a firearm:

1. In a case to a firearms program, class or function which has been approved in advance by the principal or chief administrative officer of the school as a program or class to which firearms could be carried;

2. In a case to a career center having a firearms training range; or

3. In a vehicle pursuant to s. 790.25(5); except that school districts may adopt written and published policies that waive the exception in this subparagraph for purposes of student and campus parking privileges.

~~For the purposes of this section, "school" means any preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic.~~

(b) A person who willfully and knowingly possesses any electric weapon or device, destructive device, or other weapon as defined in s. 790.001(13), including a razor blade or box cutter, except as authorized in support of school-sanctioned activities, in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s.

775.083, or s. 775.084.

(c)1. A person who willfully and knowingly possesses any firearm in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A person who stores or leaves a loaded firearm within the reach or easy access of a minor who obtains the firearm and commits a violation of subparagraph 1. commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; except that this does not apply if the firearm was stored or left in a securely locked box or container or in a location which a reasonable person would have believed to be secure, or was securely locked with a firearm-mounted push-button combination lock or a trigger lock; if the minor obtains the firearm as a result of an unlawful entry by any person; or to members of the Armed Forces, National Guard, or State Militia, or to police or other law enforcement officers, with respect to firearm possession by a minor which occurs during or incidental to the performance of their official duties.

(d) A person who discharges any weapon or firearm while in violation of paragraph (a), unless discharged for lawful defense of himself or herself or another or for a lawful purpose, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) The penalties of this subsection shall not apply to persons licensed under s. 790.06. Persons licensed under s. 790.06 shall be punished as provided in s. 790.06(12), except that a licenseholder who unlawfully discharges a weapon or firearm on school property as prohibited by this subsection

commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) ~~(3)~~ This section does not apply to any law enforcement officer as defined in s. 943.10(1), (2), (3), (4), (6), (7), (8), (9), or (14).

(6) ~~(4)~~ Notwithstanding s. 985.24, s. 985.245, or s. 985.25(1), any minor under 18 years of age who is charged under this section with possessing or discharging a firearm on school property shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a probable cause hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention for a period of 21 days, during which time the minor shall receive medical, psychiatric, psychological, or substance abuse examinations pursuant to s. 985.18, and a written report shall be completed.

Section 3. Subsections (4) and (6) of section 1006.07, Florida Statutes, are amended, and subsection (7) is added to that section, to read:

1006.07 District school board duties relating to student discipline and school safety.—The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(4) EMERGENCY DRILLS; EMERGENCY PROCEDURES.—

(a) Formulate and prescribe policies and procedures for emergency drills and for actual emergencies, including, but not limited to, fires, natural disasters, active shooters, hostage

situations, and bomb threats, for all the public schools of the district which comprise grades K-12. District school board policies shall include commonly used alarm system responses for specific types of emergencies and verification by each school that drills have been provided as required by law and fire protection codes. The emergency response agency that is responsible for notifying the school district for each type of emergency must be listed in the district's emergency response policy.

(b) Establish model emergency management and emergency preparedness procedures, including emergency notification procedures pursuant to paragraph (a), for the following life-threatening emergencies:

1. Weapon-use, ~~and~~ hostage, and active-shooter situations. The active-shooter situation procedures for each school shall be developed in consultation with a local law enforcement agency.

2. Hazardous materials or toxic chemical spills.

3. Weather emergencies, including hurricanes, tornadoes, and severe storms.

4. Exposure as a result of a manmade emergency.

(6) SAFETY AND SECURITY BEST PRACTICES.—Use the Safety and Security Best Practices developed by the Office of Program Policy Analysis and Government Accountability to conduct a self-assessment of the school districts' current safety and security practices. Based on these self-assessment findings, the district school superintendent shall provide recommendations to the district school board and local law enforcement agencies that are first responders to the district campuses which identify strategies and activities that the district school board should

implement in order to improve school safety and security. Annually each district school board must receive the self-assessment results at a publicly noticed district school board meeting to provide the public an opportunity to hear the district school board members discuss and take action on the report findings. Each district school superintendent shall report the self-assessment results and school board action to the commissioner within 30 days after the district school board meeting.

(7) SAFETY IN CONSTRUCTION AND PLANNING.—A district school board or private school principal or governing board must allow local law enforcement agencies that are first responders to the schools to tour the school campuses at least once every 3 years. Any changes related to school safety and emergency issues recommended by a law enforcement agency based on a campus tour must be documented by the district school board or the private school principal or governing board.

Section 4. Paragraph (b) of subsection (2) of section 1006.12, Florida Statutes, is amended to read:

1006.12 School resource officers and school safety officers.—

(2)

(b) A district school board may commission one or more school safety officers for the protection and safety of school personnel, property, and students on each school campus within the school district. The district school superintendent may recommend and the district school board may appoint the ~~one or more~~ school safety officers.

Section 5. Paragraphs (q) and (r) of subsection (2) of

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section 435.04, Florida Statutes, are amended to read:

435.04 Level 2 screening standards.—

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

(q) Section 790.115(2) ~~790.115(1)~~, relating to exhibiting firearms or weapons within 1,000 feet of a school.

(r) Section 790.115(4)(b) ~~790.115(2)(b)~~, relating to possessing an electric weapon or device, destructive device, or other weapon on school property.

Section 6. Paragraph (a) of subsection (7) of section 790.251, Florida Statutes, is amended to read:

790.251 Protection of the right to keep and bear arms in motor vehicles for self-defense and other lawful purposes; prohibited acts; duty of public and private employers; immunity from liability; enforcement.—

(7) EXCEPTIONS.—The prohibitions in subsection (4) do not apply to:

(a) Any school property as defined in s. 790.115(1) and regulated under that section ~~s. 790.115~~.

Section 7. Paragraphs (d) and (f) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking

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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.
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

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		to register.
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
784.075	3rd	Battery on detention or commitment facility staff.
784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
784.081(3)	3rd	Battery on specified official or employee.
784.082(3)	3rd	Battery by detained person on visitor or other detainee.
784.083(3)	3rd	Battery on code inspector.
784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or

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		materials.
787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
787.07	3rd	Human smuggling.
790.115(2) ~~790.115(1)~~	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
790.115(4)(b) ~~790.115(2)(b)~~	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
790.115(4)(c) ~~790.115(2)(c)~~	3rd	Possessing firearm on school property.

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800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
810.06	3rd	Burglary; possession of tools.
810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
812.014(2)(c)3.	3rd	Grand theft, 3rd degree $10,000 or more but less than $20,000.
812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property

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		stolen $300 or more.
817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
817.568(2)(a)	3rd	Fraudulent use of personal identification information.
817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
837.02(1)	3rd	Perjury in official proceedings.
837.021(1)	3rd	Make contradictory statements in official proceedings.
838.022	3rd	Official misconduct.
839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.

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839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.
843.021	3rd	Possession of a concealed handcuff key by a person in custody.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4.

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drugs).

914.14(2)	3rd	Witnesses accepting bribes.
914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
918.12	3rd	Tampering with jurors.
934.215	3rd	Use of two-way communications device to facilitate commission of a crime.

(f) LEVEL 6

Florida Statute	Felony Degree	Description
316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.

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499.0051(3)	2nd	Knowing forgery of pedigree papers.
499.0051(4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
499.0051(5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
775.0875(1)	3rd	Taking firearm from law enforcement officer.
784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
784.041	3rd	Felony battery; domestic battery by strangulation.
784.048(3)	3rd	Aggravated stalking; credible threat.
784.048(5)	3rd	Aggravated stalking of person under 16.

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784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
784.081(2)	2nd	Aggravated assault on specified official or employee.
784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
784.083(2)	2nd	Aggravated assault on code inspector.
787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
790.115(4)(d) ~~790.115(2)(d)~~	2nd	Discharging firearm or weapon on school property.
790.161(2)	2nd	Make, possess, or throw destructive device with intent

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		to do bodily harm or damage property.
790.164(1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.
790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
794.05(1)	2nd	Unlawful sexual activity with specified minor.
800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
806.031(2)	2nd	Arson resulting in great bodily

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		harm to firefighter or any other person.
810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
810.145(8)(b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
812.014(2)(b)1.	2nd	Property stolen $20,000 or more, but less than $100,000, grand theft in 2nd degree.
812.014(6)	2nd	Theft; property stolen $3,000 or more; coordination of others.
812.015(9)(a)	2nd	Retail theft; property stolen $300 or more; second or subsequent conviction.
812.015(9)(b)	2nd	Retail theft; property stolen $3,000 or more; coordination of others.
812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).

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817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
825.102(1)	3rd	Abuse of an elderly person or disabled adult.
825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
825.103(3)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than $10,000.
827.03(2)(c)	3rd	Abuse of a child.
827.03(2)(d)	3rd	Neglect of a child.
827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
836.05	2nd	Threats; extortion.
836.10	2nd	Written threats to kill or do

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		bodily injury.
843.12	3rd	Aids or assists person to escape.
847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.

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944.40	2nd	Escapes.
944.46	3rd	Harboring, concealing, aiding escaped prisoners.
944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.

Section 8. Paragraphs (n) and (o) of subsection (1) of section 1012.315, Florida Statutes, are amended to read:

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

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

(n) Section 790.115(2) ~~790.115(1)~~, relating to exhibiting firearms or weapons at a school-sponsored event, on school property, or within 1,000 feet of a school.

(o) Section 790.115(4)(b) ~~790.115(2)(b)~~, relating to

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possessing an electric weapon or device, destructive device, or other weapon at a school-sponsored event or on school property.

Section 9. For the 2015-2016 fiscal year, the sum of $157,927 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Law Enforcement for the Criminal Justice Standards and Training Commission to develop the training curriculum as required by this act.

Section 10. This act shall take effect July 1, 2015.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-23-15
Meeting Date

SB 180
Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Monique R. Morris

Job Title 2nd Grade Teacher, Social Action Co-Chair

Address P.O. Box 555238
Street

Phone 407-702-4223

Orlando, Florida 32
City *State* *Zip*

Email OACDST12morris@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Delta Sigma Theta Sorority, Inc., Orlando Alumnae Chapter

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)

Meeting Date

SB 180
Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Linda Kearschner

Job Title Volunteer

Address
Street

Phone 727.669.7979

City State Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Parent Teacher Assoc. (PTA)

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23/15
Meeting Date

SB 180
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 180 (School Safety)

Name Dr. BARBARA Kirby-Bentley

Job Title School Safety

Address 478 Kays Landing Dr.
Street

Sanford, FL 32771
City *State* *Zip*

Phone 321-281-7241(C)

Email barbara.kirbybentley@att.net

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Self and Sanford Alumnae Chapter of Delta Sigma Theta Sorority, 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)

3/23/15
Meeting Date

180
Bill Number (if applicable)

Topic School Safety

Amendment Barcode (if applicable)

Name Dr. Barbara Holley & Harriett Holiday - Former EL & Middle Sch Principal

Job Title Former Elementary Principal Dir. HR - Flagler Schools

Address 22 Hammock Beach PKWY
Street

Phone (386) 283-4083

Palm Coast FL 32137
City *State* *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:	CS/SB 372
INTRODUCER:	Criminal Justice Committee and Senator Dean
SUBJECT:	Confidential Informants
DATE:	March 24, 2015
REVISED:	

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 372 amends s. 914.28, F.S. ("Rachel's Law"), on confidential informants to:

- Require a law enforcement agency that uses confidential informants to adopt policies and procedures that provide reasonable protective measures when a law enforcement agency knows or should have known of a risk or threat of harm to a confidential informant and the risk or threat of harm is a result of the informant's service to the agency;
- Require a law enforcement agency to provide prospective and current confidential informants who are known to be substance abusers or at risk of substance abuse with information on substance abuse treatment options that may be available in their community or region;
- Require that policies and procedures addressing recruitment, control, and use of confidential informants include general guidelines for the management and safety of informants and training requirements that agency personnel must complete in order to recruit and manage informants (consistent with national law enforcement standards);
- Require that policies and procedures to assess the suitability of using a person as a confidential informant include the person's experience to serve as an informant, the effect that the disclosure of the person's cooperation may have on the agency's investigative or intelligence gathering activities, and whether the use of the person may be necessary to the success of an investigation;
- Require a law enforcement agency that enlists a person to be a confidential informant to inform the person of the right to consult with an attorney before entering into a substantial assistance agreement to serve as a confidential informant;

- Prohibit a minor from participating in a controlled buy or sale of contraband or related activities without the written consent of a parent or legal guardian, but authorize the minor to provide confidential information to a law enforcement agency;
- Prohibit a person who is receiving inpatient or outpatient substance abuse treatment from a licensed service provider from participating in a controlled buy or sale of contraband or related activities, but authorize the person to provide confidential information to a law enforcement agency while receiving substance abuse treatment;
- Prohibit a person who is under the jurisdiction of a drug court or participating in a drug court program from participating in a controlled buy or sale of contraband or related activity without the consent of the state attorney assigned to the drug court program;
- Require law enforcement agencies that use confidential informants to annually collect specified confidential informant data and report it to the Florida Department of Law Enforcement (FDLE);
- Require the FDLE to compile the data and annually issue a publicly available report regarding the confidential informant data; and
- Provide that a law enforcement officer or a person designated as support personnel who willfully fails to comply with Rachel's Law commits culpable negligence in violation of s. 782.07(1), F.S., or s. 784.05(1), F.S.

II. Present Situation:

Rachel's Law

Section 914.28, F.S. ("Rachel's Law"), addresses the use of confidential informants by law enforcement agencies. A "confidential informant" is a person who cooperates with a law enforcement agency[1] confidentially in order to protect the person or the agency's intelligence-gathering or investigative efforts and seeks to avoid arrest or prosecution for a crime, or mitigate punishment for a crime in which a sentence will be or has been imposed; and is able, by reason of his or her familiarity or close association with suspected criminals, to:

- Make a controlled buy[2] or controlled sale[3] of contraband, controlled substances, or other items that are material to a criminal investigation;
- Supply regular or constant information about suspected or actual criminal activities to a law enforcement agency; or

[1] A "law enforcement agency" is an agency having a primary mission of preventing and detecting crime and the enforcement of the penal, criminal, traffic, or highway laws of the state and that in furtherance of that primary mission employs law enforcement officers as defined at s. 943.10, F.S. Section 914.28(2)(d), F.S. Section 943.10(1), F.S., defines "law enforcement officer" as 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.

[2] A "controlled buy" is the purchase of contraband, controlled substances, or other items that are material to a criminal investigation from a target offender which is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of a confidential informant. Section 914.28(2)(b), F.S.

[3] A "controlled sale" is the sale of contraband, controlled substances, or other items that are material to a criminal investigation to a target offender which is initiated, managed, overseen, or participated in by law enforcement personnel with the knowledge of a confidential informant. Section 914.28(2)(c), F.S. A "target offender" is a person suspected by law enforcement personnel to be implicated in criminal acts by the activities of a confidential informant. Section 914.28(2)(e), F.S.

- Otherwise provide information important to ongoing criminal intelligence-gathering or criminal investigative efforts.

A law enforcement agency must also establish policies and procedures addressing the recruitment, control, and use of confidential informants, which must include:

- Information that the agency shall maintain concerning each confidential informant;
- General guidelines for handling confidential informants;
- A process to advise a confidential informant of conditions, restrictions, and procedures associated with participating in the agency's investigative or intelligence-gathering activities;
- Designated supervisory or command-level review and oversight in the use of a confidential informant;
- Limits or restrictions on off-duty association or social relationships by agency personnel involved in investigative or intelligence gathering with confidential informants;
- Guidelines to deactivate confidential informants, including guidelines for deactivating communications with confidential informants; and
- A level of supervisory approval required before a juvenile is used as a confidential informant.

A law enforcement agency must also establish policies and procedures to assess the suitability of using a person as a confidential informant by considering, at a minimum, the following factors:

- The person's age and maturity;
- The risk the person poses to adversely affect a present or potential investigation or prosecution;
- The effect upon agency efforts that the disclosure of the person's cooperation in the community may have;
- Whether the person is a substance abuser or has a history of substance abuse or is in a court-supervised drug treatment program;
- The risk of physical harm to the person, his or her immediate family, or close associates as a result of providing information or assistance, or upon the disclosure of the person's assistance to the community;
- Whether the person has shown any indication of emotional instability, unreliability, or of furnishing false information;
- The person's criminal history or prior criminal record; and
- Whether the use of the person is important to or vital to the success of an investigation.

A law enforcement agency must also establish written security procedures that, at a minimum:

- Provide for the secured retention of any records related to the law enforcement agency's confidential sources, including access to files identifying the identity of confidential sources;
- Limit availability to records relating to confidential informants to those within the law enforcement agency or law enforcement community having a need to know or review those records, or to those whose access has been required by court process or order;
- Require notation of each person who accesses such records and the date that the records are accessed;
- Provide for review and oversight by the law enforcement agency to ensure that the security procedures are followed;
- Define the process by which records concerning a confidential informant may be lawfully destroyed; and

- Perform a periodic review of actual agency confidential informant practices to ensure conformity with the agency's policies and procedures and this section.

The provisions of s. 914.28, F.S., and policies and procedures adopted pursuant to this section do not grant any right or entitlement to a confidential informant or a person who is requested to be a confidential informant.

Implementation of Rachel's Law by the Florida Department of Law Enforcement

The Florida Department of Law Enforcement (FDLE) has provided the following information regarding the department's implementation of Rachel's Law:

> Currently, Florida Department of Law Enforcement (FDLE) personnel are governed by confidential informant policies and guidelines documented in FDLE Policy 4.5 (Confidential Sources), Florida Statute 914.28, and "Guidelines for Florida State and Local Law Enforcement Agencies in Dealing with Confidential Informants."[4] The Guidelines were developed and adopted in conjunction with the Florida Police Chiefs Association, the Florida Sheriff's Association, the State Law Enforcement Chiefs Association and the FDLE. FDLE Policy 4.5 addresses confidential informant safety considerations, confidential informant suitability, and recruitment practices. This policy establishes department standards on the recruitment and management of confidential informants. Additionally, this policy requires all FDLE personnel involved with the recruitment of confidential informants to have training in FDLE policies and procedures, requirements of the Guidelines, and Florida Statute 914.28.
>
> The FDLE, Criminal Justice Professionalism Program (CJPP), Bureau of Professional Development (BPD) maintains an online training course, available through the FDLE public website, called "Use and Control of Informants: A Patrol Officer's Primer"[5] which provides training and guidance pertaining to confidential informants and F.S. 914.28 (Rachel's Law).[6]

III. Effect of Proposed Changes:

The bill amends s. 914.28, F.S. ("Rachel's Law"), on confidential informants. The bill requires a law enforcement agency that uses confidential informants to:

- Require a law enforcement agency that uses confidential informants to adopt policies and procedures that provide reasonable protective measures when a law enforcement agency knows or should have known of a risk or threat of harm to a confidential informant and the risk or threat of harm is a result of the informant's service to the agency;

[4] This document is available at http://www.fdle.state.fl.us/Content/getdoc/6bf82b10-54db-4c2a-b0e9-973f98901c9e/CIGuidelinesMARCH-final.aspx (last visited on March 2, 2015).
[5] This information is available at http://www.fdle.state.fl.us/Content/getdoc/de32fdf7-7e70-4c3d-8452-f094f39df1a0/Use-and-Control-of-Informants--A-Patrol-Officer-s-.aspx (last visited on March 2, 2015).
[6] Analysis of SB 372 (January 21, 2015), Florida Department of Law Enforcement (on file with the Senate Committee on Criminal Justice). This analysis is further cited as "FDLE Analysis."

- Require a law enforcement agency to provide prospective and current confidential informants who are known to be substance abusers or at risk of substance abuse with information on substance abuse treatment options that may be available in their community or region;
- Require that policies and procedures addressing recruitment, control, and use of confidential informants include general guidelines for the management and safety of informants and training requirements that agency personnel must complete in order to recruit and manage informants (consistent with national law enforcement standards);[7] and
- Require that policies and procedures to assess the suitability of using a person as a confidential informant include the person's experience to serve as an informant, the effect that the disclosure of the person's cooperation may have on the agency's investigative or intelligence gathering activities, and whether the use of the person is necessary to the success of an investigation.

The bill also requires a law enforcement agency that enlists a person to be a confidential informant to inform the person of the right to consult with an attorney before entering into a substantial assistance agreement to serve as a confidential informant.[8] However, the agency may advise the prospective confidential informant that he or she may waive the right to consult with an attorney before entering into the assistance agreement, and he or she may serve as a confidential informant if the waiver is documented.

The bill also prohibits a minor from participating in a controlled buy or sale of contraband or related activities without the written consent of a parent or legal guardian, but authorizes the minor to provide confidential information to a law enforcement agency.

The bill also prohibits a person who is receiving inpatient or outpatient substance abuse treatment from a licensed service provider from participating in a controlled buy or sale of contraband or related activities, but authorizes the person to provide confidential information to a law enforcement agency while receiving substance abuse treatment. A person who is under the jurisdiction of a drug court or participating in a drug court program may not participate in a controlled buy or sale of contraband or related activity without the consent of the state attorney assigned to the drug court program. If a law enforcement agency believes that a drug court participant has violated any drug court rules, the law enforcement agency must promptly report the participant to the state attorney assigned to the drug court.

The bill also requires law enforcement agencies that use confidential informants to collect the following data for the preceding calendar year and report it to the FDLE by March 1 of each year:[9]

- The number of active confidential informants;
- The ages of active confidential informants;
- The number of confidential informants used to conduct controlled buys or sales of contraband, or related activities conducted on behalf of the agency;

[7] The FDLE notes that the bill "does not provide a grace period or specific timeline to modify state guidelines, in the event that the national guidelines change." *Id.*

[8] The FDLE states: "Currently, FDLE Policy 4.5 states that confidential informants can be afforded the opportunity to consult with legal counsel *upon request*, prior to performing any activities as a confidential informant." *Id.* (emphasis provided by the FDLE).

[9] The bill requires the FDLE to develop and disseminate a standardized form to these agencies for them to complete.

- The number of deaths of confidential informants which occurred during controlled buys or sales of contraband, or related activities conducted on behalf of the agency;
- The number of injuries to confidential informants that occurred during controlled buys or sales of contraband, or related activities conducted on behalf of the agency;
- The number of deaths of confidential informants whose cause of death may be related to their service as a confidential informant;
- The number of injuries to confidential informants whose cause of injury may be related to their service as a confidential informant; and
- The total amount of cash payments provided to a confidential informant by the agency.

The FDLE must compile the data and, by June of each year, issue a publicly available report on the confidential informant data. The data and report may not include categories of active confidential informants compiled by race, ethnicity, gender, and zip code, or disclose the identity of a confidential informant.

Finally, the bill provides that a law enforcement officer or a person designated as support personnel as defined in s. 943.10(11), F.S.,[10] who willfully fails to comply with Rachel's Law commits culpable negligence in violation of s. 782.07(1), F.S.,[11]or s. 784.05(1), F.S.[12]

The effective date of the bill is October 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill provides that a law enforcement officer or a person designated as support personnel who willfully fails to comply with Rachel's Law commits culpable negligence

[10] This subsection defines "support personnel" as any person employed or appointed by an employing agency who is not an officer or, as specified by the commission, other professional employee in the criminal justice system.
[11] Section 782.07(1), F.S., provides, in part, that the killing of a human being by culpable negligence of another, without lawful justification according to the provisions of ch. 776, F.S., and in cases in which such killing shall not be excusable homicide or murder, according to the provisions of ch. 782, F.S., is manslaughter, a second degree felony.
[12] Section 784.05(1), F.S., provides that whoever, through culpable negligence, exposes another person to personal injury commits a second degree misdemeanor. Since only s. 784.05(1), F.S., is referenced, a willful violation of Rachel's Law that results in a non-fatal injury to a confidential informant would not be a violation of s. 784.05(2), F.S. (whoever, through culpable negligence, inflicts actual personal injury on another commits a first degree misdemeanor).

in violation of s. 782.07(1), F.S., or s. 784.05(1), F.S. The FDLE notes that several terms used in the bill are undefined and may be susceptible to different interpretations: "reasonable protective measures"; "risk for substance abuse"; "national law enforcement standards"; "experience" to serve as a confidential informant; and use of a person as a confidential informant is "necessary" to the success of an investigation.[13]

"The legislature's failure to define a statutory term does not in and of itself render a penal provision unconstitutionally vague. In the absence of a statutory definition, resort may be had to case law or related statutory provisions which define the term, and where a statute does not specifically define words of common usage, such words are construed in their plain and ordinary sense."[14] However, a statutory provision may be unconstitutionally vague (a violation of due process) if "men of common intelligence must necessarily guess at its meaning. The test of vagueness of a statute is whether the language conveys a sufficiently definite warning as to the proscribed conduct when measured by common understanding and practice."[15]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Impact on Local Law Enforcement and FDLE

The FDLE states there may be "potential costs" to local law enforcement agencies "associated with the changes in requirements for collection and storage of confidential informant information."[16]

The FDLE further states:

> FDLE would need to design, develop, test, and implement a system for FDLE to receive, securely maintain and report the information on confidential informants from law enforcement agencies.

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[13] FDLE Analysis.
[14] *State v. Hagan*, 387 So.2d 943, 945 (Fla. 1980).
[15] *Id.* (citations omitted). A statute is also unconstitutionally vague "if it encourages arbitrary enforcement and gives the police too much discretion in determining whether it is applicable to a particular individual." *Simmons v. State*, 944 So.2d 317, 324 (Fla. 2006) (citation omitted). Section 775.021(1), F.S., provides that "provisions of this code and offenses defined by other statutes shall be strictly construed; when the language is susceptible of differing constructions, it shall be construed most favorably to the accused." This statute codifies "the rule of lenity" that is part of common law. *Carawan v. State*, 515 So.2d 161, 165 (Fla. 1987).
[16] FDLE Analysis. All further information in this section of the bill analysis relating to the FDLE is from this source.

This effort will require 3,648 hours of programming at $312,080.

Current staff resources are fully committed to the maintenance of existing production systems. This effort would require the new hire of 2 contractors for development.

Assuming development will begin once the funds have been allocated and the hiring process begins on July 1, 2015. The effective date of this bill should be amended to July 1, 2016 or another date once technology changes are completed.

Prison Bed Impact

The bill provides that a law enforcement officer or a person designated as support personnel who willfully fails to comply with Rachel's Law commits culpable negligence in violation of s. 782.07(1), F.S., or s. 784.05(1), F.S. This penalty was not part of the original bill and has not yet been reviewed by the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation. However, the Legislature Office of Economic and Demographic Research has indicated that it doesn't believe there will be a change in the original prison bed impact estimate of the bill: positive insignificant prison bed impact (increase of 10 or fewer prison beds per year).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 914.28 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 March 23, 2015:

- Removes a provision from the bill that prohibited college and university police from using an enrolled student to participate in a controlled buy or sale of contraband or related activities;
- Requires a law enforcement agency to provide prospective and current confidential informants who are known to be substance abusers or at risk of substance abuse with information on substance abuse treatment options that may be available in their community or region;

- Requires a law enforcement agency that enlists a person to be a confidential informant to inform the person of the right to consult with an attorney before entering into a substantial assistance agreement to serve as a confidential informant;
- Prohibits a minor from participating in a controlled buy or sale of contraband or related activities without the written consent of a parent or legal guardian;
- Prohibits a person who is under the jurisdiction of a drug court or participating in a drug court program from participating in a controlled buy or sale of contraband or related activity without the consent of the state attorney assigned to the drug court program;
- Provides that if a law enforcement agency believes that a drug court participant has violated any drug court rules, the law enforcement agency must promptly report the participant to the state attorney assigned to the drug court; and
- Revises types of confidential informant data that must be reported by law enforcement agencies that use confidential informants and data that may not be disclosed.

B. Amendments:

None.

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

526792

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraphs (f) and (g) are added to subsection (3) of section 914.28, Florida Statutes, subsections (4), (5), and (7) of that section are amended, present subsection (8) of that section is redesignated as subsection (12) and amended, and new subsections (8) through (11) are added to that section, to read:

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914.28 Confidential informants.—

(3) A law enforcement agency that uses confidential informants shall:

(f) Adopt policies and procedures that provide reasonable protective measures for confidential informants when a law enforcement agency knows or should have known of a risk or threat of harm to a person serving as a confidential informant and the risk or threat of harm is a result of his or her service to the law enforcement agency.

(g) Provide prospective and current confidential informants who are known to be substance abusers or to be at risk for substance abuse with information on substance abuse treatment options that may be available in their community or region.

(4) A law enforcement agency that uses confidential informants shall establish policies and procedures addressing the recruitment, control, and use of confidential informants. The policies and procedures must state the:

(a) Information that the law enforcement agency shall maintain concerning each confidential informant;

(b) General guidelines for the management and safety of ~~handling~~ confidential informants;

(c) Process to advise a confidential informant of conditions, restrictions, and procedures associated with participating in the agency's investigative or intelligence gathering activities;

(d) Designated supervisory or command-level review and oversight in the use of a confidential informant;

(e) Limits or restrictions on off-duty association or social relationships by agency personnel involved in

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investigative or intelligence gathering with confidential informants;

(f) Guidelines to deactivate confidential informants, including guidelines for deactivating communications with confidential informants; and

(g) Training requirements that agency personnel must complete in order to recruit and manage confidential informants which are consistent with national law enforcement standards ~~Level of supervisory approval required before a juvenile is used as a confidential informant~~.

(5) A law enforcement agency that uses confidential informants shall establish policies and procedures to assess the suitability of using a person as a confidential informant which, at a minimum, consider all of ~~by considering~~ the ~~minimum~~ following factors:

(a) The person's age, ~~and~~ maturity, and experience to serve as a confidential informant.~~;~~

(b) The risk the person poses to adversely affect a present or potential investigation or prosecution.~~;~~

(c) The effect ~~upon agency efforts~~ that the disclosure of the person's cooperation may have on the agency's investigative or intelligence gathering activities. ~~in the community may have;~~

(d) Whether the person is a substance abuser or has a history of substance abuse. ~~or is in a court-supervised drug treatment program;~~

(e) The risk of physical harm to the person, his or her immediate family, or close associates as a result of providing information or assistance, or upon the disclosure of the person's assistance. ~~to the community;~~

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(f) Whether the person has shown any indication of emotional instability or~~,~~ unreliability, or of furnishing false information.~~;~~

(g) The person's criminal history or prior criminal record.~~; and~~

(h) Whether the use of the person ~~is~~ may be necessary ~~important to or vital~~ to the success of an investigation.

(7) A ~~state or local~~ law enforcement agency that uses confidential informants shall perform a periodic review of actual agency confidential informant practices to ensure conformity with the agency's policies and procedures and this section.

(8) A law enforcement agency that enlists a person to be a confidential informant shall inform the person of the right to consult with a legal counsel before entering into a Substantial Assistance Agreement to serve as a confidential informant. However, the agency may advise the prospective confidential informant that he or she may waive the right to consult with legal counsel before entering into the Substantial Assistance Agreement, and he or she may serve as a confidential informant without consulting with legal counsel if such waiver is documented.

(9)(a) A person who is younger than 18 years of age may not participate in a controlled buy or sale of contraband or related activities without the written consent of a parent or legal guardian, but may provide confidential information to a law enforcement agency.

(b) A person who is receiving inpatient substance abuse treatment or outpatient substance abuse treatment from a

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licensed service provider pursuant to ch. 394 may not participate in a controlled buy or sale of contraband or related activities, but may provide confidential information to a law enforcement agency while receiving substance abuse treatment. A person who is under the jurisdiction of a drug court or participating in a drug court program may not participate in a controlled buy or sale or related activities without the consent of the state attorney assigned to the drug court program. If a law enforcement agency believes that a drug court participant has violated any drug court rules, the law enforcement agency shall promptly report the participant to the state attorney assigned to the drug court.

(10) A law enforcement agency that uses confidential informants shall collect and report data that includes the information required by paragraphs (a)—(h). The Department of Law Enforcement shall develop and disseminate a standardized form that must be completed by every law enforcement agency that uses confidential informants. A law enforcement agency that uses confidential informants shall collect such data for the preceding calendar year and report it by March 1 of each year to the department. Upon receipt of the completed forms, the department shall compile the data and, by each June 1, issue a publicly available report on paragraphs (a)-(h). The data and report may not include categories of active confidential informants compiled by race, ethnicity, gender, and zip code or disclose the identity of a confidential informant, but must include all of the following information:

(a) The number of active confidential informants.

(b) The ages of active confidential informants.

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(c) The number of confidential informants used to conduct controlled buys or sales of contraband, or related activities conducted on behalf of the agency.

(d) The number of deaths of confidential informants which occurred during controlled buys or sales of contraband, or related activities conducted on behalf of the agency.

(e) The number of injuries to confidential informants that occurred during controlled buys or sales of contraband, or related activities conducted on behalf of the agency.

(f) The number of deaths of confidential informants whose cause of death may be related to their service as a confidential informant.

(g) The number of injuries to confidential informants whose cause of injury may be related to their service as a confidential informant.

(h) The total amount of cash payments provided to a confidential informant by the agency.

(11) A law enforcement officer, or a person designated as support personnel as defined in s. 943.10(11), who willfully fails to comply with this act commits culpable negligence as provided in s. 782.07(1) or s. 784.05(1).

(12)~~(8) The provisions of~~ This section and policies and procedures adopted pursuant to this section do not grant any right or entitlement to a confidential informant or a person who is requested to be a confidential informant, and any failure to abide by this section may not be relied upon to create any additional right, substantive or procedural, enforceable at law by a defendant in a criminal proceeding.

Section 2. This act shall take effect October 1, 2015.

526792

========== 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 confidential informants; amending s. 914.28, F.S.; requiring a law enforcement agency that uses confidential informants to adopt policies and procedures providing reasonable protective measures; requiring such agencies to provide certain prospective and current confidential informants with information on substance abuse treatment options that may be available; requiring that the policies and procedures provide general guidelines for the management and safety of confidential informants and training requirements for certain agency personnel; revising factors used in assessing a person's suitability as a confidential informant; requiring a law enforcement agency that solicits a person to act as a confidential informants to provide them with the opportunity to consult with legal counsel before signing a Substantial Assistance Agreement; authorizing such agencies to advise prospective confidential informants that they may waive that right; prohibiting a person under 18 years of age from participating in certain activities without written parental or guardian consent; allowing such person to provide confidential information to a law enforcement

526792

agency; prohibiting a person who is receiving certain substance abuse treatment from participating in certain activities; allowing such person to provide confidential information to a law enforcement agency; prohibiting a person who is under the jurisdiction of a drug court program from participating in certain activities without the consent of the state attorney assigned to the drug court program; requiring a law enforcement agency to report a drug court participant it believes has violated any drug court rules to the state attorney; requiring a law enforcement agency to annually collect and submit confidential informant data to the Department of Law Enforcement; prohibiting such data from disclosing certain information; specifying information required to be submitted to the department; requiring the department to make such data publicly available by a specified date; providing penalties; providing an effective date.

By Senator Dean

5-00197B-15 2015372__

A bill to be entitled

An act relating to confidential informants; amending s. 914.28, F.S.; requiring a law enforcement agency that uses confidential informants to adopt policies and procedures providing reasonable protective measures; requiring such agencies to refer certain prospective and current confidential informants to substance abuse prevention or treatment services; requiring that the policies and procedures provide general guidelines for the management and safety of confidential informants and training requirements for certain agency personnel; revising factors used in assessing a person's suitability as a confidential informant; requiring law enforcement agencies that solicit persons to act as confidential informants to provide them with the opportunity to consult with an attorney before signing an assistance agreement; allowing such agencies to advise prospective confidential informants that they may waive that right; prohibiting a person under the age of 18 from participating in certain activities; allowing such person to provide confidential information to a law enforcement agency; prohibiting a person who is receiving substance abuse services or related treatment from participating in certain activities; allowing such person to provide confidential information to a law enforcement agency; prohibiting Florida College System and university police from recruiting or using enrolled students for certain

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

5-00197B-15 2015372__

activities; allowing a student to provide confidential information to Florida College System or university police or another law enforcement agency; requiring a law enforcement agency to annually collect and submit confidential informant data to the Department of Law Enforcement; prohibiting such data from disclosing the identity of a confidential informant; specifying information required to be submitted to the department; requiring the department make such data publicly available by a specified date; providing criminal penalties; providing an effective date.

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

Section 1. Paragraphs (f) and (g) are added to subsection (3) of section 914.28, Florida Statutes, subsections (4), (5), and (7) of that section are amended, present subsection (8) of that section is redesignated as subsection (13), and a new subsection (8) and subsections (9) through (12) are added to that section, to read:

914.28 Confidential informants.—

(3) A law enforcement agency that uses confidential informants shall:

(f) Adopt policies and procedures that provide reasonable protective measures for confidential informants when a law enforcement agency knows or should have known of a risk or threat of harm to a person serving as a confidential informant and the risk or threat of harm is a result of his or her service to the law enforcement agency.

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

(g) Refer prospective and current confidential informants who are known to be substance abusers or to be at risk for substance abuse to prevention or treatment services.

(4) A law enforcement agency that uses confidential informants shall establish policies and procedures addressing the recruitment, control, and use of confidential informants. The policies and procedures must state the:

(a) Information that the law enforcement agency shall maintain concerning each confidential informant;

(b) General guidelines for the management and safety of ~~handling~~ confidential informants;

(c) Process to advise a confidential informant of conditions, restrictions, and procedures associated with participating in the agency's investigative or intelligence gathering activities;

(d) Designated supervisory or command-level review and oversight in the use of a confidential informant;

(e) Limits or restrictions on off-duty association or social relationships by agency personnel involved in investigative or intelligence gathering with confidential informants;

(f) Guidelines to deactivate confidential informants, including guidelines for deactivating communications with confidential informants; and

(g) Training requirements that agency personnel must complete in order to recruit and manage confidential informants which are consistent with national law enforcement standards ~~Level of supervisory approval required before a juvenile is used as a confidential informant~~.

(5) A law enforcement agency that uses confidential informants shall establish policies and procedures to assess the suitability of using a person as a confidential informant which, at a minimum, consider all of ~~by considering~~ the ~~minimum~~ following factors:

(a) The person's age, ~~and~~ maturity, and experience to serve as a confidential informant.~~;~~

(b) The risk the person poses to adversely affect a present or potential investigation or prosecution.~~;~~

(c) The effect ~~upon agency efforts~~ that the disclosure of the person's cooperation may have on the agency's investigative or intelligence gathering activities. ~~in the community may have;~~

(d) Whether the person is a substance abuser or has a history of substance abuse. ~~or is in a court-supervised drug treatment program;~~

(e) The risk of physical harm to the person, his or her immediate family, or close associates as a result of providing information or assistance, or upon the disclosure of the person's assistance. ~~to the community;~~

(f) Whether the person has shown any indication of emotional instability or~~,~~ unreliability, or of furnishing false information.~~;~~

(g) The person's criminal history or prior criminal record.~~; and~~

(h) Whether the use of the person is necessary ~~important to or vital~~ to the success of an investigation.

(7) A ~~state or local~~ law enforcement agency that uses confidential informants shall perform a periodic review of actual agency confidential informant practices to ensure

conformity with the agency's policies and procedures and this section.

(8) A law enforcement agency that solicits a person to act as a confidential informant shall give that person the opportunity to consult with legal counsel before entering into an assistance agreement and serving as a confidential informant. However, the agency may advise the prospective confidential informant that he or she may waive the right to consult with legal counsel before entering into the assistance agreement, and he or she may serve as a confidential informant without consulting with legal counsel if such waiver is documented.

(9)(a) A person who is younger than 18 years of age may not participate in a controlled buy or sale of contraband or related activities, but may provide confidential information to a law enforcement agency.

(b) A person who is receiving inpatient or outpatient substance abuse treatment from a licensed service provider, is in a treatment-based drug court program, or is otherwise receiving treatment or related services pursuant to chapter 397 may not participate in a controlled buy or sale of contraband or related activities, but may provide confidential information to a law enforcement agency while receiving substance abuse treatment.

(10) Florida College System and university police who are regulated under s. 1012.88 or s. 1012.97, respectively, may not recruit, assist in the recruitment of, refer to another law enforcement agency, or otherwise use an enrolled student to participate in a controlled buy or sale of contraband or related activities, but an enrolled student may provide confidential

information to such police or another law enforcement agency.

(11) A law enforcement agency that uses confidential informants shall collect and report data that includes the information required by paragraphs (a) through (j). The Department of Law Enforcement shall develop and disseminate a standardized form that must be completed by every law enforcement agency that uses confidential informants. A law enforcement agency that uses confidential informants shall collect such data for the preceding calendar year and report it by March 1 of each year to the department. Upon receipt of the completed forms, the department shall compile the data and, by each June 1, issue a publicly available report. The data and report may not disclose the identity of a confidential informant but must include all of the following information:

(a) The number of active confidential informants.

(b) Categories of active confidential informants compiled by race, ethnicity, gender, age, and zip code.

(c) The number of confidential informants used to conduct controlled buys or sales of contraband, or related activities conducted on behalf of the agency.

(d) The number of deaths of confidential informants which occurred during controlled buys or sales of contraband, or related activities conducted on behalf of the agency.

(e) The number of injuries to confidential informants that occurred during controlled buys or sales of contraband, or related activities conducted on behalf of the agency.

(f) The number of deaths of confidential informants whose cause of death may be related to their service as a confidential informant.

(g) The number of injuries to confidential informants whose cause of injury may be related to their service as a confidential informant.

(h) The total amount of cash payments provided to a confidential informant by the agency.

(i) The total number of dropped or reduced charges provided to a prospective or current confidential informant by the agency.

(j) The total number of instances in which the law enforcement agency recommended leniency for a confidential informant at sentencing.

(12) A law enforcement officer, or a person designated as support personnel as defined in s. 943.10(11), who willfully fails to comply with this act commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(13)~~(8) The provisions of~~ This section and policies and procedures adopted pursuant to this section do not grant any right or entitlement to a confidential informant or a person who is requested to be a confidential informant, and any failure to abide by this section may not be relied upon to create any additional right, substantive or procedural, enforceable at law by a defendant in a criminal proceeding.

Section 2. This act shall take effect October 1, 2015.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23/15
Meeting Date

372
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Confidential Informants

Name Daniel H. Wolfe

Job Title Law Student

Address 1607 Pepper Dr.
Street

Tallahassee FL 32304
City *State* *Zip*

Phone 954-850-0874

Email danielharriswolfe@gmail.com

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

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

Representing self

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/23/15 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) 372

Meeting Date *Bill Number (if applicable)*

Topic Confidential Informants *Amendment Barcode (if applicable)*

Name Colin T. Hayes

Job Title Student Attorney at FSU Public Interest Law Center

Address 601 SW 4th Street Phone

Street

Boca Raton FL 33486 Email CTH12@my.fsu.edu

City *State* *Zip*

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

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

Representing Self

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

372

Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Rachel's Law

Name Jen Hoffman

Job Title

Address 2699 Challenger Dr
Street

Palm Harbor, FL 34683
City *State* *Zip*

Phone

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.

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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)

3/23/2015
Meeting Date

372
Bill Number (if applicable)

Topic SB 372

Amendment Barcode (if applicable)

Name Laila Abdelaziz

Job Title Legislative Director

Address 8076 N 56th Street
Street

Tampa FL 33617
City *State* *Zip*

Phone 352 361 1808

Email labdelaziz@cair.com

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

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

Representing CAIR 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

APPEARANCE RECORD

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

3/23/15
Meeting Date

372
Bill Number (if applicable)

Topic Confidential Informant

Amendment Barcode (if applicable)

Name Electra Bustle

Job Title

Address 123 S Adams St
Street
Tall.
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☑ Information

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

Representing Florida Sheriffs Assoc

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23/15
Meeting Date

372
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Confidential Informants

Name Justin Kampf

Job Title Student

Address 405 W. College Ave Apt. 407
Street

Tallahassee FL 32301
City *State* *Zip*

Phone (561) 715-7533

Email jfk13b@my.fsu.edu

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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:
Environmental Preservation and Conservation, *Chair*
Agriculture, *Vice Chair*
Appropriations Subcommittee on General Government
Children, Families, and Elder Affairs
Communications, Energy, and Public Utilities
Community Affairs

SENATOR CHARLES S. DEAN, SR.
5th District

January 23, 2015

The Honorable Greg Evers
308 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Evers,

I respectfully request you place Senate Bill 372, relating to Confidential Informants, on your Criminal Justice Committee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

Charles S. Dean
State Senator District 5

cc: Amanda Cannon, Staff Director

REPLY TO:
☐ 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
☐ 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
☐ 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

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:	CS/SB 488
INTRODUCER:	Criminal Justice Committee and Senator Detert
SUBJECT:	Sealing/Expunction of Criminal History Records
DATE:	March 24, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	**Fav/CS**
2.			ACJ	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 488 makes substantial changes to Florida's expunge and seal laws by creating a nonjudicial process for the expunction and sealing of criminal history records. The bill retains the court-ordered expunction process, but limits its application to the expunction of a record related to a case in which a court issued a withhold of adjudication.

The bill allows a person to obtain:

- An unlimited number of "nonjudicial expunctions" for records that resulted in a no-information, a dismissal, a dismissal based on the lawful self-defense exception, or a not guilty verdict, regardless of whether the person has previous misdemeanor or felony convictions;
- One court-ordered expunction of a record that resulted in a withhold of adjudication, regardless of whether the person has a previous misdemeanor conviction; and either
- One "nonjudicial sealing" of a record that resulted in a withhold of adjudication, regardless of whether the person has a previous misdemeanor conviction, or
- One "nonjudicial sealing" of a record that resulted in a conviction for a specified "nonviolent misdemeanor," regardless of whether the person has a previous misdemeanor conviction.

(Currently, a person may only expunge or seal one record, may not expunge or seal any record that resulted in a conviction, and may not expunge or seal a record if he or she has previous convictions. Additionally, only the court can order a record to be expunged or sealed.)

The bill also amends s. 943.0515, F.S., to require all records maintained by the Florida Department of Law Enforcement (FDLE) related to minors that are not classified as serious or habitual juvenile offenders to be automatically expunged when the minor reaches the age of 21 years with certain exceptions (currently this occurs when the minor reaches the age of 24 years).

II. Present Situation:

Criminal History Record Sealing and Expunging

Sections 943.0585 and 943.059, F.S., set forth procedures for sealing and expunging criminal history records. The courts have jurisdiction over their own judicial records containing criminal history information and over their procedures for maintaining and destroying those records. The FDLE can administratively expunge non-judicial records of arrest that are made contrary to law or by mistake.

When a record is expunged, it is physically destroyed and no longer exists if it is in the custody of a criminal justice agency[1] other than the FDLE. Criminal justice agencies are allowed to make a notation indicating compliance with an expunction order. The FDLE, on the other hand, is required to retain expunged records. When a record is sealed, it is not destroyed, but access is limited to the subject of the record, his or her attorney, criminal justice agencies for their respective criminal justice purposes, and certain other specified agencies for their respective licensing and employment purposes.[2]

Persons who have had their criminal history records sealed or expunged may lawfully deny or fail to acknowledge the arrests covered by their record, except when they are applying for certain types of licensure or employment,[3] petitioning the court for a record sealing or expunction, or are a defendant in a criminal prosecution.[4]

Records that have been sealed or expunged are confidential and exempt from the public records law. It is a first degree misdemeanor to divulge their existence, except to specified entities for licensing or employment purposes.[5]

---

[1] Section 943.045(11), F.S., defines a criminal justice agency as follows: a court; the FDLE; the DJJ; the protective investigations component of the Department of Children and Families (DCF), which investigates the crimes of abuse and neglect; or any other governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice.
[2] Including the following: a criminal justice agency; the Florida Bar; working in a sensitive position involving direct contact with children, the developmentally disabled, or the elderly through the DCF, Division of Vocational Rehabilitation within the Department of Education (DOE), the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, or the Department of Juvenile Justice; or persons seeking to be employed or licensed by the DOE, any district school board, any university laboratory school, any charter school, any private or parochial school, or any local governmental entity licensing child care facilities; a Florida seaport; the Division of Insurance Agent and Agency Services within the Department of Financial Services; or the Bureau of License Issuance of the Division of Licensing within the Department of Agriculture and Consumer Services. Sections 943.0585(4) and 985.059(4), F.S.
[3] *Id.*
[4] Section 943.0585(4)(a), F.S.
[5] Section 943.0585(4)(c), F.S.

In 1992, the Legislature amended the sealing and expunction statute to require a person seeking a sealing or expunction to first obtain a certificate of eligibility from FDLE and then, if the person meets the statutory criteria based on the department's criminal history check and receives a certificate, he or she can petition the court for a record sealing or expunction.[6] It is then up to the court to decide whether the sealing or expunction is appropriate.

To receive a certificate of eligibility[7], a person must:

- Submit to FDLE a written, certified statement from the appropriate state attorney or statewide prosecutor indicating that:
  - An indictment, information, or other charging document was not filed or issued in the case; or if filed, was dismissed or nolle prosequi by the state attorney or statewide prosecutor or was dismissed by a court of competent jurisdiction;[8]
  - None of the charges related to the record the person wishes to expunge resulted in a trial, without regard to whether the outcome of the trial was other than an adjudication of guilt;[9] and
  - The criminal history record does not relate to a violation of specified listed offenses regardless of whether adjudication was withheld[10];
- Pay a $75 processing fee;
- Submit a certified copy of the disposition of the record desired to be sealed or expunged;
- Have not previously been adjudicated guilty of any offense or adjudicated delinquent for any felony or misdemeanor specified in s. 943.051(3)(b), F.S.[11];
- Have never been adjudicated guilty or delinquent for any of the acts stemming from the arrest or alleged criminal activity of the record desired to be sealed or expunged;
- Have never had a prior sealing or expunction of a criminal history record (unless it is the required ten year sealing for the offense desired to be expunged); and
- No longer be under any court supervision related to the disposition of the record desired to be sealed or expunged.

---

[6] Section 943.0585(2), F.S.

[7] A certificate of eligibility for expunction or sealing is valid for 12 months after the date stamped on the certificate. If the certificate expires then a person must reapply for a new certificate of eligibility. The new certificate of eligibility must be based on the status of the applicant and the law in effect at the time of the reapplication. Sections 943.0585(2) and 943.059(2), F.S.

[8] Only required for an expunction.

[9] *Id.*

[10] These listed offenses include the following: sexual misconduct with developmentally disabled clients, mental health patients, or forensic clients; luring or enticing a child; sexual battery; procuring a person under 18 years for prostitution; lewd, lascivious, or indecent assault upon a child; lewd or lascivious offenses committed on an elderly or disabled person; voyeurism; communications fraud; sexual performance by a child; unlawful distribution of obscene materials to a minor; unlawful activities involving computer pornography; selling or buying minors for the purpose of engaging in sex trafficking or prostitution, or sexually explicit conduct; offenses by public officers and employees; drug trafficking; and, other dangerous crimes such as arson, aggravated assault or battery, illegal use of explosives, child abuse or aggravated child abuse, elderly or disabled abuse, aggravated elderly or disabled abuse, aircraft piracy, sexual activity with a child, terrorism, manufacturing controlled substances, kidnapping, murder, manslaughter, robbery, home invasion robbery, carjacking, stalking, domestic violence, burglary and any violation specified as a predicate offense for sexual predator or sexual offender registration.

[11] These misdemeanors include: assault; battery; carrying a concealed weapon; unlawful use of destructive devices or bombs; negligent treatment of children; assault or battery on a law enforcement officer, firefighter, or other specified officers; open carrying of a weapon; exposure of sexual organs; unlawful possession of a firearm; petit theft; cruelty to animals; arson; and unlawful possession or discharge of a weapon or firearm at a school- sponsored event or on school property.

[11] Section 943.0585(1)(b), F.S.

In addition to the certificate, a petition to seal or expunge a criminal history record must also include the petitioner's sworn statement that he or she:

- Has not previously been adjudicated guilty of any offense or adjudicated delinquent for any felony or misdemeanor offense specified in s. 943.051(3)(b), F.S.;
- Has not been adjudicated guilty or delinquent for any of the charges he or she is currently trying to have sealed or expunged;
- Has not obtained a prior sealing or expunction (unless it is the required ten year sealing for the offense desired to be expunged); and
- Is eligible to the best of his or her knowledge and has no other pending expunction or sealing petitions before the court.[12]

The statute also requires that the record be sealed for 10 years before it can be expunged, unless charges were not filed or were dismissed by the prosecutor or court, regardless of the outcome of the trial.[13] In other words, if the formal adjudication of guilt is withheld by the court, or the applicant is acquitted, the record must first be sealed for ten years. If the charges are dropped, the record can be immediately expunged.[14]

Any person knowingly providing false information on the sworn statement commits a felony of the third degree.[15]

To summarize, a person is not currently eligible to have a record expunged or sealed if the person was convicted for any of the charges to which the petition to expunge or seal pertains. Similarly, a person who has a previous unrelated conviction is ineligible to have a record expunged or sealed. In addition, a court may not seal or expunge a record that relates to any of the prohibited listed offenses in which the defendant was found guilty of or pled guilty or nolo contendere to such offense, or if the defendant, as a minor, was found to have committed, or pled guilty or pled nolo contendere to committing the offense as a delinquent act.[16]

Automatic Expunction of Criminal History Records of Minors

Section 943.0515, F.S., requires FDLE to automatically expunge the criminal history records of specified juveniles at age 24 or 26. For juveniles who are classified as serious or habitual juvenile offenders, or that have been committed to a juvenile correctional facility or juvenile prison, the FDLE must retain their record until the age of 26, at which time it is automatically expunged.[17] For all other juveniles, FDLE must retain the record until the juvenile reaches the age of 24, at which time it is automatically expunged.[18]

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[12] Section 943.0585(1)(b), F.S.
[13] Section 943.0585(2)(h), F.S.
[14] This also includes when an indictment, information, or other charging document is not filed or is dismissed by the state attorney, or dismissed by the court, because it was found that the person acted in lawful self-defense under the provisions related to justifiable use of force in ch. 776, F.S. Section 943.0585(5), F. S.
[15] Section 943.0585(1), F.S.
[16] This restriction applies regardless to whether adjudication was withheld on any of the listed offenses. Sections 943.0585(1) and 943.059(1), F.S.
[17] Section 943.0515(1)(a), F.S.
[18] Section 943.0515(1)(b), F.S.

A juvenile's record is prohibited from being automatically expunged if:

- A person 18 years of age or older is charged with or convicted of a forcible felony and the person's criminal history record as a minor has not yet been destroyed;
- At any time, a minor is adjudicated as an adult for a forcible felony; or
- The record relates to a minor who was adjudicated delinquent for a violation committed on or after July 1, 2007, as provided in s. 943.0435(1)(a)1.d., F.S.[19,20]

In these three instances, the person's record as a minor must be merged with and retained as part of their adult record.[21]

III. Effect of Proposed Changes:

Criminal History Record Sealing and Expunging

The bill creates a nonjudicial process for the expunction and sealing of criminal history records. The bill retains the court-ordered expunction process, but limits its application to the expunction of a record related to a case where a court issued a withhold of adjudication.

The bill permits a person to obtain:

- An unlimited number of "nonjudicial expunctions" for records that resulted in a no-information, a dismissal, a dismissal based on the lawful self-defense exception, or a not guilty verdict, regardless of whether the person has previous misdemeanor or felony convictions;
- One court-ordered expunction of a record that resulted in a withhold of adjudication, regardless of whether the person has a previous misdemeanor conviction; and either
- One "nonjudicial sealing" of a record that resulted in a withhold of adjudication, regardless of whether the person has a previous misdemeanor conviction, or
- One "nonjudicial sealing" of a record that resulted in a conviction for a specified "nonviolent misdemeanor," regardless of whether the person has a previous misdemeanor conviction.

Nonjudicial Expunction

The bill creates s. 943.0584, F.S., requiring specified records to be expunged without petitioning the court. The bill requires FDLE to approve the nonjudicial expunction of an unlimited number of criminal history records of a minor or adult relating to cases in which a:

- No-Information was issued;
- Dismissal was granted by the state attorney or statewide prosecutor, or by a court of competent jurisdiction;
- Dismissal was granted by the state attorney or court based on the lawful self-defense exception; or
- Not-guilty verdict was rendered subsequent to a trial or adjudicatory hearing.

[19] Sections 943.0515(2) and (3), F.S.
[20] Section 943.0435, F.S., defines a "sexual offender" and proscribes when a sexual offender is required to register with FDLE.
[21] *Id*.

It should be noted that a person may not obtain a nonjudicial expunction unless all charges stemming from the arrest or alleged criminal activity to which the application for expunction pertains were not filed or issued, dismissed or discharged, or resulted in an acquittal.

Additionally, a record may not be approved for nonjudicial expunction if the:
- Case was dismissed pursuant to ss. 916.145 or 985.19, F.S., as a result of the person never being restored to competency; or
- Verdict at trial was not-guilty by reason of insanity.

The bill removes the current requirement that a record related to a not guilty verdict be sealed for ten years prior to such record being eligible for expunction.

The bill does not alter current law as it relates to obtaining an expunction when the dismissal was based on the lawful self-defense exception, but moves this from a court-ordered process to the newly-created nonjudicial expunction process.

To apply for nonjudicial expunction under s. 943.0584, F.S., the bill requires a person to include:
- A written, certified statement from the appropriate state attorney or statewide prosecutor indicating that the criminal history record sought to be expunged is eligible; or
- If applicable, a written, certified statement from the appropriate state attorney or statewide prosecutor indicating that the dismissal was based on the lawful self-defense exception;
- A $75 processing fee to FDLE for placement in the FDLE Operating Trust Fund, unless such fee is waived by the executive director;
- A certified copy of the disposition of the charge to which the application to expunge pertains; and
- A full set of fingerprints of the applicant taken by a law enforcement agency for purposes of identity verification.

An applicant seeking the nonjudicial expunction of multiple eligible records only needs to submit one application and one fee to FDLE. Upon receiving a complete application, FDLE must approve the nonjudicial expunction of all records pertaining to the applicant that are eligible for the nonjudicial expunction.

Upon approval of a nonjudicial expunction, FDLE must serve a certified copy of the form approving the nonjudicial expunction to the state attorney or statewide prosecutor, the arresting agency, the clerk of the court, and the Federal Bureau of Investigation (FBI). The arresting agency must forward the approval form to any other agency that it disseminated the criminal history record information to which the form pertains. Lastly, the clerk of the court must forward a copy of the form to any other agency which the records of the court reflect has received the criminal history record from the court.

The bill provides that records that are approved for nonjudicial expunction pursuant to s. 943.0584, F.S., must have the same effect and be disclosed in the same manner as current law requires for records expunged pursuant to a court order under s. 943.0585, F.S. (i.e., that the record must be destroyed by all parties except FDLE, and a person may not lawfully deny the existence of the record to specified parties).

The bill provides FDLE with authority to adopt a rule pursuant to ch. 120, F.S., for the nonjudicial expunction of any criminal history record of a minor or an adult described in this section.

Court-Ordered Expunction

Codified in s. 985.0585, F.S., the bill leaves the general process of court-ordered expunction intact. However, the bill limits its application to the expunction of a record related to a case in which a court issued a withhold of adjudication. A person must still obtain a certificate of eligibility from FDLE and petition the court to expunge the record. The bill does not alter current law as it relates to the processing of an order to expunge, how the record is treated once an order to expunge is granted, or the persons that have access to a record that has been expunged.

The bill amends s. 943.0585, F.S., to permit one record related to a withhold of adjudication to be expunged. A person no longer is required to first seal the withhold of adjudication for ten years to be eligible for an expunction. However, a court is prohibited from expunging a record pertaining to a withhold of adjudication if:

- The person seeking the expunction has, at any time prior to the date of filing the certificate of eligibility, been adjudicated guilty for a felony offense or adjudicated delinquent for an offense which, if committed by an adult, would be a felony; or
- The record relates to a prohibited listed offense where the person was convicted of, adjudicated delinquent of, or pled nolo contendere to the offense, regardless of whether adjudication was withheld.

To obtain a certificate of eligibility from FDLE, a person seeking to expunge a record pertaining to a withhold of adjudication must submit the above-described information required under current law for a court-ordered expunction and meet two additional requirements, including:

- That the person has not been arrested for or charged with a criminal offense, in any jurisdiction of the state or within the United States, from the date the person completed all sentences of imprisonment or supervisory sanctions imposed by the court for the offense to which the petition to expunge pertains to the date of the application for the certificate of eligibility;[22] and
- Submit a full set of fingerprints taken by a law enforcement agency for purposes of identity verification.

The bill retains current law regarding the length of time the certificate of eligibility is valid and the reapplication process.

The bill requires the petition to expunge such records to include:

- A valid certificate of eligibility issued by FDLE; and
- The petitioner's sworn statement[23] attesting that:
  - The criminal history record sought to be expunged is related to an eligible offense;

[22] This provision is required to be no less than one year in length.

[23] The bill retains the criminal penalty for knowingly providing false information on this sworn statement to the court. Current law makes it a third degree felony to knowingly provide false information on this sworn statement. Section 943.0585(1)(b), F.S.

- The petitioner is eligible for the expunction; and
- The petitioner has not been charged with a criminal offense, in any jurisdiction of the state or a foreign jurisdiction, from the date the person completed all sentences of imprisonment or supervisory sanctions imposed by the court for the offense to which the petition to expunge pertains to the date of the application for the certificate of eligibility. This period of time must be no less than one year in length.

The bill also retains the requirement that a court only expunge a record pertaining to one arrest or one incident of alleged criminal activity, unless the court finds that the additional arrests are directly related to the original arrest and provides written documentation of the intent to expunge such additional arrests.

Nonjudicial Sealing

The bill amends s. 943.059, F.S., requiring specified records to be sealed without petitioning the court. A person may apply to FDLE for the nonjudicial sealing of one criminal history record of a minor or adult relating to cases in which a person:

- Received a withhold of adjudication from the court; or
- Was convicted of a "nonviolent misdemeanor."

The bill defines "nonviolent misdemeanor" to include misdemeanor violations of the following offenses:

- Misrepresent or misstate one's age or the age of any other person to induce another to sell, give, serve, or deliver alcoholic beverages to a minor, or for any person under 21 years of age to purchase or attempt to purchase alcoholic beverages;
- Possession of alcohol by a minor;
- Make or cause a false fire alarm;
- Criminal mischief;
- Trespass in structure or conveyance;
- Trespass on property other than structure or conveyance;
- Willful removal or destruction of a posted notice intended to legally enclose property;
- Unauthorized placement of signs upon land or trees adjacent to public highways;
- Breaking or injuring another property owner's fences;
- Cave vandalism and other related offenses;
- Petit Theft;
- Nuisances;
- Building bonfires within specified distance to a home or building;
- Disorderly intoxication;
- Open house parties;
- Unlawful assemblies;
- Delivery of 20 grams or less of cannabis;
- Possession of 20 grams or less of cannabis;
- Possession of drug paraphernalia; or
- Any offense found in chs. 316-324, F.S., unless the violation of such offense directly caused serious bodily injury or death to a person.

A criminal history record may not be approved for nonjudicial sealing if the:

- Person seeking the sealing has, at any time prior to the date of the application for nonjudicial sealing, been adjudicated guilty or delinquent for a felony; or
- Record relates to a prohibited listed offense, regardless of whether the court withheld adjudication.

The bill authorizes FDLE to approve the nonjudicial sealing under s. 943.059, F.S., of a record related to one arrest or one incident of alleged criminal activity, unless the state attorney or statewide prosecutor provides supporting documentation that additional arrests are directly related to the arrest sought to be sealed. If FDLE approves the sealing of such additional arrests, the approval form must express the intent to do so. The bill provides the applicant the right to appeal to the circuit court if the state attorney or statewide prosecutor denies that the additional arrests are directly related.

To apply for a nonjudicial sealing under s. 943.059, F.S., the bill requires a person to include:

- A written, certified statement from the appropriate state attorney or statewide prosecutor which indicates that the criminal history record sought to be sealed is eligible;
- If applicable, a written, certified statement from the appropriate state attorney or statewide prosecutor which indicates that any additional arrests the applicant seeks to seal are directly related to the original arrest;
- A $75 processing fee to FDLE for placement in the FDLE Operating Trust Fund, unless such fee is waived by the executive director;
- A certified copy of the disposition of the charge to which the application to seal pertains;
- A full set of fingerprints of the applicant taken by a law enforcement agency for purposes of identity verification; and
- A sworn, written statement[24] from the person seeking the sealing that he or she:
    - Is no longer under court supervision applicable to the disposition of the arrest or alleged criminal activity to which the application to seal pertains;
    - Has never secured a prior sealing or expunction of a criminal history record under ss. 943.0585 or 943.059, F.S., or former ss. 893.14, 901.33, or 943.058, F.S.; and
    - Has not been arrested for or charged with a criminal offense, in any jurisdiction of the state or within the United States, from the date the person completed all sentences of imprisonment or supervisory sanctions imposed by the court for the offense to which the petition to expunge pertains to the date of the application for the certificate of eligibility.[25]

Upon approval of a nonjudicial sealing, FDLE must forward a certified copy of the form approving the nonjudicial sealing to the state attorney or statewide prosecutor, the arresting agency, the clerk of the court, and the FBI. The arresting agency must forward the approval form to any other agency that it disseminated the criminal history record information to which the form pertains. Lastly, the clerk of the court must forward a copy of the form to any other agency which the records of the court reflect has received the criminal history record from the court.

[24] The bill provides it is a third degree felony for a person to knowingly provide false information on this sworn statement.
[25] This period of time must be no less than one year in length.

The bill does not alter current law as it relates to how the record is treated once an order to seal is granted, or the persons that have access to the record that has been sealed (i.e. that the record continues to be maintained by FDLE and other criminal justice agencies, specified persons can access the sealed record, and the list of entities to which the person may not lawfully deny the existence of the sealed record).

It should be noted that a person whose record related to a withhold of adjudication that is nonjudicially sealed under s. 943.059, F.S., is not barred from subsequently obtaining a court-ordered expunction of that same record.

The bill provides FDLE with authority to adopt a rule pursuant to ch. 120, F.S., for the nonjudicial sealing of any criminal history record of a minor or an adult described in this section.

Automatic Expunction of Criminal History Records of Minors

The bill amends s. 943.0515, F.S., to require all records maintained by FDLE related to minors that are not classified as serious or habitual juvenile offenders to be automatically expunged when the minor reaches the age of 21, so long as one of the following exceptions does not apply:

- A person 18 years of age or older is charged with or convicted of a forcible felony and the person's criminal history record as a minor has not yet been destroyed;
- At any time, a minor is adjudicated as an adult for a forcible felony; or
- The record relates to a minor who was adjudicated delinquent for a violation committed on or after July 1, 2007, as provided in s. 943.0435(1)(a)1.d., F.S.[26]

The automatic expunction of records related to juveniles who are classified as serious or habitual juvenile offenders remains at 26 years of age.

The bill takes effect on October 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[26] See *supra* note 20.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

More persons will be eligible to have their criminal history records sealed or expunged under the bill, resulting in a potentially positive economic benefit to them as they look for employment.

C. Government Sector Impact:

The bill expands the expunction and sealing process by making more offenses eligible for expunction and sealing. The bill also increases the number of times a person may have a record expunged or sealed. To the extent that this results in more people submitting the $75 fee to FDLE to obtain a certificate of eligibility, the bill may result in a positive fiscal impact on FDLE.

The bill creates a nonjudicial process for expunction and sealing. FDLE will have to train staff on how to conduct these programs in accordance with the provision of the bill. Additionally, the expansion of the expunction and sealing laws will likely result in an increased workload to FDLE as it will require staff to process more applications for certificates of eligibility. To the extent that expanding these provisions results in an increased workload, the bill will likely result in a negative fiscal impact on FDLE.

FDLE will also be required to update the CJIP program where criminal history information is stored to update the new age requirements for expunction of juvenile records under s. 943.0515, F.S. This will likely result in a negative fiscal impact on FDLE.

By creating the nonjudicial expunction and sealing process, courts will no longer need to conduct as many hearings to determine if it is appropriate to grant a petition. To the extent that the bill results in less court hearings, the decreased workload will likely result in a positive fiscal impact on the court system.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 943.0515, 943.0585 and 943.059.

This bill creates the following section of the Florida Statutes: 943.0584.

The bill makes conforming and technical changes to the following sections of the Florida Statutes: 776.09, 790.23, 943.0582, 948.08, 948.16, 961.06, 985.04, 985.045, and 985.345.

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 March 23, 2015:

- Deletes the original expunction provisions in the bill.
- Deletes the juvenile diversion expunction provisions in the bill.
- Creates a nonjudicial process for the expunction and sealing of criminal history records.
- Allows a person to obtain:
  - An unlimited number of "nonjudicial expunctions" for records that resulted in a no-information, a dismissal, a dismissal based on the lawful self-defense exception, or a not guilty verdict, regardless of whether the person has previous misdemeanor or felony convictions;
  - One court-ordered expunction of a record that resulted in a withhold of adjudication, regardless of whether the person has a previous misdemeanor conviction; and either
  - One "nonjudicial sealing" of a record that resulted in a withhold of adjudication, regardless of whether the person has a previous misdemeanor conviction, or
  - One "nonjudicial sealing" of a record that resulted in a conviction for a specified "nonviolent misdemeanor," regardless of whether the person has a previous misdemeanor conviction.

Requires all criminal history records maintained by FDLE related to minors that are not classified as serious or habitual juvenile offenders to be automatically expunged when the minor reaches the age of 21 years with certain exceptions.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2015	.	
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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. Paragraph (b) of subsection (1) of section 943.0515, Florida Statutes, is amended to read:

943.0515 Retention of criminal history records of minors.—

(1)

(b) If the minor is not classified as a serious or habitual juvenile offender or committed to a juvenile correctional

facility or juvenile prison under chapter 985, the program shall retain the minor's criminal history record for 2 ~~5~~ years after the date the minor reaches 19 years of age, at which time the record must ~~shall~~ be expunged unless it meets the criteria of paragraph (2)(a) or paragraph (2)(b).

Section 2. Section 943.0584, Florida Statutes, is created to read:

943.0584 Nonjudicial expunction of criminal history records.—

(1) NONJUDICIAL EXPUNCTION.—Notwithstanding any law dealing generally with the preservation and destruction of public records, the department may adopt a rule pursuant to chapter 120 for the nonjudicial expunction of any criminal history record of a minor or an adult described in this section.

(2) ELIGIBILITY.—The department must approve the nonjudicial expunction of a criminal history record if:

(a) An indictment, information, or other charging document was not filed or issued in the case.

(b) An indictment, information, or other charging document was filed or issued in the case, but was subsequently dismissed or nolle prosequi by the state attorney or statewide prosecutor, or was dismissed or discharged by a court of competent jurisdiction; however, a person may not obtain an expunction under this paragraph for a dismissal pursuant to s. 916.145 or s. 985.19.

(c) An information, indictment, or other charging document was not filed or was dismissed by the state attorney, or dismissed by the court, because it was found that the person acted in lawful self-defense pursuant to the provisions related

to justifiable use of force in chapter 776.

(d) A not guilty verdict was rendered subsequent to a trial or adjudicatory hearing; however, a person may not obtain an expunction under this paragraph for a verdict of not guilty by reason of insanity.

A person may not obtain a nonjudicial expunction under this subsection unless all charges stemming from the arrest or alleged criminal activity to which the application for expunction pertains were not filed or issued, dismissed, or discharged, or resulted in an acquittal, as provided herein.

(3) LIMITATION.—There is no limitation on the number of times that a person may obtain a nonjudicial expunction for a criminal history record described in paragraphs (2)(a)-(d). An applicant seeking to have multiple records expunged may submit a single application to the department for the expunction of all such records. The department must approve the nonjudicial expunction of all eligible records pertaining to the applicant.

(4) APPLICATION FOR NONJUDICIAL EXPUNCTION.—An adult or, in the case of a minor child, his or her parent or legal guardian, who is seeking to expunge a criminal history record under this section shall apply to the department in the manner prescribed by rule. Such applications must be accompanied by:

(a)1. For the expunction of a record described in subsection (2), other than a record described in paragraph (2)(c), a written, certified statement from the appropriate state attorney or the statewide prosecutor which indicates that the criminal history record sought to be expunged is eligible under this section.

2. For the expunction of a record described in paragraph (2)(c), a written, certified statement from the appropriate state attorney or the statewide prosecutor which indicates that an information, indictment, or other charging document was not filed or was dismissed by the state attorney or the court because it was found that the person acted in lawful self-defense pursuant to the provisions related to justifiable use of force in chapter 776.

(b) A processing fee of $75, payable to the department, for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

(c) A certified copy of the disposition of the charge to which the application to expunge pertains.

(d) A full set of fingerprints of the applicant, taken by a law enforcement agency, for purposes of identity verification.

(5) PROCESSING OF A NONJUDICIAL EXPUNCTION.—If the department approves an application for nonjudicial expunction, a certified copy of the form approving the nonjudicial expunction shall be forwarded to the appropriate state attorney or the statewide prosecutor, the arresting agency, and the clerk of the court. The arresting agency is responsible for forwarding the form approving the nonjudicial expunction to any other agency to which the arresting agency disseminated the pertinent criminal history record information. The department shall forward the form approving the nonjudicial expunction to the Federal Bureau of Investigation. The clerk of the court shall forward a copy of the form to any other agency that the records of the court reflect received the criminal history record from the court.

(6) EFFECT OF NONJUDICIAL EXPUNCTION.—A confidential and

exempt criminal history record expunged under this section has the same effect, and such record may be disclosed by the department in the same manner, as a record expunged under s. 943.0585.

(7) STATUTORY REFERENCES.—Any reference to any other chapter, section, or subdivision of the Florida Statutes in this section constitutes a general reference under the doctrine of incorporation by reference.

Section 3. Section 943.0585, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 943.0585, F.S., for present text.)

943.0585 Court-ordered expunction of criminal history records.—

(1) JURISDICTION.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent that such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. A court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section.

(2) ELIGIBILITY.—

(a)1. Except as provided in paragraph (b), a court may order the expunction of a criminal history record if the person was found guilty of or found to have committed, or pled guilty or pled nolo contendere to, an offense; and

2. None of the charges stemming from the arrest or alleged

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criminal activity to which the petition to expunge pertains resulted in an adjudication of guilt or delinquency.

(b) A court may not order the expunction of a criminal history record if:

1. The person has, at any time before the date on which the application for a certificate of eligibility is filed, been adjudicated guilty for a felony offense or adjudicated delinquent for an offense that would be a felony if committed by an adult before applying for a certificate of eligibility; or

2. The record relates to a serious offense in which the person was found guilty of or adjudicated delinquent of, or pled guilty or pled nolo contendere to, the offense, regardless of whether adjudication was withheld. For purposes of this subparagraph, the term "serious offense" means a violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in s. 907.041, or any violation specified as a predicate offense for registration as a sexual predator pursuant to s. 775.21, without regard to whether that offense, alone, is sufficient to require such registration, or for registration as a sexual offender pursuant to s. 943.0435.

(3) LIMITATIONS.—A court may order the expunction of only one criminal history record described in paragraph (2)(a). A person seeking an expunction under this section is not barred from relief if the same criminal history record has previously been approved for a nonjudicial sealing pursuant to s. 943.059. The record expunged must pertain to one arrest or one incident

of alleged criminal activity. However, the court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest or one incident of alleged criminal activity if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge a record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This subsection does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest.

(4) CERTIFICATE OF ELIGIBILITY.—

(a) A person seeking to expunge a criminal history record under this section shall apply to the department for a certificate of eligibility for expunction before petitioning the court for expunction. The department shall issue a certificate of eligibility for expunction to a person who is the subject of a criminal history record if that person:

1. Has obtained and submitted to the department a written, certified statement from the appropriate state attorney or the statewide prosecutor which indicates that the criminal history record is eligible for expunction under subsection (2).

2. Remits a $75 processing fee to the department, for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

3. Has submitted to the department a certified copy of the disposition of the charge to which the petition to expunge

pertains.

4. Has never secured a prior sealing or expunction of a criminal history record under this section, s. 943.059, former s. 893.14, former s. 901.33, or former s. 943.058, unless expunction is sought of a criminal history record that had been previously sealed under former paragraph (2)(h) and the record is otherwise eligible for expunction.

5. Is no longer under court supervision applicable to the disposition of the arrest or alleged criminal activity to which the petition to expunge pertains.

6. Has not been arrested for or charged with a criminal offense in any jurisdiction of the state or within the United States from the date the person completed all sentences of imprisonment or supervisory sanctions imposed by the court for the offense to which the petition to expunge pertains to the date of the application for the certificate of eligibility, which period of time must be at least 1 year.

7. Has submitted a full set of fingerprints taken by a law enforcement agency for purposes of identity verification.

(b) A certificate of eligibility for expunction is valid for 12 months after the date that the certificate is issued by the department. After that time, the petitioner must reapply to the department for a new certificate of eligibility. Eligibility for a renewed certification of eligibility must be based on the status of the applicant and the law in effect at the time of the renewal application.

(c) The department shall, by rule adopted pursuant to chapter 120, establish procedures pertaining to the application for and issuance of certificates of eligibility for expunction.

(5) PETITION.—

(a) The court may not order a criminal justice agency to expunge a criminal history record under this section until the person seeking to expunge the record has applied for and received a certificate of eligibility for expunction pursuant to subsection (4). A petition to a court to expunge a criminal history record is complete only when accompanied by:

1. A valid certificate of eligibility for expunction issued by the department pursuant to subsection (4).

2. The petitioner's sworn statement attesting that:

a. The criminal history record sought to be expunged is eligible under subsection (2).

b. The petitioner is eligible for the expunction under subsection (3).

c. The petitioner has not been arrested for or charged with a criminal offense in any jurisdiction of the state or within the United States from the date that the person completed all sentences of imprisonment or supervisory sanctions imposed by the court for the offense to which the petition to expunge pertains to the date of the application for the certificate of eligibility, which period of time must be at least 1 year.

(b) A person who knowingly provides false information on the sworn statement required by subparagraph (a)2. commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) PROCESSING.—

(a) In judicial proceedings under this section, a copy of the completed petition to expunge shall be served upon the appropriate state attorney or the statewide prosecutor, and the

arresting agency; however, it is not necessary to make any agency other than the state a party. The appropriate state attorney or the statewide prosecutor, and the arresting agency may respond to the court regarding the completed petition to expunge.

(b) If relief is granted by the court, the clerk of the court shall certify copies of the order to the appropriate state attorney or the statewide prosecutor, and the arresting agency. The arresting agency is responsible for forwarding the order to any other agency to which the arresting agency disseminated the criminal history record information to which the order pertains. The department shall forward the order to expunge to the Federal Bureau of Investigation. The clerk of the court shall certify a copy of the order to any other agency which the records of the court reflect has received the criminal history record from the court.

(c) The department or any other criminal justice agency is not required to act on an order to expunge entered by a court if it does not comply with this section. Upon receipt of such an order, the department must notify the issuing court, the appropriate state attorney or the statewide prosecutor; the petitioner or the petitioner’s attorney; and the arresting agency of the reason for noncompliance. The appropriate state attorney or the statewide prosecutor shall take action within 60 days after receiving the order to correct the record and petition the court to void the order. A cause of action, including contempt of court, does not arise against a criminal justice agency for failure to comply with an order to expunge if the petitioner failed to obtain the certificate of eligibility

as required by this section or the order does not otherwise comply with this section.

(7) EFFECT OF EXPUNCTION.—

(a) Any criminal history record of a minor or an adult which is ordered expunged by a court of competent jurisdiction pursuant to this section must be physically destroyed or obliterated by any criminal justice agency having custody of the record; however, any criminal history record in the custody of the department must be retained in all cases.

(b) The person who is the subject of a criminal history record that is expunged under this section or under other provisions of law, including s. 943.0584, former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the expunged record, unless the subject of the record:

1. Is a candidate for employment with a criminal justice agency;

2. Is a defendant in a criminal prosecution;

3. Concurrently or subsequently seeks relief under this section, s. 943.0583, or s. 943.059;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Families, the Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, or the Department of Juvenile Justice, or to be employed or used by such contractor or licensee in a sensitive position having direct contact with

children, the disabled, or the elderly;

6. Is seeking to be employed or licensed by the Department of Education, any district school board, any university laboratory school, any charter school, any private or parochial school, or any local governmental entity that licenses child care facilities;

7. Is seeking to be licensed by the Division of Insurance Agent and Agency Services within the Department of Financial Services; or

8. Is seeking to be appointed as a guardian pursuant to s. 744.3125.

(c) Subject to the exceptions in paragraph (b), a person who has been granted an expunction under this section, s. 943.0584, former s. 893.14, former s. 901.33, or former s. 943.058 may not be held under any law of this state for committing perjury or to be otherwise liable for giving a false statement by reason of such person's failure to recite or acknowledge an expunged criminal history record.

(d) Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom.

(8) STATUTORY REFERENCES.—Any reference to any other chapter, section, or subdivision of the Florida Statutes in this section constitutes a general reference under the doctrine of incorporation by reference.

(9) NO RIGHT TO EXPUNCTION.—This section does not confer a right to the expunction of a criminal history record, and a

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request for expunction of a criminal history record may be denied at the sole discretion of the court.

Section 4. Section 943.059, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 943.059, F.S., for present text.)

943.059 Nonjudicial sealing of criminal history records.—

(1) NONJUDICIAL SEALING.—Notwithstanding any law dealing generally with the preservation and destruction of public records, the department may adopt a rule pursuant to chapter 120 for the nonjudicial sealing of any criminal history record of a minor or an adult described in this section.

(2) ELIGIBILITY.—

(a) Except as provided in paragraph (b), the department must approve the nonjudicial sealing of a criminal history record if:

1.a. The person was found guilty of, found to have committed, pled guilty to, or pled nolo contendere to an offense;

b. None of the charges stemming from the arrest or alleged criminal activity to which the application for nonjudicial sealing pertains resulted in an adjudication of guilt or delinquency; or

2. The person was adjudicated guilty or adjudicated delinquent for a nonviolent misdemeanor. For purposes of this subparagraph, the term "nonviolent misdemeanor" means a misdemeanor violation of:

a. Section 562.11(2), s. 562.111, s. 806.101, s. 806.13, s. 810.08, s. 810.09, s. 810.10, s. 810.11, s. 810.115, s. 810.13,

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s. 812.014(3)(a), s. 823.01, s. 823.02, s. 856.011, s. 856.015, s. 870.02, s. 893.13(3), s. 893.13(6)(b), or s. 893.147(1), in which the petitioner was adjudicated guilty or adjudicated delinquent; or

b. An offense found in chapters 316-324 for which the petitioner was adjudicated guilty or adjudicated delinquent, unless the violation of such offense directly caused serious bodily injury or death to a person.

(b) A criminal history record may not be approved for a nonjudicial sealing pursuant to this section if:

1. The person seeking the sealing has, at any time before the date on which the application for nonjudicial sealing is filed, been adjudicated guilty for a felony offense or adjudicated delinquent for an offense which would be a felony if committed by an adult; or

2. The record relates to a serious offense in which the person was found guilty of or adjudicated delinquent of, or pled guilty or pled nolo contendere to the offense, regardless of whether adjudication was withheld. For purposes of this subparagraph, the term "serious offense" means a violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in s. 907.041, or any violation specified as a predicate offense for registration as a sexual predator pursuant to s. 775.21, without regard to whether that offense, alone, is sufficient to require such registration, or for registration as a sexual offender pursuant to s. 943.0435.

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(3) LIMITATIONS.—The department may approve the sealing of only one criminal history record described in paragraph (2)(a). Each record sealed must pertain to one arrest or one incident of alleged criminal activity. However, if the department receives supporting documentation as described in paragraph (4)(b) stating that additional arrests are directly related to the arrest sought to be expunged, the department must approve the sealing of a criminal history record pertaining to the additional arrests. If the department approves the sealing of records pertaining to such additional arrests, such intent must be specified in the approval form. A criminal justice agency may not seal any record pertaining to such additional arrests if the department has not approved sealing records pertaining to more than one arrest.

(4) APPLICATION.—An adult or, in the case of a minor child, his or her parent or legal guardian, who is seeking to seal a criminal history record under this section shall apply to the department in the manner prescribed by rule. An application for nonjudicial sealing shall be accompanied by:

(a) A written, certified statement from the appropriate state attorney or the statewide prosecutor which indicates that the criminal history record sought to be sealed is eligible under subsection (2).

(b) A written, certified statement from the appropriate state attorney or the statewide prosecutor that indicates that any additional arrests the applicant seeks to seal are directly related to the original arrest, if applicable. If the state attorney or statewide prosecutor does not confirm that the additional arrests are directly related, the person applying for

the sealing has the right to appeal this decision to the circuit court.

(c) A processing fee of $75 to the department, for placement in the Department of Law Enforcement Operating Trust Fund, unless the fee is waived by the executive director.

(d) A certified copy of the disposition of the charge to which the application to seal pertains.

(e) A full set of fingerprints of the applicant, taken by a law enforcement agency, for purposes of identity verification.

(f) A sworn, written statement from the person seeking the sealing that he or she:

1. Is no longer under court supervision applicable to the disposition of the arrest or alleged criminal activity to which the application to seal pertains.

2. Has never secured a prior sealing or expunction of a criminal history record under this section, s. 943.0585, former s. 893.14, former 901.33, or former 943.058.

3. Has not been arrested for or charged with a criminal offense in any jurisdiction of the state or within the United States from the date the person completed all sentences of imprisonment or supervisory sanctions imposed by the court for the offense to which the application for nonjudicial sealing pertains to the date of the application for the nonjudicial sealing, which period of time must be at least 1 year.

(g) A person who knowingly provides false information on the sworn statement required by paragraph (f) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) PROCESSING.—

(a) If the department approves an application for a nonjudicial sealing, a certified copy of the form approving the nonjudicial sealing shall be forwarded to the appropriate state attorney or the statewide prosecutor, the arresting agency, and the clerk of the court. The arresting agency is responsible for forwarding the form approving the nonjudicial sealing to any other agency to which the arresting agency disseminated the pertinent criminal history record information. The department shall forward the form approving the nonjudicial sealing to the Federal Bureau of Investigation. The clerk of the court shall forward a copy of the form to any other agency that the records of the court reflect received the criminal history record from the court.

(b) The nonjudicial sealing of a criminal history record pursuant to this section does not require that such record be surrendered to the court, and the record must continue to be maintained by the department and other criminal justice agencies.

(6) EFFECT OF SEALING.—

(a) The person who is the subject of a criminal history record that is sealed under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the sealed record, unless the subject of the record:

1. Is a candidate for employment with a criminal justice agency;

2. Is a defendant in a criminal prosecution;

3. Concurrently or subsequently seeks relief under this

section, s. 943.0583, s. 943.0584, or s. 943.0585;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Families, the Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, or the Department of Juvenile Justice, or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the disabled, or the elderly;

6. Is seeking to be employed or licensed by the Department of Education, any district school board, any university laboratory school, any charter school, any private or parochial school, or any local governmental entity that licenses child care facilities;

7. Is attempting to purchase a firearm from a licensed importer, licensed manufacturer, or licensed dealer and is subject to a criminal history check under state or federal law;

8. Is seeking to be licensed by the Division of Insurance Agent and Agency Services within the Department of Financial Services;

9. Is seeking to be appointed as a guardian pursuant to s. 744.3125; or

10. Is seeking to be licensed by the Bureau of License Issuance of the Division of Licensing within the Department of Agriculture and Consumer Services to carry a concealed weapon or concealed firearm. This subparagraph applies only in the determination of an applicant’s eligibility under s. 790.06.

(b) Subject to the exceptions in paragraph (a), a person who has been granted a sealing under this section, former s. 893.14, former s. 901.33, or former s. 943.058 may not be held under any provision of law of this state to commit perjury or to be otherwise liable for giving a false statement by reason of such person's failure to recite or acknowledge a sealed criminal history record.

(c) Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to sealing, correction, or confidential handling of criminal history records or information derived therefrom.

(7) STATUTORY REFERENCES.—Any reference to any other chapter, section, or subdivision of the Florida Statutes in this section constitutes a general reference under the doctrine of incorporation by reference.

Section 5. Subsection (3) of section 776.09, Florida Statutes, is amended to read:

776.09 Retention of records pertaining to persons found to be acting in lawful self-defense; expunction of criminal history records.—

(3) Under either condition described in subsection (1) or subsection (2), the person accused may apply for the nonjudicial expunction of ~~a certificate of eligibility to expunge~~ the associated criminal history record, pursuant to s. 943.0584(2)(c) ~~943.0585(5)~~, notwithstanding the eligibility requirements prescribed in s. 943.0584(2) and (4)(a)2 ~~943.0585(1)(b) or (2)~~.

Section 6. Subsection (1) of section 790.23, Florida

Statutes, is amended to read:

790.23 Felons and delinquents; possession of firearms, ammunition, or electric weapons or devices unlawful.—

(1) It is unlawful for any person to own or to have in his or her care, custody, possession, or control any firearm, ammunition, or electric weapon or device, or to carry a concealed weapon, including a tear gas gun or chemical weapon or device, if that person has been:

(a) Convicted of a felony in the courts of this state;

(b)1. Found, in the courts of this state, to have committed a delinquent act that would be a felony if committed by an adult, meets the description of s. 943.0515(1)(a), and ~~such person~~ is under 24 years of age; or

2. Found, in the courts of this state, to have committed a delinquent act that would be a felony if committed by an adult, meets the description of s. 943.0515(1)(b), and is under 21 years of age;

(c) Convicted of or found to have committed a crime against the United States which is designated as a felony;

(d)1. Found to have committed a delinquent act in another state, territory, or country that was punishable by imprisonment for a term exceeding 1 year and would be a felony if committed by an adult, meets the description of s. 943.0515(1)(a), ~~and which was punishable by imprisonment for a term exceeding 1 year~~ and ~~such person~~ is under 24 years of age; ~~or~~

2. Found to have committed a delinquent act in another state, territory, or country that was punishable by imprisonment for a term exceeding 1 year and would be a felony if committed by an adult, meets the description of s. 943.0515(1)(b), and is

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under 21 years of age; or

(e) Found guilty of an offense that is a felony in another state, territory, or country and which was punishable by imprisonment for a term exceeding 1 year.

Section 7. Section 943.0582, Florida Statutes, is amended to read:

943.0582 Prearrest, postarrest, or teen court diversion program expunction.—

(1) Notwithstanding any law dealing generally with the preservation and destruction of public records, the department may provide, by rule adopted pursuant to chapter 120, for the expunction of any nonjudicial record of the arrest of a minor who has successfully completed a prearrest or postarrest diversion program for minors as authorized by s. 985.125.

(2)(a) As used in this section, the term "expunction" has the same meaning ascribed in and effect as ss. 943.0584 and ~~s.~~ 943.0585, except that:

1. The provisions of s. 943.0585(7)(b) ~~943.0585(4)(a)~~ do not apply, except that the criminal history record of a person whose record is expunged pursuant to this section shall be made available only to criminal justice agencies for the purpose of determining eligibility for prearrest, postarrest, or teen court diversion programs; when the record is sought as part of a criminal investigation; or when the subject of the record is a candidate for employment with a criminal justice agency. For all other purposes, a person whose record is expunged under this section may lawfully deny or fail to acknowledge the arrest and the charge covered by the expunged record.

2. Records maintained by local criminal justice agencies in

the county in which the arrest occurred that are eligible for expunction pursuant to this section shall be sealed as the term is used in s. 943.059.

(b) As used in this section, the term "nonviolent misdemeanor" includes simple assault or battery when prearrest or postarrest diversion expunction is approved in writing by the state attorney for the county in which the arrest occurred.

(3) The department shall expunge the nonjudicial arrest record of a minor who has successfully completed a prearrest or postarrest diversion program if that minor:

(a) Submits an application for prearrest or postarrest diversion expunction, on a form prescribed by the department, signed by the minor's parent or legal guardian, or by the minor if he or she has reached the age of majority at the time of applying.

(b) Submits the application for prearrest or postarrest diversion expunction no later than 12 months after completion of the diversion program.

(c) Submits to the department, with the application, an official written statement from the state attorney for the county in which the arrest occurred certifying that he or she has successfully completed that county's prearrest or postarrest diversion program, that his or her participation in the program was based on an arrest for a nonviolent misdemeanor, and that he or she has not otherwise been charged by the state attorney with or found to have committed any criminal offense or comparable ordinance violation.

(d) Participated in a prearrest or postarrest diversion program that expressly authorizes or permits such expunction to

occur.

(e) Participated in a prearrest or postarrest diversion program based on an arrest for a nonviolent misdemeanor that would not qualify as an act of domestic violence as that term is defined in s. 741.28.

(f) Has never, prior to filing the application for expunction, been charged by the state attorney with or been found to have committed any criminal offense or comparable ordinance violation.

(4) The department may ~~is authorized to~~ charge a $75 processing fee for each request received for prearrest or postarrest diversion program expunction, for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

(5) Expunction or sealing granted under this section does not prevent the minor who receives such relief from seeking ~~petitioning for~~ the expunction or sealing of a later criminal history record as provided for in ss. 943.0583, 943.0584, 943.0585, and 943.059, if the minor is otherwise eligible under those sections.

Section 8. Paragraph (b) of subsection (6) and paragraph (b) of subsection (7) of section 948.08, Florida Statutes, are amended to read:

948.08 Pretrial intervention program.—

(6)

(b) While enrolled in a pretrial intervention program authorized by this subsection, the participant is subject to a coordinated strategy developed by a drug court team under s. 397.334(4). The coordinated strategy may include a protocol of

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sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider as defined in s. 397.311 or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a pretrial treatment-based drug court program or other pretrial intervention program. Any person whose charges are dismissed after successful completion of the treatment-based drug court program, if otherwise eligible, may have his or her arrest record and plea of nolo contendere to the dismissed charges expunged under s. 943.0584 ~~943.0585~~.

(7)

(b) While enrolled in a pretrial intervention program authorized by this subsection, the participant shall be subject to a coordinated strategy developed by a veterans' treatment intervention team. The coordinated strategy should be modeled after the therapeutic jurisprudence principles and key components in s. 397.334(4), with treatment specific to the needs of servicemembers and veterans. The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but need not be limited to, placement in a treatment program offered by a licensed service provider or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court. The coordinated strategy must be provided in writing to

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the participant before the participant agrees to enter into a pretrial veterans' treatment intervention program or other pretrial intervention program. Any person whose charges are dismissed after successful completion of the pretrial veterans' treatment intervention program, if otherwise eligible, may have his or her arrest record of the dismissed charges expunged under s. 943.0584 ~~943.0585~~.

Section 9. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 948.16, Florida Statutes, are amended to read:

948.16 Misdemeanor pretrial substance abuse education and treatment intervention program; misdemeanor pretrial veterans' treatment intervention program.—

(1)

(b) While enrolled in a pretrial intervention program authorized by this section, the participant is subject to a coordinated strategy developed by a drug court team under s. 397.334(4). The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider as defined in s. 397.311 or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a pretrial treatment-based drug court program or other pretrial intervention program. Any person whose charges are dismissed after successful completion of the

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treatment-based drug court program, if otherwise eligible, may have his or her arrest record and plea of nolo contendere to the dismissed charges expunged under s. 943.0584 ~~943.0585~~.

(2)

(b) While enrolled in a pretrial intervention program authorized by this section, the participant shall be subject to a coordinated strategy developed by a veterans' treatment intervention team. The coordinated strategy should be modeled after the therapeutic jurisprudence principles and key components in s. 397.334(4), with treatment specific to the needs of veterans and servicemembers. The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but need not be limited to, placement in a treatment program offered by a licensed service provider or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a misdemeanor pretrial veterans' treatment intervention program or other pretrial intervention program. Any person whose charges are dismissed after successful completion of the misdemeanor pretrial veterans' treatment intervention program, if otherwise eligible, may have his or her arrest record of the dismissed charges expunged under s. 943.0584 ~~943.0585~~.

Section 10. Paragraph (e) of subsection (1) of section 961.06, Florida Statutes, is amended to read:

961.06 Compensation for wrongful incarceration.—

(1) Except as otherwise provided in this act and subject to

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the limitations and procedures prescribed in this section, a person who is found to be entitled to compensation under the provisions of this act is entitled to:

(e) Notwithstanding any provision to the contrary in s. 943.0583, 943.0584, or s. 943.0585, immediate administrative expunction of the person's criminal record resulting from his or her wrongful arrest, wrongful conviction, and wrongful incarceration. The Department of Legal Affairs and the Department of Law Enforcement shall, upon a determination that a claimant is entitled to compensation, immediately take all action necessary to administratively expunge the claimant's criminal record arising from his or her wrongful arrest, wrongful conviction, and wrongful incarceration. All fees for this process shall be waived.

The total compensation awarded under paragraphs (a), (c), and (d) may not exceed $2 million. No further award for attorney ~~attorney's~~ fees, lobbying fees, costs, or other similar expenses shall be made by the state.

Section 11. Paragraph (b) of subsection (7) of section 985.04, Florida Statutes, is amended to read:

985.04 Oaths; records; confidential information.—

(7)

(b) The destruction of records pertaining to children committed to or supervised by the department pursuant to a court order, which records are retained until a child reaches the age of 21 ~~24~~ years or until a serious or habitual delinquent child reaches the age of 26 years, shall be subject to chapter 943.

Section 12. Subsection (1) of section 985.045, Florida

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Statutes, is amended to read:

985.045 Court records.—

(1) The clerk of the court shall make and keep records of all cases brought before it under this chapter. The court shall preserve the records pertaining to a child charged with committing a delinquent act or violation of law until the child reaches 21 ~~24~~ years of age or reaches 26 years of age if he or she is a serious or habitual delinquent child, until 5 years after the last entry was made, or until 3 years after the death of the child, whichever is earlier, and may then destroy them, except that records made of traffic offenses in which there is no allegation of delinquency may be destroyed as soon as this can be reasonably accomplished. The court shall make official records of all petitions and orders filed in a case arising under this chapter and of any other pleadings, certificates, proofs of publication, summonses, warrants, and writs that are filed pursuant to the case.

Section 13. Subsection (2) of section 985.345, Florida Statutes, is amended to read:

985.345 Delinquency pretrial intervention program.—

(2) While enrolled in a delinquency pretrial intervention program authorized by this section, a child is subject to a coordinated strategy developed by a drug court team under s. 397.334(4). The coordinated strategy may include a protocol of sanctions that may be imposed upon the child for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider as defined in s. 397.311 or serving a period of secure detention under this

chapter. The coordinated strategy must be provided in writing to the child before the child agrees to enter the pretrial treatment-based drug court program or other pretrial intervention program. Any child whose charges are dismissed after successful completion of the treatment-based drug court program, if otherwise eligible, may have his or her arrest record and plea of nolo contendere to the dismissed charges expunged under s. 943.0584 ~~943.0585~~.

Section 14. This act shall take effect October 1, 2015.

========== 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 expunging and sealing criminal history records; amending s. 943.0515, F.S.; reducing the number of years that the Criminal Justice Information Program must retain certain minor offenders' criminal history records; creating s. 943.0584, F.S.; establishing a nonjudicial expunction process within the Department of Law Enforcement for specified criminal history records; specifying types of records eligible for the process; providing exceptions to eligibility; establishing an application process and requiring that specified documentation be submitted; requiring a sworn statement from the petitioner; providing a criminal penalty for perjury on such sworn statement; specifying how the

nonjudicial expunction must be processed; providing that an expunction under this section has the same effect as an expunction under s. 943.0585, F.S.; amending s. 943.0585, F.S.; providing jurisdiction of the courts over expunction procedures; specifying types of records that are eligible for court-ordered expunction; providing limitations as to when a court may expunge specified records; requiring specified documentation be submitted to the Department of Law Enforcement when seeking a certificate of eligibility for court-ordered expunction; specifying the documentation that must be submitted to the court with a petition to expunge; requiring a sworn statement from the petitioner; providing a criminal penalty for perjury on such sworn statements; providing guidelines for the processing of an order to expunge; providing the effect of the order to expunge on the criminal history record; requiring criminal justice agencies to destroy copies of records that have been expunged; specifying exceptions to the confidential and exempt status of an expunged criminal history record; specifying that a right to expunction is not created under this act; amending s. 943.059, F.S.; establishing a nonjudicial process within the Department of Law Enforcement for the sealing of specified records; specifying records that are eligible for the process; providing exceptions to eligibility and limitations on sealing of records; establishing an application process and requiring the

submission of specified documentation; requiring a sworn statement from the petitioner; providing a criminal penalty for perjury on such sworn statement; specifying how the nonjudicial sealing must be processed; providing for the effect of a record that has been sealed under this section; amending ss. 776.09, 790.23, 943.0582, 948.08, 948.16, 961.06, 985.04, 985.045, and 985.345, F.S.; conforming provisions to changes made by the act; providing an effective date.

By Senator Detert

28-00564-15 2015488__

A bill to be entitled

An act relating to the expunction of criminal records; amending s. 943.0582, F.S.; requiring the Department of Law Enforcement to expunge a minor's nonjudicial arrest record upon successful completion of a prearrest or postarrest diversion program; extending the application submission date for minors who completed the program before a certain date; amending s. 943.0585, F.S.; revising the information that must be provided in the written statement from the state attorney or statewide prosecutor in order for a person to be eligible for a criminal history record expunction; revising the criteria for obtaining a certificate of eligibility for expunction; authorizing the department to enter certain expunged records in specified databases; requiring the department to disclose certain expunged records to specified governmental entities; reenacting s. 985.125(3), F.S., to incorporate the amendment made to s. 943.0582, F.S., in a reference thereto; reenacting ss. 943.0582(2)(a) and (5), 943.0585(1)(a) and (5), 943.059(1)(b), (2)(e), and (4)(a), 948.08(6)(b) and (7)(b), 948.16(1)(b) and (2)(b), 961.06(1), 985.345(2), and 776.09(3), F.S., to incorporate the amendment made to s. 943.0585, F.S., in references thereto; providing an effective date.

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

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

28-00564-15 2015488__

Section 1. Paragraphs (c), (e), and (f) of subsection (3) of section 943.0582, Florida Statutes, are amended, present subsection (5) of that section is redesignated as subsection (6), and a new subsection (5) is added to that section, to read:

943.0582 Prearrest, postarrest, or teen court diversion program expunction.—

(3) The department shall expunge the nonjudicial arrest record of a minor who has successfully completed a prearrest or postarrest diversion program if that minor:

(c) Submits to the department, with the application, an official written statement from the state attorney for the county in which the arrest occurred certifying that he or she has successfully completed that county's prearrest or postarrest diversion program; ~~,~~ that his or her participation in the program was based on an arrest for a nonviolent misdemeanor or for a felony that does not relate to a violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in s. 907.041, or any violation specified as a predicate offense for registration as a sexual predator pursuant to s. 775.21, without regard to whether that offense, alone, is sufficient to require such registration, or for registration as a sexual offender pursuant to s. 943.0435; ~~,~~ and that he or she has not otherwise been charged by the state attorney with or found to have committed any criminal offense or comparable ordinance violation.

~~(e) Participated in a prearrest or postarrest diversion program based on an arrest for a nonviolent misdemeanor that~~

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~~would not qualify as an act of domestic violence as that term is defined in s. 741.28.~~

(e) ~~(f)~~ Has never, prior to filing the application for expunction, been charged by the state attorney with or been found to have committed any criminal offense or comparable ordinance violation.

(5) In the case of a minor whose completion of the program occurred before July 1, 2015, the application for prearrest or postarrest diversion expunction must be submitted within 6 months after July 1, 2015.

(6) ~~(5)~~ Expunction or sealing granted under this section does not prevent the minor who receives such relief from petitioning for the expunction or sealing of a later criminal history record as provided for in ss. 943.0583, 943.0585, and 943.059, if the minor is otherwise eligible under those sections.

Section 2. Paragraphs (a) and (h) of subsection (2) and subsection (4) of section 943.0585, Florida Statutes, are amended to read:

943.0585 Court-ordered expunction of criminal history records.—The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice

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

agency to expunge a criminal history record until the person seeking to expunge a criminal history record has applied for and received a certificate of eligibility for expunction pursuant to subsection (2) or subsection (5). A criminal history record that relates to a violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in s. 907.041, or any violation specified as a predicate offense for registration as a sexual predator pursuant to s. 775.21, without regard to whether that offense alone is sufficient to require such registration, or for registration as a sexual offender pursuant to s. 943.0435, may not be expunged, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, the offense as a delinquent act. The court may only order expunction of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge any record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This

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

section does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the sole discretion of the court.

(2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to petitioning the court to expunge a criminal history record, a person seeking to expunge a criminal history record shall apply to the department for a certificate of eligibility for expunction. The department shall, by rule adopted pursuant to chapter 120, establish procedures pertaining to the application for and issuance of certificates of eligibility for expunction. A certificate of eligibility for expunction is valid for 12 months after the date stamped on the certificate when issued by the department. After that time, the petitioner must reapply to the department for a new certificate of eligibility. Eligibility for a renewed certification of eligibility must be based on the status of the applicant and the law in effect at the time of the renewal application. The department shall issue a certificate of eligibility for expunction to a person who is the subject of a criminal history record if that person:

(a) Has obtained, and submitted to the department, a written, certified statement from the appropriate state attorney

or statewide prosecutor which indicates:

1. That an indictment, information, or other charging document was not filed or issued in the case.

2. That an indictment, information, or other charging document, if filed or issued in the case, was dismissed or nolle prossed ~~prosequi~~ by the state attorney or statewide prosecutor~~,~~ or was dismissed by a court of competent jurisdiction, or that a judge or jury rendered a verdict of not guilty. The records of a person adjudicated not guilty by reason of insanity are not eligible for expunction under this section ~~and that none of the charges related to the arrest or alleged criminal activity to which the petition to expunge pertains resulted in a trial, without regard to whether the outcome of the trial was other than an adjudication of guilt~~.

3. That the criminal history record does not relate to a violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in s. 907.041, or any violation specified as a predicate offense for registration as a sexual predator pursuant to s. 775.21, without regard to whether that offense alone is sufficient to require such registration, or for registration as a sexual offender pursuant to s. 943.0435, where the defendant was found guilty of, or pled guilty or nolo contendere to any such offense, or that the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, such an offense as a delinquent act, without regard to whether adjudication was withheld.

(h) Has previously obtained a court order sealing the record under this section, former s. 893.14, former s. 901.33, or former s. 943.058 for a minimum of 10 years because adjudication was withheld ~~or because all charges related to the arrest or alleged criminal activity to which the petition to expunge pertains were not dismissed prior to trial, without regard to whether the outcome of the trial was other than an adjudication of guilt~~. The requirement for the record to have previously been sealed for a minimum of 10 years does not apply when a plea was not entered, when ~~or~~ all charges related to the arrest or alleged criminal activity to which the petition to expunge pertains were dismissed prior to trial, or when a judge or jury rendered a verdict of not guilty. The records of a person adjudicated not guilty by reason of insanity are not eligible for expunction under this section.

(4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any criminal history record of a minor or an adult which is ordered expunged by a court of competent jurisdiction pursuant to this section must be physically destroyed or obliterated by any criminal justice agency having custody of such record; except that any criminal history record in the custody of the department must be retained in all cases. A criminal history record ordered expunged that is retained by the department is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and not available to any person or entity except upon order of a court of competent jurisdiction. A criminal justice agency may retain a notation indicating compliance with an order to expunge. If a person is found to be incompetent to stand trial, the expunction of the

criminal history record does not prevent entry of the judgment or finding in state and national databases for use in determining eligibility to purchase or possess a firearm or to carry a concealed firearm, as authorized in s. 790.065(2)(a)4.c. and 18 U.S.C. s. 922(t), and does not prevent a governmental agency that is authorized by state or federal law to determine eligibility to purchase or possess a firearm or to carry a concealed firearm from accessing or using the record of the judgment or finding in the course of such agency's official duties.

(a) The person who is the subject of a criminal history record that is expunged under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the expunged record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;

2. Is a defendant in a criminal prosecution;

3. Concurrently or subsequently petitions for relief under this section, s. 943.0583, or s. 943.059;

4. Is a candidate for admission to The Florida Bar;

5. Is seeking to be employed or licensed by or to contract with the Department of Children and Families, the Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, or the Department of Juvenile Justice or to be employed or used by such contractor or licensee

in a sensitive position having direct contact with children, the disabled, or the elderly;

6. Is seeking to be employed or licensed by the Department of Education, any district school board, any university laboratory school, any charter school, any private or parochial school, or any local governmental entity that licenses child care facilities;

7. Is seeking to be licensed by the Division of Insurance Agent and Agency Services within the Department of Financial Services; or

8. Is seeking to be appointed as a guardian pursuant to s. 744.3125.

(b) Subject to the exceptions in paragraph (a), a person who has been granted an expunction under this section, former s. 893.14, former s. 901.33, or former s. 943.058 may not be held under any provision of law of this state to commit perjury or to be otherwise liable for giving a false statement by reason of such person's failure to recite or acknowledge an expunged criminal history record.

(c) Information relating to the existence of an expunged criminal history record which is provided in accordance with paragraph (a) is confidential and exempt from ~~the provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the department shall disclose the existence of a criminal history record ordered expunged to the entities set forth in subparagraphs (a)1., 4., 5., 6., 7., and 8. for their respective licensing, access authorization, and employment purposes, ~~and~~ to criminal justice agencies for their respective criminal justice purposes, and, with respect to a governmental

agency that is authorized by state or federal law to determine eligibility to purchase or possess a firearm or to carry a concealed firearm, the department shall disclose the record of a finding of incompetence to stand trial for use in the course of such agency's official duties. It is unlawful for any employee of an entity set forth in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., subparagraph (a)7., or subparagraph (a)8. to disclose information relating to the existence of an expunged criminal history record of a person seeking employment, access authorization, or licensure with such entity or contractor, except to the person to whom the criminal history record relates or to persons having direct responsibility for employment, access authorization, or licensure decisions. Any person who violates this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 3. Subsection (3) of s. 985.125, Florida Statutes, is reenacted for the purpose of incorporating the amendments made by this act to s. 943.0582, Florida Statutes, in a reference thereto.

Section 4. Paragraph (a) of subsection (2) and subsection (5) of s. 943.0582, paragraph (a) of subsection (1) and subsection (5) of s. 943.0585, paragraph (b) of subsection (1), paragraph (e) of subsection (2), and paragraph (a) of subsection (4) of s. 943.059, paragraph (b) of subsection (6) and paragraph (b) of subsection (7) of s. 948.08, paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of s. 948.16, subsection (1) of s. 961.06, subsection (2) of s. 985.345, and subsection (3) of s. 776.09, Florida Statutes, are reenacted for the

purpose of incorporating the amendments made to s. 943.0585, Florida Statutes, in references thereto.

Section 5. This act shall take effect July 1, 2015.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

03-23-15
Meeting Date

0488
Bill Number (if applicable)

Topic Criminal Records Expunction

Amendment Barcode (if applicable)

Name Roy Miller

Job Title President

Address 111 South Magnolia Dr
Street

Tallahassee FL 32301
City *State* *Zip*

Phone

Email

Speaking: ☑ For ☐ Against ☐ Information

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

Representing The Children's Campaign

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3.23.15
Meeting Date

488
Bill Number (if applicable)

Topic Expunction of Criminal Records

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Pres & CEO

Address 204 S. Monroe, Ste. 201
Street

Phone 577.3032

Tall FL 32301
City *State* *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

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)

3-23-15
Meeting Date

488
Bill Number (if applicable)

269734
Amendment Barcode (if applicable)

Topic Expunction of Criminal Records

Name Christina Spudeas

Job Title Executive Director

Address 1801 N. University Drive, Suite 3B
Street

Coral Springs FL 33071
City *State* *Zip*

Phone 954-796-0860

Email Christina.Spudeas@floridaschildrenfirst.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida's Children First

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)

March 23, 2015
Meeting Date

488
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Expunction of Criminal Records

Name Hon. Carlos Martinez

Job Title P.D., 11th Circuit, Miami-Dade

Address 1320 NW 14th Street
Street

Miami | FL | 33125
City | *State* | *Zip*

Phone 305.545.1600

Email cmartinez@pdmiami.com

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)

3/23/15
Meeting Date

488
Bill Number (if applicable)

Topic Expunction of Criminal Records

Amendment Barcode (if applicable)

Name Samantha Sexton

Job Title Associate Director of Government Affairs

Address One W. Adams St. #301
Street

Phone 904-383-9403

Jacksonville FL 32202
City *State* *Zip*

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-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)

3-23-15
Meeting Date

SB 488
Bill Number (if applicable)

Topic Expungement

Amendment Barcode (if applicable)

Name Travis Reeds

Job Title Director of Public Affairs

Address 100 North Duval
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 904-571-1490

Email tkeels@jamesmadison.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The James Madison Institute

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: February 3, 2015

I respectfully request that **Senate Bill #488**, relating to Expunction of Criminal Records, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Nancy C. Detert
Florida Senate, District 28

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Commerce and Tourism, *Chair*
Education Pre-K - 12, *Vice Chair*
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Banking and Insurance
Children, Families, and Elder Affairs

JOINT COMMITTEE:
Joint Administrative Procedures Committee

SENATOR NANCY C. DETERT
28th District

March 23, 2015

The Honorable Greg Evers
Chair
Senate Criminal Justice Committee
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Mr. Chair:

Since I will be chairing the Senate Commerce Committee today at 4:00 p.m., I respectfully request that you allow my aide, Charlie Anderson, to present my SB 488-Expunction of Criminal Records today.

Thank you for your consideration of this request.

Sincerely,

Nancy C. Detert

NCD/ca

cc: Amanda Cannon, Staff Director

REPLY TO:
❒ 417 Commercial Court, Suite D, Venice, Florida 34292 (941) 480-3547 FAX: (941) 480-3549
❒ 416 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5028

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:	CS/SB 534
INTRODUCER:	Criminal Justice Committee and Senator Latvala
SUBJECT:	Human Trafficking
DATE:	March 24, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	**Favorable**
2.	Sumner	Cannon	CJ	**Fav/CS**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 534 seeks to heighten public awareness regarding human trafficking in the State of Florida. The bill:

- Requires the Attorney General to develop specifications for the form and content of human trafficking public awareness signs;
- Directs the Florida Department of Transportation (FDOT) and certain employers to display human trafficking public awareness signs at certain locations;
- Provides civil penalties for employer violations;
- Deems the Attorney General responsible for enforcement; and
- Authorizes the Attorney General to adopt implementing rules.

II. Present Situation:

Florida law defines "human trafficking" to mean transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.[1] The Legislature deems human trafficking to be a form of modern-day slavery; finds that victims are young children, teenagers, and adults; and recognizes that victims are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.[2]

[1] See s. 787.06(2)(d), F.S.
[2] See s. 787.061(1)(a), F.S.

While some victims are kept under lock and key, the Legislature also acknowledges less obvious but more frequently used practices to instill fear in victims and keep them enslaved, such as isolating victims from the public and family members; confiscating passports, visas, or other identification documents; using or threatening to use violence toward victims or their families; telling victims that they will be imprisoned or deported for immigration violations if they contact authorities; and controlling the victims' funds by holding the money ostensibly for safekeeping.[3]

At the national level, a number of resources are available to fight human trafficking and to help victims. For example, the National Human Trafficking Resource Center is a national, toll-free hotline with specialists available to answer calls from anywhere in the country, 24 hours a day, related to potential trafficking victims, suspicious behaviors, or locations where trafficking is suspected to occur.[4] Tips may also be submitted online. Brochures and other victim resources are available by phone and online.[5]

Most recently, at the state level, the Florida Legislature continues its efforts against human trafficking. The 2012 Legislature enacted HB 7049 to:

- Combine Florida's three existing human trafficking statutes into one statute making it more friendly for law enforcement;
- Increase penalties for the crime of human smuggling from a first-degree misdemeanor to a third degree felony;
- Provide that those convicted of human sex trafficking may be designated as sex offenders and sex predators;
- Provide that any property used for human trafficking is subject to forfeiture;
- Require massage establishments/employees to present valid photo identification upon request; and
- Give jurisdiction for human trafficking to the Statewide Prosecutor and the Statewide Grand Jury.[6]

Other recent Legislative efforts include, but are not limited to, authorizing the Department of Children and Families to provide training to local law enforcement officials who are likely to encounter sexually exploited children, authorizing circuit courts to work cooperatively to provide regional training, and requiring various local officials and entities to participate in task forces involved in coordinating responses to address human trafficking.[7]

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[3] See s. 787.06(1)(c), F.S.
[4] According to the Office of the Attorney General, Florida ranks third in the number of calls received by the National Human Trafficking Resource Center: http://myfloridalegal.com/__85256CC5006DFCC3.nsf/0/AF860EB7606CF92D85257A7D00458CD7?Open&Highlight=0,human,trafficking. Last visited March 17, 2015.
[5] See the Federal Bureau of Investigation website: http://www.fbi.gov/about-us/investigate/civilrights/human_trafficking and the National Human Trafficking Resource Center website: http://www.traffickingresourcecenter.org/type-trafficking/human-trafficking. Last visited March 17, 2015.
[6] See Office of the Attorney General website: http://myfloridalegal.com/pages.nsf/Main/EC88B2B1B7E905E285257AC20074F49F. Last visited March 17, 2015.
[7] See ch. 2014-161, Laws of Florida.

The Office of the Attorney General has also undertaken a number of efforts in pursuit of a policy of zero-tolerance for human trafficking in the State of Florida. Such efforts include, but are not limited to:

- Equipping emergency medicine personnel with key information about human trafficking;
- Partnering with Florida's business community and providing a toolkit of educational material intended to help businesses create and implement their own zero-tolerance plans; and
- Joining with the Florida Department of Law Enforcement to develop online training that equips law enforcement officers with information to help them recognize and respond to human trafficking.[8]

In addition, the Attorney General has partnered with the FDOT to spread the anti-human trafficking message along Florida's major roadways by displaying posters in rest areas across Florida and providing a public service announcement to be displayed at 39 of Florida's rest areas that have TV displays.[9]

III. Effect of Proposed Changes:

The bill creates s. 787.08, F.S., to require the Attorney General, in consultation with anti-trafficking organizations and human trafficking survivors, to develop specifications for the form and content of required human trafficking public notice signs. The signs must:

- Be at least 8.5 by 11 inches in size;
- Be printed in at least a 16-point type; and
- State substantially in English, Spanish, or any other language required by the Attorney General the following:

> If you or someone you know is being forced to engage in an activity and cannot leave – whether it is commercial sex, housework, farm work, factory work, retail work, restaurant work, or any other activity – call the National Human Trafficking Resource Center at [insert number] or text INFO or HELP to [insert number] to access help and services. Victims of slavery and human trafficking are protected under United States and Florida law.

The Attorney General is deemed responsible for enforcement of s. 787.08, F.S., and is required to adopt implementing rules.

The FDOT is directed to display such a sign in every rest area and welcome center in the state. Employers at each of the following establishments are required to display such signs near the public entrance of the establishment or in another conspicuous location clearly visible to both the public and employees of the establishment:

- A strip club or other adult entertainment establishment.
- An establishment found to be a nuisance for prostitution.
- A primary airport.

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[8] See Office of the Attorney General website: http://myfloridalegal.com/__85256CC5006DFCC3.nsf/0/AF860EB7606CF92D85257A7D00458CD7?Open&Highlight=0,human,trafficking. Last visited March 17, 2015.

[9] *Id.*

- A passenger or light rail station.
- A bus station.
- A truck stop, defined to mean a privately owned and operated facility that provides food, fuel, shower or other sanitary facilities, and lawful overnight truck parking.
- An emergency room within a general acute care hospital.
- An urgent care center.
- The premises of a farm labor contractor where farm laborers are regularly present.
- A privately operated job recruitment center.
- A business or establishment that offers massage or bodywork services for compensation excluding establishments owned by health care professions regulated pursuant to ch. 456, F.S.
- A public K-12 school.
- A public library.
- A health department and a health clinic.

The Attorney General is required to impose a civil penalty of $500 for a first offense, and $1,000 for a second or subsequent offense, on an employer who knowingly fails to comply with the sign requirements. The civil penalty is the exclusive remedy for noncompliance.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill requires the specified employers, who in some instances are local governments, to post the human trafficking public notice signs. Aggregating for all cities and counties in the state, the bill appears to have an insignificant fiscal impact and, therefore, does not constitute a mandate.

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 Office of the Attorney General will incur expenses in developing the required signs and adopting rules, which are expected to be absorbed within existing resources. Any costs associated with posting the signs appear to be insignificant. The FDOT advises of 84 facilities that would require signage and deems the fiscal impact to be "insignificant."[10]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 787.08 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 March 23, 2015:
The Committee Substitute adds a health department and a health clinic to the list of establishments that must display human trafficking public awareness signs. It clarifies that establishments owned by health care professions regulated pursuant to ch. 456, F.S., are not included in the list of establishments that must display a human trafficking public awareness sign.

B. Amendments:

None.

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

[10] See the 2015 FDOT Legislative Bill Analysis for SB 534. On file in the Senate Transportation Committee.

908272

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2015	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 43
and insert:
bodywork services for compensation that is not owned by a health care profession regulated pursuant to chapter 456 and defined in s. 456.001.

444482

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2015	.	
	.	
	.	
	.	

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

Senate Amendment

Between lines 45 and 46
insert:
14. A health department and a health clinic.

By Senator Latvala

20-00650-15 2015534__

A bill to be entitled

An act relating to human trafficking; creating s. 787.08, F.S.; requiring the Department of Transportation and certain employers to display human trafficking public awareness signs at specified locations; providing civil penalties for violations; requiring the Attorney General, in consultation with certain others, to develop specifications for the form and content of such signs; providing sign requirements; providing that the Attorney General is responsible for enforcement; requiring rulemaking; providing an effective date.

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

Section 1. Section 787.08, Florida Statutes, is created to read:

787.08 Human trafficking public awareness signs.—

(1) The Department of Transportation shall display a public awareness sign developed under subsection (3) in every rest area and welcome center in the state that is open to the public.

(2)(a) The employer at each of the following establishments shall display a public awareness sign developed under subsection (3) near the public entrance of the establishment or in another conspicuous location that is clearly visible to both the public and employees of the establishment:

1. A strip club or other adult entertainment establishment.

2. An establishment found to be a nuisance for prostitution under s. 893.138.

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

20-00650-15 2015534__

3. A primary airport.

4. A passenger or light rail station.

5. A bus station.

6. A truck stop. For purposes of this subparagraph, the term "truck stop" means a privately owned and operated facility that provides food, fuel, shower or other sanitary facilities, and lawful overnight truck parking.

7. An emergency room within a general acute care hospital.

8. An urgent care center.

9. The premises of a farm labor contractor where farm laborers are regularly present.

10. A privately operated job recruitment center.

11. A business or establishment that offers massage or bodywork services for compensation.

12. A public K-12 school as described in s. 1000.04.

13. A public library.

(b) The Attorney General shall impose a civil penalty of $500 for a first offense and $1,000 for a second or subsequent offense for an employer who knowingly fails to comply with paragraph (a). The civil penalty is the exclusive remedy for failure to comply with this section.

(3)(a) The Attorney General shall, in consultation with anti-trafficking organizations and human trafficking survivors, develop specifications for the form and content of signs required by this section.

(b) The required public notice must be at least 8.5 inches by 11 inches in size, must be printed in at least a 16-point type, and must state substantially the following in English, Spanish, or any other language required by the Attorney General:

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

"If you or someone you know is being forced to engage in an activity and cannot leave—whether it is commercial sex, housework, farm work, factory work, retail work, restaurant work, or any other activity—call the National Human Trafficking Resource Center at [insert number] or text INFO or HELP to [insert number] to access help and services. Victims of slavery and human trafficking are protected under United States and Florida law."

(4) The Attorney General is responsible for enforcement of this section and shall adopt rules to implement this section.

Section 2. This act shall take effect January 1, 2016.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 23 2015
Meeting Date

534
Bill Number (if applicable)

Topic Human Trafficking

906272
Amendment Barcode (if applicable)

Name Janet Mabry

Job Title

Address 2866 Bay Heather Circle
Street

Phone 501-2502

Gulf Breeze FL 32563
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing American Massage Therapy 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)

3-23-15
Meeting Date

534
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Human Trafficking

Name Barbara DeLane

Job Title Ms.

Address 625 E. Brevard St
Street

Phone 850-222-3969

Tallahassee FL 32308
City *State* *Zip*

Email barbaradelane1@yahoo.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing FL NOW (National Organization for Women)

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)

3.23.15
Meeting Date

534
Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Pres & CEO

Address 204 S. Monroe St., Ste. 201
Street

Phone 577.3032

City *State* *Zip*

Email barney@smartjustice alliance.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.

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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)

3-23-15
Meeting Date

534
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Human Trafficking

Name Erin Choy

Job Title Chair-Elect

Address 404 E. Sixth Avenue
Street

Tallahassee FL 32303
City *State* *Zip*

Phone (850) 556-4133

Email echoy@nationalstrategies.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Junior Leagues 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

APPEARANCE RECORD

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

3/23/15
Meeting Date

534
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Human Trafficking

Name Samantha Sexton

Job Title Associate Director of Government Affairs

Address One W Adams St. #301
Street

Jacksonville FL 32202
City *State* *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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3-23-15
Meeting Date

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

SB534
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Human Trafficking

Name Amy Datz

Job Title Legislative Liaison

Address 1130 Crestview Ave.
Street
Tallahassee FL. 32303
City *State* *Zip*

Phone 850 322-7599

Email amydatz@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing National Council of Jewish Women

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)

3.23.15
Meeting Date

534
Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Linda Kearschner

Job Title Volunteer

Address _____ Phone 727 669 7979
Street

_____ Email _____
City *State* *Zip*

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

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

Representing Florida Parent Teacher Assoc. (PTA)

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

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

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

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)

MARCH 23/15
Meeting Date

SB534
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic HUMAN TRAFFICKING

Name DR. LINDA GELLER-SCHWARTZ

Job Title STATE POLICY ADVOCATE

Address 6861 CALLE DEL PAZ
Street

Phone 561 362-8069

BOCA RATON FL 33433
City *State* *Zip*

Email lndgellerschwartz@gmail.com

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

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

Representing NATIONAL COUNCIL OF JEWISH WOMEN

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Transportation, Tourism, and Economic Development, *Chair*
Appropriations
Commerce and Tourism
Governmental Oversight and Accountability
Regulated Industries
Rules

SENATOR JACK LATVALA
20th District

March 12, 2015

The Honorable Greg Evers, Chair
Senate Committee on Criminal Justice
510 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Evers:

I respectfully request consideration of Senate Bill 534 regarding Human Trafficking. I would greatly appreciate the opportunity to present this legislation to the Senate Committee on Criminal Justice as soon as possible. It was referred favorably by the Committee on Transportation on March 12.

This bill will create a public awareness of human trafficking by posting signs listing the National Human Trafficking Resource Center Hotline in transportation facilities, schools, restaurants, and other public locations in Florida.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

Jack Latvala
State Senator
District 20

Cc: Amanda Cannon, Staff Director; Sue Arnold, Administrative Assistant

REPLY TO:
❒ 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
❒ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

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 1000
INTRODUCER:	Senator Hays
SUBJECT:	Slungshot
DATE:	March 20, 2015
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	**Favorable**
2.			CM	
3.			RC	

I. Summary:

SB 1000 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 March 5, 2015).

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

11-00995B-15 20151000__

A bill to be entitled

An act relating to slungshot; amending s. 790.001, F.S.; revising the definition of "concealed weapon" to delete its inclusion of a slungshot; amending s. 790.09, F.S.; deleting provisions prohibiting the manufacture or sale of any instrument or weapon usually known as slungshot; amending s. 790.18, F.S.; deleting a provision prohibiting a dealer in arms from selling or transferring a slungshot to a minor; providing an effective date.

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

Section 1. Paragraph (a) of subsection (3) of section 790.001, Florida Statutes, is amended to read:

790.001 Definitions.—As used in this chapter, except where the context otherwise requires:

(3)(a) "Concealed weapon" means any dirk, metallic knuckles, ~~slungshot,~~ billie, tear gas gun, chemical weapon or device, or other deadly weapon carried on or about a person in such a manner as to conceal the weapon from the ordinary sight of another person.

Section 2. Section 790.09, Florida Statutes, is amended to read:

790.09 Manufacturing or selling metallic knuckles ~~slungshot~~.—Whoever manufactures or causes to be manufactured~~,~~ or sells or exposes for sale any instrument or weapon of the kind usually known as ~~slungshot, or~~ metallic knuckles commits~~, shall be guilty of~~ a misdemeanor of the second degree, punishable as

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

11-00995B-15 20151000__

provided in s. 775.082 or s. 775.083.

Section 3. Section 790.18, Florida Statutes, is amended to read:

790.18 Sale or transfer of arms to minors by dealers.—It is unlawful for any dealer in arms to sell or transfer to a minor any firearm, pistol, Springfield rifle or other repeating rifle, bowie knife or dirk knife, brass knuckles, ~~slungshot,~~ or electric weapon or device. A 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 4. This act shall take effect upon becoming a law.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on General Government, *Chair*
Governmental Oversight and Accountability, *Vice Chair*
Appropriations
Environmental Preservation and Conservation
Ethics and Elections
Fiscal Policy

JOINT COMMITTEE:
Joint Select Committee on Collective Bargaining, *Alternating Chair*

SENATOR ALAN HAYS
11th District

March 20, 2015

The Honorable Greg Evers
308 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Evers,

Due to a prior commitment in the district, I will not be in Tallahassee in time to present SB 1000, Slungshot, in the Criminal Justice committee. Please allow my legislative aide, Jessica Crawford, to present this bill in my absence.

Thank you for your kind consideration of this matter.

Sincerely,

D. Alan Hays

D. Alan Hays

REPLY TO:
☐ 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
☐ 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011
☐ 1104 Main Street, The Villages, Florida 32159 (352) 360-6739 FAX: (352) 360-6748
☐ 685 West Montrose Street, Suite 210, Clermont, Florida 34711 (352) 241-9344 FAX: (888) 263-3677

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ALAN HAYS
11th District

COMMITTEES:
Appropriations Subcommittee on General Government, *Chair*
Governmental Oversight and Accountability, *Vice Chair*
Appropriations
Environmental Preservation and Conservation
Ethics and Elections
Fiscal Policy

JOINT COMMITTEE:
Joint Select Committee on Collective Bargaining, *Alternating Chair*

MEMORANDUM

To: Senator Greg Evers, Chair
Criminal Justice Committee
CC: Amanda Cannon, Staff Director
Sue Arnold, Committee Administrative Assistant

From: Senator D. Alan Hays

Subject: Request to agenda SB 1000 – Slungshot

Date: March 2, 2015

I respectfully request that you agenda the above referenced bill at your earliest convenience. If you have any questions regarding this legislation, I welcome the opportunity to meet with you one-on-one to discuss it in further detail. Thank you so much for your consideration of this request.

Sincerely,

D. Alan Hays, DMD
State Senator, District 11

REPLY TO:
- 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
- 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011
- 1104 Main Street, The Villages, Florida 32159 (352) 360-6739 FAX: (352) 360-6748
- 685 West Montrose Street, Suite 210, Clermont, Florida 34711 (352) 241-9344 FAX: (888) 263-3677

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 1010
INTRODUCER:	Senator Braynon
SUBJECT:	False Personation
DATE:	March 20, 2015
REVISED:	

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

I. Summary:

SB 1010 amends s. 843.08, F.S., relating to false personation of law enforcement officers and other specified persons, to add firefighters and fire or arson investigators of the Department of Financial Services. As a result of this change, false personation of these persons would be prohibited and subject to current penalties. Specifically, it would be:

- A third degree felony to falsely personate a firefighter or a fire or arson investigator of the Department of Financial Services;
- A second degree felony to commit this false personation during the course of the commission of a felony; and
- A first degree felony to commit this false personation during the course of the commission of a felony if the commission of that felony results in the death or personal injury of another human being.

The bills also amends various offenses in s. 843.085, F.S., relating to unlawful use of badges or other indicia of authority, to make those offenses applicable to unauthorized wearing, display, sale, etc., of fire department badges and unauthorized ownership or operation of a motor vehicle marked or identified as a fire department vehicle. Further, the bill amends criminal intent language relevant to those offenses to address a 2005 Florida Supreme Court decision that held that the intent language is unconstitutional.

II. Present Situation:

False Personation of Law Enforcement Officers and Other Specified Persons (s. 843.08, F.S.)

Section 843.08, F.S., punishes false personation of a law enforcement officer or other specified person. A person commits this false personation offense if he or she falsely assumes or pretends to be a law enforcement officer or other person specified in the statute and takes upon himself or

herself to act as such or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such specified person. The list of specified persons includes:

- Sheriff;
- Officer of the Florida Highway Patrol;
- Officer of the Fish and Wildlife Conservation Commission;
- Officer of the Department of Transportation;
- Officer of the Department of Financial Services;
- Officer of the Department of Corrections;
- Correctional probation officer;
- Deputy sheriff;
- State attorney or assistant state attorney;
- Statewide prosecutor or assistant statewide prosecutor;
- State attorney investigator;
- Coroner;
- Police officer;
- Lottery special agent or lottery investigator;
- Beverage enforcement agent;
- Watchman;
- Any member of the Parole Commission and any administrative aide or supervisor employed by the commission;
- Any personnel or representative of the Florida Department of Law Enforcement; and
- A federal law enforcement officer as defined in s. 901.1505, F.S.

It is a third degree felony[1] to commit this offense. It is a second degree felony[2] to commit this false personation during the course of the commission of a felony. It is a first degree felony[3] to commit this false personation during the course of the commission of a felony if the commission of that felony results in the death or personal injury of another human being.

Unauthorized Use of Badges or Other Indicia of Authority (s. 843.085, F.S.)

Unauthorized Wearing or Display of Indicia of Authority

Section 843.085(1) and (5), F.S., provide that it is a first degree misdemeanor[4] to wear or display any authorized indicia of authority, including any badge, insignia, emblem, identification card, or uniform, or any colorable imitation thereof, of any federal, state, county, or municipal law

[1] A third degree felony is punishable by up to 5 years in state prison, a fine of up to $5,000, or both. Sections 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. Section 775.082(10), F.S.

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

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

[4] A first degree misdemeanor is punishable by up to 1 year incarceration in county jail, a fine of up to $1,000, or both. Sections 775.082 and 775.083, F.S.

enforcement agency, or other criminal justice agency[5] as now or hereafter defined in s. 943.045, F.S., which:

- Could deceive a reasonable person into believing that such item is authorized by any of those agencies for use by the person displaying or wearing it; or
- Displays in any manner or combination the word or words "police," "patrolman," "agent," "sheriff," "deputy," "trooper," "highway patrol," "commission officer," "Wildlife Officer," "Marine Patrol Officer," "state attorney," "public defender," "marshal," "constable," or "bailiff," which could deceive a reasonable person into believing that such item is authorized by any of those agencies for use by the person displaying or wearing it.

This offense does not apply to:

- A person appointed by the Governor pursuant to ch. 354, F.S. (special officers for carriers);
- A person authorized to wear or display the indicia of authority by the appropriate agency;
- A person who displays the indicia of authority in a closed or mounted case as a collection or exhibit; or
- A fraternal, benevolent, or labor organization or association, or their chapters or subsidiaries, that uses the words "police," "patrolman," "sheriff," "deputy," "trooper," "highway patrol," "commission officer," "Wildlife Officer," "Marine Patrol Officer," "marshal," "constable," or "bailiff" in the official name of the organization or association.

Unauthorized Ownership or Operation of Motor Vehicles with Certain Markings

Section 843.085(2) and (5), F.S., provides that it is a first degree misdemeanor to own or operate a motor vehicle if:

- The vehicle is marked or identified in any manner or combination by the word or words "police," "patrolman," "sheriff," "deputy," "trooper," "highway patrol," "commission officer," "Wildlife Officer," "Marine Patrol Officer," "marshal," "constable," or "bailiff," or by any lettering, marking, or insignia, or colorable imitation thereof, including, but not limited to, stars, badges, or shields;
- The wording is officially used to identify the vehicle as a federal, state, county, or municipal law enforcement vehicle or a vehicle used by a criminal justice agency as now or hereafter defined in s. 943.045, F.S.; and
- The use of the wording on the vehicle could deceive a reasonable person into believing that the vehicle is authorized by the appropriate agency for use by the person operating the motor vehicle.

This offense does not apply if:

- The vehicle is owned or operated by the appropriate agency and its use is authorized by the agency;
- The local law enforcement agency authorizes the use of the vehicle;

[5] The statute references the definition of "criminal justice agency" in s. 943.045, F.S. Section 943.045(11), F.S., defines a "criminal justice agency" as: a court; the Florida Department of Law Enforcement; the Department of Juvenile Justice; the protective investigations component of the Department of Children and Families, which investigates the crimes of abuse and neglect; and any other governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice.

- The person owning or operating the marked vehicle is appointed by the Governor pursuant to ch. 354, F.S. (special officers for carriers); or
- The words "police," "patrolman," "sheriff," "deputy," "trooper," "highway patrol," "commission officer," "Wildlife Officer," "Marine Patrol Officer," "marshal," "constable," or "bailiff" are used by a fraternal, benevolent, or labor organization or association, or their chapters or subsidiaries, in the official name of the organization or association.

Unauthorized Sale or Transfer of a Badge

Section 843.085(3) and (5), F.S., provides that it is a first degree misdemeanor to sell, transfer, or give away the authorized badge, or a colorable imitation of the badge, including miniatures, of any criminal justice agency as now or hereafter defined in s. 943.045, or bearing in any manner or combination the word or words "police," "patrolman," "sheriff," "deputy," "trooper," "highway patrol," "commission officer," "Wildlife Officer," "Marine Patrol Officer," "marshal," "constable," "agent," "state attorney," "public defender," or "bailiff," which could deceive a reasonable person into believing that such item is authorized by any of the those agencies.

This offense does not apply to:

- Agency purchases or upon the presentation and recordation of both a driver license and other identification showing any transferee to actually be a member of such criminal justice agency;
- A person appointed by the Governor pursuant to ch. 354, F.S. (special officers for carriers); or
- A fraternal, benevolent, or labor organization or association, or their chapters or subsidiaries, that uses the words "police," "patrolman," "sheriff," "deputy," "trooper," "highway patrol," "commission officer," "Wildlife Officer," "Marine Patrol Officer," "marshal," "constable," or "bailiff" in the official name of the organization or association.

Sult v. State

In *Sult v. State*,[6] the Florida Supreme Court held that s. 843.085, F.S. (2001), is unconstitutionally overbroad, vague, and violates substantive due process. The Court only discusses subsection (1) of this statute in its analysis but the intent language the Court found objectionable ("could deceive a reasonable person") also appears in subsections (2) and (3) of the statute. Specifically, the Court found:

> With no specific intent-to-deceive element, the section extends its prohibitions to innocent wearing and displaying of specified words. The reach of the statute is not tailored toward the legitimate public purpose of prohibiting conduct intended to deceive the public into believing law enforcement impersonators. The "could deceive a reasonable person" element of section 843.085(1), in conjunction with the prohibition of a display in any manner or combination of the words listed in the statute, results in a virtually boundless and uncertain restriction on expression.[7]

[6] 906 So.2d 1013 (Fla. 2005).
[7] *Sult*, 906 So.2d at 1021.

The Court also found that s. 843.085(1), F.S., "because of its imprecision, … fails to give fair notice of what conduct is prohibited. The statute fails to delineate when the displaying or wearing of the prohibited words will subject the person to prosecution, thus inviting arbitrary and discriminatory enforcement and making entirely innocent activities subject to prosecution."[8]

The Legislature has never amended the intent language to address the *Sult* decision.

III. Effect of Proposed Changes:

The bill amends s. 843.08, F.S., relating to false personation of law enforcement officers and other specified persons, to add firefighters[9] and fire or arson investigators of the Department of Financial Services.[10] As a result of this change, false personation of these persons would be prohibited and subject to current penalties. Specifically, it would be:

- A third degree felony to falsely personate a firefighter or a fire or arson investigator of the Department of Financial Services;
- A second degree felony to commit this false personation during the course of the commission of a felony; and
- A first degree felony to commit this false personation during the course of the commission of a felony if the commission of that felony results in the death or personal injury of another human being.

Currently, s. 843.08, F.S., prohibits false personation of a watchman. The term "watchman" is undefined. The bill defines a "watchman" as a security officer licensed under ch. 493, F.S.[11]

Currently, s. 843.08, F.S., prohibits false personation of an officer of the Department of Transportation. In 2011, the Office of Motor Carrier Compliance was transferred from the Department of Transportation to the Department of Highway Safety and Motor Vehicles' Division of the Florida Highway Patrol (FHP).[12] FHP "troopers" perform the commercial motor vehicles inspection functions that used to be performed by Motor Carrier Compliance officers.[13] Consistent with this development, the bill removes reference to an officer of the Department of Transportation. FHP troopers are already covered under the statute ("officer of the Florida Highway Patrol").

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[8] *Sult*, 906 So.2d at 1022 (citation omitted).

[9] The bill does not define "firefighter" by reference to any specific definition of the term in the Florida Statutes. However, most of the descriptive terms for officers or persons listed in the statute are not defined by reference to a statutory definition (e.g., "police officer"). A person is certified as a "firefighter" pursuant to the requirements of Part IV of ch. 633, F.S.

[10] The Division of State Fire Marshal is a division of the Department of Financial Services. Section 20.121(2)(b), F.S. The Chief Financial Officer is designated as "State Fire Marshal." Section 633.104(1), F.S. One of the duties of the State Fire Marshal is to enforce all laws and provisions of ch. 633, F.S. (fire prevention and control), and any rules adopted pursuant to that chapter, relating to the suppression of arson and the investigation of the cause, origin, and circumstances of fire. Section 633.104(2)(e), F.S.

[11] Section 493.6101(19), F.S., defines a "security officer" as any individual who, for consideration: advertises as providing or performs bodyguard services or otherwise guards persons or property; attempts to prevent theft or unlawful taking of goods, wares, and merchandise; or attempts to prevent the misappropriation or concealment of goods, wares or merchandise, money, bonds, stocks, choses in action, notes, or other documents, papers, and articles of value or procurement of the return of those items.

[12] Chapter 2011-66, L.O.F.

[13] *See* http://www.flhsmv.gov/news/pdfs/PR062911.pdf (last visited on March 4, 2015).

The bill also amends various offenses in s. 843.085, F.S., relating to unlawful use of badges or other indicia of authority, to make those offenses applicable to unauthorized wearing, display, sale, etc., of fire department badges and unauthorized ownership or operation of a motor vehicle marked or identified as a fire department vehicle. The bill specifies that the statute does not prohibit a fraternal, benevolent, or labor organization or association, or their subsidiaries or chapters, from using the words "fire department," in any manner or in any combination, if those words appear in the official name of the organization or association.

To address the Florida Supreme Court's decision, in *Sult v. State*, the bill replaces current criminal intent language relevant to offenses in s. 843.085, F.S. ("could deceive a reasonable person") with specific intent language ("intent to mislead or cause another person to believe").

The bill also amends s. 921.0022, F.S., the offense severity ranking chart of the Criminal Punishment Code, to make technical, corrective change to descriptive language regarding the current ranking of false personation under s. 843.08, F.S. It does not change the current ranking of the offense.

The bill takes effect on October 1, 2015.

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 Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, estimates the bill will have a positive insignificant prison bed impact (the bill may increase the Department of Corrections' prison bed population by 10 or fewer beds annually).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 843.08, 843.085, and 921.0022.

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 Braynon

36-01330-15 20151010__

A bill to be entitled

An act relating to false personation; amending s. 843.08, F.S.; revising the list of officials who are prohibited from being falsely personated; revising terminology; amending s. 843.085, F.S.; prohibiting the sale or transfer of specified badges bearing in any manner or combination the words "fire department" and the ownership or operation of vehicles marked or identified by the words "fire department"; requiring specified intent for certain offenses; providing an exception; amending s. 921.0022, 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 843.08, Florida Statutes, is amended to read:

843.08 False personation ~~Falsely personating officer, etc.~~—A person who falsely assumes or pretends to be a firefighter, sheriff, officer of the Florida Highway Patrol, officer of the Fish and Wildlife Conservation Commission, a fire or arson investigator of the Department of Financial Services, ~~officer of the Department of Transportation~~, officer of the Department of Financial Services, officer of the Department of Corrections, correctional probation officer, deputy sheriff, state attorney or assistant state attorney, statewide prosecutor or assistant statewide prosecutor, state attorney investigator, coroner, police officer, lottery special agent or lottery investigator,

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

Florida Senate - 2015 **SB 1010**

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beverage enforcement agent, or watchman, or any member of the Florida Commission on Offender Review and any administrative aide or supervisor employed by the commission, or any personnel or representative of the Department of Law Enforcement, or a federal law enforcement officer as defined in s. 901.1505, and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, a person who falsely personates any such officer during the course of the commission of a felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the commission of the felony results in the death or personal injury of another human being, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The term "watchman" means a security officer licensed under chapter 493.

Section 2. Section 843.085, Florida Statutes, is amended to read:

843.085 Unlawful use of ~~police~~ badges or other indicia of authority.~~—It is unlawful for any person:~~

(1) It is unlawful for any person, unless appointed by the Governor pursuant to chapter 354, authorized by the appropriate agency, or displayed in a closed or mounted case as a collection or exhibit, to wear or display any authorized indicia of authority, including any badge, insignia, emblem, identification card, or uniform, or any colorable imitation thereof, of any federal, state, county, or municipal law enforcement agency, or

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other criminal justice agency as ~~now or hereafter~~ defined in s. 943.045, with the intent to mislead or cause another person to believe that he or she is a member of that agency or is authorized to display or wear such item, or to wear or display any item that ~~which could deceive a reasonable person into believing that such item is authorized by any of the agencies described above for use by the person displaying or wearing it, or which~~ displays in any manner or combination the word or words "police," "patrolman," "agent," "sheriff," "deputy," "trooper," "highway patrol," "commission officer," "Wildlife Officer," "Marine Patrol Officer," "state attorney," "public defender," "marshal," "constable," ~~or~~ "bailiff," or "fire department," with the intent to mislead or cause another person to believe that he or she is a member of that agency or is authorized to wear or display such item ~~which could deceive a reasonable person into believing that such item is authorized by any of the agencies described above for use by the person displaying or wearing it~~.

(2) It is unlawful for a person to own or operate a motor vehicle marked or identified in any manner or combination by the word or words "police," "patrolman," "sheriff," "deputy," "trooper," "highway patrol," "commission officer," "Wildlife Officer," "Marine Patrol Officer," "marshal," "constable," ~~or~~ "bailiff," or "fire department," or by any lettering, marking, or insignia, or colorable imitation thereof, including, but not limited to, stars, badges, or shields, officially used to identify the vehicle as a federal, state, county, or municipal law enforcement vehicle or a vehicle used by a criminal justice agency as ~~now or hereafter~~ defined in s. 943.045, or a vehicle used by a fire department with the intent to mislead or cause

another person to believe that such vehicle is an official vehicle of that agency and is authorized to be used by that agency ~~which could deceive a reasonable person into believing that such vehicle is authorized by any of the agencies described above for use by the person operating the motor vehicle~~, unless such vehicle is owned or operated by the appropriate agency and its use is authorized by such agency, or the local law enforcement agency or fire department authorizes the use of such vehicle, or ~~unless~~ the person is appointed by the Governor pursuant to chapter 354.

(3) It is unlawful for a person to sell, transfer, or give away the authorized badge, or colorable imitation thereof, including miniatures, of any criminal justice agency as ~~now or hereafter~~ defined in s. 943.045, or bearing in any manner or combination the word or words "police," "patrolman," "sheriff," "deputy," "trooper," "highway patrol," "commission officer," "Wildlife Officer," "Marine Patrol Officer," "marshal," "constable," "agent," "state attorney," "public defender," ~~or~~ "bailiff," or "fire department," with the intent to mislead or cause another person to believe that he or she is a member of that agency or is authorized to wear or display such item ~~which could deceive a reasonable person into believing that such item is authorized by any of the agencies described above~~, except for agency purchases or upon the presentation and recordation of both a driver license and other identification showing any transferee to actually be a member of such criminal justice agency or unless the person is appointed by the Governor pursuant to chapter 354. A transferor of an item covered by this subsection is required to maintain for 2 years a written record

of such transaction, including records showing compliance with this subsection, and if such transferor is a business, it shall make such records available during normal business hours for inspection by any law enforcement agency having jurisdiction in the area where the business is located.

(4) ~~Nothing in~~ This section does not ~~shall~~ prohibit a fraternal, benevolent, or labor organization or association, or their chapters or subsidiaries, from using the following words, in any manner or in any combination, if those words appear in the official name of the organization or association: "police," "patrolman," "sheriff," "deputy," "trooper," "highway patrol," "commission officer," "Wildlife Officer," "Marine Patrol Officer," "marshal," "constable," ~~or~~ "bailiff~~,~~" or "fire department."

(5) Violation of any provision of this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. This section is cumulative to any law now in force in the state.

Section 3. Paragraph (b) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(b) LEVEL 2

Florida Statute	Felony Degree	Description
379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(6)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
590.28(1)	3rd	Intentional burning of lands.
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.

806.13(1)(b)3.	3rd	Criminal mischief; damage $1,000 or more to public communication or any other public service.
810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; $300 or more but less than $5,000.
812.014(2)(d)	3rd	Grand theft, 3rd degree; $100 or more but less than $300, taken from unenclosed curtilage of dwelling.
812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
817.234(1)(a)2.	3rd	False statement in support of insurance claim.
817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over $300.
817.52(3)	3rd	Failure to redeliver hired vehicle.
817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
817.60(5)	3rd	Dealing in credit cards of another.
817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
817.61	3rd	Fraudulent use of credit cards over $100 or more within 6 months.
826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.

831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
843.08	3rd	False personation ~~Falsely impersonating an officer~~.
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.
893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.

Section 4. This act shall take effect October 1, 2015.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on General Government, *Vice Chair*
Ethics and Elections
Health Policy
Higher Education
Regulated Industries
Transportation

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR OSCAR BRAYNON II
Democratic Leader Pro Tempore
36th District

March 10, 2015

Senator Greg Evers, Chair
Criminal Justice
308 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Evers:

This letter is to request that **Senate Bill #1010**, relating to ***False Personation*** be placed on the agenda of the next scheduled meeting of the committee.

SB 1010 False Personation; Revising the list of officials who are prohibited from being falsely personated; prohibiting the sale or transfer of specified badges bearing in any manner or combination the words "fire department" and the ownership or operation of vehicles marked or identified by the words "fire department", etc.

Thank you for consideration of this request.

Sincerely,

Senator Braynon
District 36

cc. *Amanda Cannon, Staff Director,*
Sue Arnold, Committee Administrative Assistant, ***Room 510K***

REPLY TO:
☐ 606 NW 183rd Street, Miami Gardens, Florida 33169 (305) 654-7150 FAX: (305) 654-7152
☐ 213 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

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 1016
INTRODUCER:	Senator Abruzzo
SUBJECT:	Care for Retired Law Enforcement Dogs
DATE:	March 20, 2015
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	**Favorable**
2.			ACJ	
3.			AP	

I. Summary:

SB 1016 creates the Care for Retired Law Enforcement Dogs Program. The program will provide reimbursement for up to $1,500 of annual veterinary costs associated with caring for a retired law enforcement dog for the former handler or adopter who incurs the costs.

Recurring funds in the amount of $300,000 is appropriated to the Florida Department of Law Enforcement (FDLE) from the General Revenue Fund to fund the program for the 2015-16 fiscal year. The program will be administered and managed by a not-for-profit corporation in a contractual arrangement with FDLE.

II. Present Situation:

Law enforcement dogs have become an integral part of many law enforcement efforts statewide, including suspect apprehension through tracking and searching, evidence location, drug and bomb detection, and search and rescue operations. Law enforcement agencies agree that the use of law enforcement dogs is an extremely cost-effective means for crime control and that these dogs possess skills and abilities that frequently exceed that of existing technology.[1]

Just one example of a law enforcement dog's invaluable service is Koda, who worked with the Leon County Sheriff's Office. K9 Koda was shot and killed in January 2013 as he attempted to immobilize a subject following a vehicle pursuit. Deputies pursued a vehicle several blocks until the vehicle crashed into a ditch. The subject continued to flee on foot and then opened fire on K9 Koda and the deputies. Two deputies returned fire and wounded the subject before taking him into custody. It was later determined that the subject was wanted on warrants for attempted first

[1] http://brevardsheriff.com/home/commands-services/operational-services/k-9-unit (last visited March 17, 2015); www.soflretiredk9fund.com and http://www.wsvn.com/story/27320793/student-launches-retired-k-9-donation-fund (last visited March 17, 2015).

degree murder, aggravated battery with a deadly weapon, and discharging a firearm from a vehicle.[2]

III. Effect of Proposed Changes:

The bill creates the Care for Retired Law Enforcement Dogs Program (program) within the Florida Department of Law Enforcement (FDLE). The program is funded from the General Revenue Fund with the sum of $300,000, recurring funds, beginning in the 2015-2016 fiscal year. The funds will be appropriated to the FDLE Operating Trust Fund. FDLE will hold the funds in a separate depository account for the corporation under contract with FDLE to administer the program. The corporation will be the disbursing authority for funds held by FDLE for the program's benefit.

FDLE is given rulemaking authority to implement the provisions in the bill.

The program will provide up to $1,500 to any former handler or adopter of a retired law enforcement dog for reimbursement of veterinary care for the dog if the agency from which the dog retired provides verification of the dog's service. The former handler or adopter must submit a valid invoice from a veterinarian for care provided in Florida for reimbursement to occur. When the annual funding for the program is depleted, reimbursements must be discontinued for the remainder of the year.

"Retired law enforcement dog" is defined by the bill as a dog that has received certification in obedience and apprehension work from a certifying organization, such as the National Police Canine Association.[3] The dog must have been in the service of or employed by a law enforcement agency in this state for the purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.

The bill defines "law enforcement agency" as a state or local public agency that has primary responsibility for the prevention and detection of crime or the enforcement of the penal, traffic, highway, regulatory, game, immigration, postal, customs, or controlled substance laws.

The bill adopts the term "veterinarian" from s. 474.202, F.S. Subsection (11) of s. 474.202, F.S., defines "veterinarian" as a health care practitioner who is licensed to engage in the practice of veterinary medicine in Florida under the authority of ch. 474, F.S.[4] The bill refers to s. 474.202,

[2] Read more: http://www.odmp.org/k9/1497-k9-koda#ixzz2vrveuHYu

[3] www.npca.net (last visited March 13, 2014). The National Police Canine Association is one of many such organizations in the country including The Florida Law Enforcement Canine Association (FLECA) which is a 501(c)(3) non-profit organization dedicated to the training and certification of Florida's Law Enforcement Canine Teams according to the website, http://www.flecak9.com/. Additionally, the FDLE provides a 400 hour K-9 Team training course and proficiency exam.

[4] (9) "Practice of veterinary medicine" means diagnosing the medical condition of animals and prescribing, dispensing, or administering drugs, medicine, appliances, applications, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease thereof; performing any manual procedure for the diagnosis of or treatment for pregnancy or fertility or infertility of animals; or representing oneself by the use of titles or words, or undertaking, offering, or holding oneself out, as performing any of these functions. The term includes the determination of the health, fitness, or soundness of an animal.

F.S., in defining "veterinary care" as a veterinary medical service provided by a veterinarian licensed to practice under ch. 474, F.S.[5] The bill also lists the following veterinary services:

- Annual wellness examinations,
- Vaccines,
- Internal and external parasite prevention treatments,
- Testing and treatment of illnesses and diseases,
- Medications,
- Emergency care and surgeries,
- Care provided in specialties of veterinary medicine such as veterinary oncology, and
- Euthanasia and cremation services.

FDLE is directed to contract with a not-for-profit corporation to administer and manage the program. The corporation must be organized under ch. 617, F.S.[6]

The contract with FDLE is to be entered into with a not-for-profit corporation that:

- Is dedicated to the protection and care of retired law enforcement dogs.
- Holds tax-exempt status under the Internal Revenue code as a s. 501(c)(3) organization.[7]
- Has held tax-exempt status for at least 5 years.
- Agrees to be subject to review and audit at the discretion of the Auditor General to ensure accurate accounting and disbursement of state funds.
- Demonstrates the ability to effectively and efficiently disseminate information and assist former handlers and adopters of retired law enforcement dogs in complying with the bill.
- Receives administrative fees, including salaries and benefits, not to exceed 10 percent of appropriated funds.

Funds held in the separate depository account for the corporation administering the program must revert to FDLE if the contract between the corporation and FDLE expires or is terminated. All unexpended funds will be certified forward on July 1 of each year. The fund balance for the program may not exceed $400,000.

The bill contains legislative findings related to the value of law enforcement dogs to the residents of Florida.

The provisions in the bill become effective July 1, 2015.

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[5] (13) "Veterinary medicine" includes, with respect to animals, surgery, acupuncture, obstetrics, dentistry, physical therapy, radiology, theriogenology, and other branches or specialties of veterinary medicine. s. 474.202, F.S.

[6] "Corporation not for profit" means a corporation no part of the income or profit of which is distributable to its members, directors, or officers, except as otherwise provided under this chapter. s. 617.01401(5), F.S.

[7] Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. 26 U.S.C.A. s. 501(c)(3).

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:

FDLE suggests that the corporation should not have the ability to disburse funds directly from a State Treasury account. Alternatively, FDLE suggests a specific cash advance on the contract with the corporation and subsequent reimbursement payments to the corporation to ensure sufficient cash on hand to operate the program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 943.69 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 Abruzzo

25-00322A-15 20151016__

A bill to be entitled

An act relating to care for retired law enforcement dogs; creating s. 943.69, F.S.; providing a short title; defining terms; providing legislative findings; creating the Care for Retired Law Enforcement Dogs Program within the Department of Law Enforcement; requiring the department to contract with a corporation not for profit to administer and manage the program; providing requirements for the corporation not for profit; providing requirements for the disbursement of funds for the veterinary care of eligible retired law enforcement dogs; placing an annual cap on the amount of funds available for the care of an eligible retired law enforcement dog; prohibiting a former handler or adopter from receiving reimbursement if funds are depleted for the year such reimbursement is sought; providing for the deposit of program funds; providing for the reversion of funds to the department under certain circumstances; authorizing the carryforward of unexpended appropriations for use in the program up to certain limits; authorizing the department to adopt rules and forms; providing an appropriation; providing an effective date.

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

Section 1. Section 943.69, Florida Statutes, is created to read:

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

25-00322A-15 20151016__

943.69 Care for Retired Law Enforcement Dogs Program.—

(1) SHORT TITLE.—This section may be cited as the "Care for Retired Law Enforcement Dogs Program Act."

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

(a) "Law enforcement agency" means a lawfully established state or local public agency having primary responsibility for the prevention and detection of crime or the enforcement of the penal, traffic, highway, regulatory, game, immigration, postal, customs, or controlled substance laws.

(b) "Retired law enforcement dog" means a dog that was previously in the service of or employed by a law enforcement agency in this state for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders and that received certification in obedience and apprehension work from a certifying organization such as the National Police Canine Association or other certifying organization.

(c) "Veterinarian" has the same meaning as provided in s. 474.202.

(d) "Veterinary care" means a veterinary medical service specified in s. 474.202 which is provided by a veterinarian licensed under chapter 474. The term includes annual wellness examinations, vaccines, internal and external parasite prevention treatments, testing and treatment of illnesses and diseases, medications, emergency care and surgeries, specialty care such as veterinary oncology, euthanasia, and cremation.

(3) LEGISLATIVE FINDINGS.—The Legislature finds that:

(a) Law enforcement dogs have become an integral part of many law enforcement efforts statewide, including the

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apprehension of suspects through tracking and searching, evidence location, drug and bomb detection, and search and rescue operations;

(b) Law enforcement agencies agree that the use of law enforcement dogs is an extremely cost-effective means of crime control and that these dogs possess skills and abilities that frequently exceed those of existing technology;

(c) The service of law enforcement dogs is often dangerous and can expose them to injury at a rate higher than that of nonservice dogs; and

(d) Law enforcement dogs provide significant contributions to the residents of this state.

(4) ESTABLISHMENT OF PROGRAM.-The Care for Retired Law Enforcement Dogs Program is created within the Department of Law Enforcement to provide a stable funding source for veterinary care provided to these dogs.

(5) ADMINISTRATION.—The Department of Law Enforcement shall contract with a corporation not for profit organized under chapter 617 to administer and manage the Care for Retired Law Enforcement Dogs Program. Notwithstanding the competitive sealed bid procedures required under chapter 287, the department shall enter into a contract with a corporation not for profit that:

(a) Is dedicated to the protection or care of retired law enforcement dogs;

(b) Is exempt from taxation under s. 501(a) of the Internal Revenue Code as an organization described in s. 501(c)(3) of that code;

(c) Has maintained such tax-exempt status for at least 5 years;

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(d) Agrees to be subject to review and audit at the discretion of the Auditor General in order to ensure accurate accounting and disbursement of state funds; and

(e) Demonstrates the ability to effectively and efficiently disseminate information and to assist former handlers and adopters of retired law enforcement dogs in complying with this section.

(6) FUNDING.—

(a) The corporation not for profit shall be the disbursing authority for funds appropriated by the Legislature to the department for the Care for Retired Law Enforcement Dogs Program. These funds shall be disbursed upon receipt of:

1. Valid documentation from the law enforcement agency from which the dog retired which verifies that the dog was in the service of or employed by such agency; and

2. A valid invoice from a veterinarian for veterinary care provided in this state to a retired law enforcement dog which is submitted by the former handler or adopter of a retired law enforcement dog.

(b) Annual disbursements to a former handler or adopter to reimburse him or her for the cost of care provided to a retired law enforcement dog may not exceed $1,500 per dog. A former handler or adopter of a retired law enforcement dog may not accumulate unused funds from a current year for use in a future year.

(c) A former handler or adopter of a retired law enforcement dog who seeks reimbursement for veterinary services may not receive reimbursement if funds appropriated for the Care for Retired Law Enforcement Dogs Program are depleted in the

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year for which the reimbursement is sought.

(d) Funds appropriated for the Care for Retired Law Enforcement Dogs Program shall be held in a separate depository account in the Operating Trust Fund of the department in the name of the corporation not for profit and are subject to the provisions of the corporation's contract with the department. The contract must provide that:

1. The corporation not for profit must receive administrative fees, including salaries and benefits, of up to 10 percent of appropriated funds; and

2. Any funds held in the separate depository account in the name of the corporation not for profit must revert to the department upon expiration or termination of the contract.

(e) Notwithstanding s. 216.301, and pursuant to s. 216.351, on July 1 of each year, the Executive Office of the Governor shall certify forward all unexpended funds appropriated pursuant to this section. However, the fund balance for the Care for Retired Law Enforcement Dogs Program may not exceed $400,000.

(7) RULEMAKING AUTHORITY.-The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section.

Section 2. For the 2015-2016 fiscal year, and each fiscal year thereafter, the sum of $300,000 in recurring funds is appropriated from the General Revenue Fund to the Department of Law Enforcement for the purpose of implementing the Care for Retired Law Enforcement Dogs Program.

Section 3. This act shall take effect July 1, 2015.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Communications, Energy, and Public Utilities
Community Affairs
Fiscal Policy
Regulated Industries

JOINT COMMITTEE:
Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO
Minority Whip
25th District

March 2nd, 2015

The Honorable Greg Evers
308 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Evers:

I respectfully request that Senate Bill 1016, Care for Retired Law Enforcement Dogs, be considered for placement on the Criminal Justice committee agenda. This piece of legislation will create the "Care for Retired Law Enforcement Dogs Program" which will provide a stable funding source for handlers and adopters of retired law enforcement dogs as a means of providing for their veterinary services. This program will be administered through the Florida Department of Law Enforcement (FDLE).

Thank you in advance for your consideration. Please feel free to notify me if I can provide you with any additional information.

Sincerely,

Joseph Abruzzo

Cc: Amanda Cannon, Staff Director

REPLY TO:
❒ 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774 FAX: (888) 284-6495
❒ 110 Dr. Martin Luther King, Jr. Boulevard, Belle Glade, Florida 33430-3900 (561) 829-1410
❒ 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

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:	CS/SB 1082
INTRODUCER:	Criminal Justice Committee and Senator Altman and others
SUBJECT:	Juvenile Justice
DATE:	March 24, 2015
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	**Fav/CS**
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1082 substantially amends two of Florida's current methods for transferring a juvenile to adult court for criminal prosecution. These transfer methods are indictment and direct file. It also amends current provisions requiring the court to impose juvenile and adult sanctions upon juveniles transferred to adult court.

The bill amends the indictment transfer statute, s. 985.56, F.S., by:

- Limiting the state attorney's authority to convene a grand jury to cases in which the juvenile is 14 years of age or older (currently available for juveniles of any age who are charged with an offense punishable by death or life imprisonment).

The bill amends the direct file transfer statute, s. 985.557, F.S., by eliminating the mandatory direct file system and modifying the discretionary direct file system to a two-tiered system based on the juvenile's age and enumerated offense.

- In the first tier, the state attorney may direct file a juvenile who is 16 years of age or older and less than 18 years at the time of the alleged offense if he or she committed an enumerated offense.
- In the second tier, the state attorney may direct file a juvenile who is 14 or 15 years of age at the time of the offense if he or she committed murder, manslaughter, or sexual battery.

The bill prohibits a juvenile from being transferred to adult court by indictment or direct file if the juvenile:

- Has a pending competency hearing in juvenile court; or
- Has been previously found to be incompetent and has not been restored to competency by a court.

The bill provides that a juvenile transferred to adult court by direct file who is found to have committed a violation of law or a lesser included offense may be sentenced as an adult, a youthful offender, or a juvenile. (Unlike current law, it never requires the court to impose adult sanctions.)

It removes, modifies, and adds criteria that the court must consider when determining whether these sanctions are appropriate. The court must include specific findings of fact and reasons for its decision to impose adult sanctions under the bill.

The bill provides a reverse waiver process that allows a juvenile who is transferred to adult court by direct file to request a court hearing to determine whether he or she will remain in adult court. The adult court, after considering certain factors, can waive the case back to juvenile court.

The bill requires the Department of Juvenile Justice (DJJ) to collect and annually report direct file data to the Legislature.

Finally, the bill deletes the provisions in s. 985.265(5), F.S., requiring the court to order a juvenile who is being transferred or indicted for criminal prosecution as an adult to be detained in an adult jail.

II. Present Situation:

Transferring Juveniles to Adult Court

There are three methods of transferring a juvenile to adult court for prosecution: judicial waiver, indictment by a grand jury, or direct filing of an information by a prosecutor.

Judicial Waiver of Juvenile Court Jurisdiction

The judicial waiver process allows juvenile courts to waive jurisdiction to adult court on a case-by-case basis. Section 985.556, F.S., creates three types of judicial waivers:

- Voluntary Waiver - the juvenile requests to have his or her case transferred to adult court;[1]
- Involuntary Discretionary Waiver - the state attorney may file a motion requesting the court to transfer any case where the juvenile is 14 years of age or older;[2] and
- Involuntary Mandatory Waiver - the state attorney must request the transfer of a juvenile 14 years of age or older if the juvenile:
  - Has been previously adjudicated delinquent for an enumerated felony[3] and the juvenile is currently charged with a second or subsequent violent crime against a person; or

[1] Section 985.556(1), F.S.
[2] Section 985.556(2), F.S.
[3] The enumerated felonies listed in this subsection include the commission of, attempt to commit, or conspiracy to commit: murder; sexual battery; armed or strong-armed robbery; carjacking; home-invasion robbery; aggravated battery; aggravated assault; or burglary with an assault or battery.

- Was 14 years of age or older at the time of commission of a fourth or subsequent felony offense and the juvenile was previously adjudicated delinquent or had adjudication withheld for three felony offenses, and one or more of such felony offenses involved the use or possession of a firearm or violence against a person.[4]

If the state attorney files a motion to transfer a juvenile to adult court, the court must hold a hearing to determine whether the juvenile should be transferred.[5] The court must consider a variety of statutorily articulated factors when determining whether transfer is appropriate (including, in part, the seriousness of the offense, the sophistication and maturity of the juvenile, the record and previous history of the juvenile, and whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner).[6] The court must also provide an order specifying the reasons for its decision to impose adult sanctions.[7]

If a juvenile transferred to adult court by a voluntary or involuntary discretionary waiver is found to have committed the offense or a lesser included offense, the court may sentence the juvenile as an adult, a youthful offender, or a juvenile.[8] If the transfer was by an involuntary mandatory waiver, the court must impose adult sanctions.[9]

Indictment by Grand Jury

Section 985.56, F.S., specifies that a juvenile of any age who is charged with an offense punishable by death or life imprisonment is subject to the jurisdiction of the juvenile courts unless and until an indictment is returned on the charge by a grand jury. If the grand jury returns an indictment on the charge, the juvenile must be transferred to adult court and be handled as an adult in every respect.[10]

If the juvenile is found to have committed the offense, the court must sentence the juvenile as an adult.[11] If the juvenile is found not to have committed the indictable offense, but is found to have committed a lesser included offense or any other offense for which he or she was indicted as part of the criminal episode, the court may sentence the juvenile as an adult, as a youthful offender, or as a juvenile.[12]

[4] Section 985.556(3), F.S.
[5] Section 985.556(4), F.S.
[6] Section 985.556(4)(c), F.S.
[7] Section 985.556(4)(e), F.S.
[8] Section 985.565(4)(a)2., F.S.
[9] Section 985.565(4)(a)3., F.S.
[10] Section 985.56(1), F.S. The charge punishable by death or life imprisonment must be transferred, as well as all other felonies or misdemeanors charged in the indictment which are based on the same act or transaction as the offense punishable by death or life imprisonment.
[11] Section 985.565(4)(a)1., F.S.
[12] *Id*.

Direct Filing an Information by the State Attorney

Direct file transfer under s. 985.557, F.S., can either be discretionary or mandatory. Direct file is the predominant transfer method, according to the DJJ.[13]

Discretionary Direct File

Section 985.557(1), F.S., allows the state attorney to file an information[14] on certain juvenile cases when, in the state attorney's judgment and discretion, the offense requires that adult sanctions be considered or imposed. Specifically, the state attorney may file an information in adult court when a juvenile is:

- 14 or 15 years old and charged with one of the following felony offenses:
  - Arson; sexual battery; robbery; kidnapping; aggravated child abuse; aggravated assault; aggravated stalking; murder; manslaughter; unlawful throwing, placing, or discharging of a destructive device or bomb; armed burglary; specified burglary of a dwelling or structure; burglary with an assault or battery; aggravated battery; any lewd or lascivious offense committed upon or in the presence of a person less than 16; carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony; grand theft; possessing or discharging any weapon or firearm on school property; home invasion robbery; carjacking; grand theft of a motor vehicle; or grand theft of a motor vehicle valued at $20,000 or more if the child has a previous adjudication for grand theft of a motor vehicle.[15]
- 16 or 17 years old and charged with any felony offense;[16] or
- 16 or 17 years old and charged with any misdemeanor, provided the juvenile has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which is a felony.[17]

If a juvenile transferred to adult court by discretionary direct file is found to have committed the offense or a lesser included offense, the court may sentence the juvenile as an adult, as a youthful offender, or as a juvenile.[18]

Mandatory Direct File

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

- 16 or 17 years old at the time of the alleged offense and:

[13] In FY 2013-14, 1,322 juveniles were transferred to the adult system. Approximately 98% of those were transferred by direct file. Department of Juvenile Justice, *2015 Bill Analysis for SB 1082* (2015) (on file with the Senate Criminal Justice Committee).

[14] An "information" is the charging document that initiates prosecution. Any information filed pursuant to the direct file statute may include all charges that are based on the same act, criminal episode, or transaction as the primary offenses. s. 985.557(4), F.S.

[15] Section 985.557(1)(a), F.S.

[16] Section 985.557(1)(b), F.S.

[17] *Id*.

[18] Section 985.565(4)(a)2. and (b), F.S.

  - Has been previously adjudicated delinquent for an enumerated felony[19] and the juvenile is currently charged with a second or subsequent violent crime against a person;
  - Is currently charged with a forcible felony[20] and has been previously adjudicated delinquent or had adjudication withheld for three felonies that each occurred within 45 days of each other;[21] or
  - Is charged with committing or attempting to commit an offense listed in s. 775.087(2)(a)1.a.-q., F.S.,[22] and during the commission of the offense the juvenile actually possessed or discharged a firearm or destructive device;[23] or
- Any age and is alleged to have committed an act that involves stealing a vehicle in which the juvenile caused serious bodily injury or death to a person who was not involved in the underlying offense while possessing the vehicle.[24]

The court may sentence the following juveniles who are transferred to adult court by mandatory direct file as an adult, a youthful offender, or a juvenile:

- Juveniles found to have committed the offense or a lesser included offense who:
  - Are 16 or 17 years old at the time of the offense, the offense was listed in s. 775.087(2)(a)1.a.-q., F.S., and during the commission of the offense the juvenile actually possessed or discharged a firearm or destructive device; and
  - Are any age and the offense involved stealing a vehicle in which the juvenile caused serious bodily injury or death to a person who was not involved in the underlying offense while possessing the vehicle.[25]

The court must impose adult sanctions on the following juveniles who are transferred to adult court by mandatory direct file and who are found to have committed the offense or a lesser included offense:

- Juveniles 16 or 17 years old at the time of the offense who:
  - Have been previously adjudicated delinquent for an enumerated felony and the juvenile has been found to have committed a second or subsequent violent crime against a person; or

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[19] The enumerated felonies listed in this subsection include the commission of, attempt to commit, or conspiracy to commit: murder; sexual battery; armed or strong-armed robbery; carjacking; home-invasion robbery; aggravated battery; or aggravated assault.

[20] Section 776.08, F.S., defines "forcible felony" to mean treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

[21] Section 985.557(2)(b), F.S., also states that this paragraph does not apply when the state attorney has good cause to believe that exceptional circumstances exist which preclude the just prosecution of the juvenile in adult court.

[22] This list includes: murder; sexual battery; robbery; burglary; arson; aggravated assault; aggravated battery; kidnapping; escape; aircraft piracy; aggravated child abuse; aggravated abuse of an elderly person or disabled adult; unlawful throwing, placing, or discharging of a destructive device or bomb; carjacking; home-invasion robbery; aggravated stalking; trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1), F.S.

[23] The terms "firearm" and "destructive device" are defined in s. 790.001, F.S.

[24] Section 985.557(2)(c), F.S.

[25] Section 985.565(4)(a)2., F.S.

- Have been found to have committed a forcible felony and have been previously adjudicated delinquent or had adjudication withheld for three felonies that each occurred within 45 days of each other.[26]

Imposing Adult or Juvenile Sanctions

Judges often have discretion to impose adult or juvenile sanctions when a juvenile is transferred to adult court and is found to have committed the offense. In such instances, the judge must consider specified factors to determine whether adult or juvenile sanctions are appropriate. These include:

- The seriousness of the offense to the community and whether the community would best be protected by juvenile or adult sanctions;
- Whether the offense was committed in an aggressive, violent, premeditated, or willful manner;
- Whether the offense was against persons or against property;[27]
- The sophistication and maturity of the offender;
- The record and previous history of the offender, including:
  - Previous contacts with the Department of Corrections (DOC), DJJ, the former Department of Health and Rehabilitative Services (HRS), the Department of Children and Families (DCF), law enforcement agencies, and the courts;
  - Prior periods of probation;
  - Prior adjudications that the offender committed a delinquent act or violation of law as a child;
  - Prior commitments to DJJ, former HRS, DCF, or other facilities or institutions;
- The prospects for adequate protection of the public and the likelihood of deterrence and reasonable rehabilitation of the offender if assigned to DJJ services and facilities;
- Whether DJJ has appropriate programs, facilities, and services immediately available; and
- Whether adult sanctions would provide more appropriate punishment and deterrence to further violations of law than juvenile sanctions.[28]

The court is required to consider a presentence investigation (PSI) report prepared by DOC regarding the suitability of a juvenile for disposition as an adult or juvenile.[29] The PSI report must include a comments section prepared by DJJ, with its recommendations as to disposition.[30] The court must give all parties[31] present at the disposition hearing an opportunity to comment on the issue of sentence and any proposed rehabilitative plan, and may receive and consider any other relevant and material evidence.[32]

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[26] Section 985.565(4)(a)3., F.S.
[27] Greater weight is given to offenses against persons, especially if personal injury resulted.
[28] Section 985.565(1)(b), F.S.
[29] Section 985.565(3), F.S. This report requirement may be waived by the offender.
[30] *Id*.
[31] This includes the parent, guardian, or legal custodian of the offender; the offender's counsel; the state attorney; representatives of DOC and DJJ; the victim or victim's representative; representatives of the school system; and law enforcement involved in the case.
[32] *Id*. Other relevant evidence may include other reports, written or oral, in its effort to determine the action to be taken with regard to the child. This evidence may be relied upon by the court to the extent of its probative value even if the evidence would not be competent in an adjudicatory hearing.

If juvenile sentences are imposed, the court must adjudge the juvenile to have committed a delinquent act.[33] Upon adjudicating a juvenile delinquent, the court may:

- Place the juvenile in a probation program under the supervision of DJJ for an indeterminate period of time until he or she reaches the age of 19 years or sooner if discharged by order of the court;
- Commit the juvenile to DJJ for treatment in an appropriate program for an indeterminate period of time until he or she is 21 or sooner if discharged by DJJ;[34] or
- Order disposition under ss. 985.435,[35] 985.437,[36] 985.439,[37] 985.441,[38] 985.45,[39] and 985.455[40], F.S., as an alternative to youthful offender or adult sentencing if the court determines not to impose youthful offender or adult sanctions.[41]

If the court imposes a juvenile sanction and DJJ determines that the sanction is unsuitable for the juvenile, DJJ must return custody of the juvenile to the sentencing court for further proceedings, including the imposition of adult sanctions.[42]

Any sentence imposing adult sanctions is presumed appropriate, and the court is not required to set forth specific findings or list the criteria used as any basis for its decision to impose adult sanctions.[43]

The court may not sentence the juvenile to a combination of adult and juvenile punishments.[44]

Effect of Transferring a Juvenile to Adult Court

If a juvenile transferred to adult court for prosecution is found to have committed the offense or a lesser included offense, the juvenile must have any subsequent violations of law handled thereafter in every respect as an adult.[45] The court must also immediately transfer and certify all unresolved[46] felony cases pertaining to the juvenile to adult court for prosecution.[47]

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[33] Section 985.565(4)(b), F.S. Adjudication of delinquency is not deemed a conviction, nor does it operate to impose any of the civil disabilities ordinarily resulting from a conviction.
[34] DJJ must notify the court of its intent to discharge the juvenile from the commitment program no later than 14 days prior to discharge. Failure of the court to timely respond to the department's notice shall be considered approval for discharge.
[35] Probation and postcommitment probation or community service.
[36] Restitution.
[37] Violation of probation or postcommitment probation.
[38] Commitment.
[39] Work program liability and remuneration.
[40] Other dispositional issues.
[41] Section 985.565(4)(b), F.S.
[42] *Id*. DJJ also has recourse if the judge imposes a juvenile sanction and the juvenile proves not to be suitable to the sanction. In such instances, DJJ must provide the sentencing court a written report outlining the basis for its objections to the juvenile sanction and schedule a hearing. Upon hearing, the court may revoke the previous adjudication, impose an adjudication of guilt, and impose any adult sanction it may have originally lawfully imposed. s. 985.565(4)(c), F.S.
[43] Section 985.565(4)(a)4., F.S.
[44] *Id*.
[45] Sections 985.556(5), 985.56(4), and 985.557(3), F.S. This provision does not apply if the adult court imposes juvenile sanctions under s. 985.565, F.S.
[46] Unresolved cases include those which have not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. *See* s. 985.557(3), F.S.
[47] Sections 985.556(5), 985.56(4), and 985.557(3), F.S

If the juvenile is acquitted of all charged offenses (or lesser included offenses) contained in the original direct filed case, all felony cases transferred to adult court as a result of the direct file case must be subject to juvenile sanctions.[48]

Juvenile Transfer Statistics from the DJJ

Since FY 2008-09, there has been a significant reduction (53%) in juveniles transferred to adult court, as well as a significant reduction in the overall incidence of juvenile crime. In FY 12-13, there were a total of 1,535 juvenile transfers, most of which related to a felony offense (96%).[49] The majority of the juveniles transferred to adult court were 16 or 17 years old.[50] During FY 08-09 through FY 12-13, there were only two juveniles transferred who were 11-12 years of age and none who were ages 5-10.[51]

In FY 12-13, the most common offenses which resulted in juveniles being transferred to adult court included:

- Burglary (481 youth);
- Armed robbery (260 youth);
- Aggravated assault or battery (185 youth);
- Weapon-related felonies (98 youth);
- Drug-related felonies (75 youth);
- Robbery (73 youth);
- Sexual battery (59 youth); and
- Grand theft auto (44 youth).[52]

Transferring Juveniles to Adult Jail for Detention

Section 985.265(5)(a), F.S., requires the court to order a juvenile who is being transferred or indicted for criminal prosecution as an adult to be detained in an adult jail. The juvenile must be housed separately from adult inmates so that there is no regular contact between them. "Regular contact" means sight and sound contact.[53]

III. Effect of Proposed Changes:

The bill substantially amends two of Florida's current methods for transferring a juvenile to adult court for criminal prosecution. These transfer methods are indictment and direct file. It also amends current provisions requiring the court to impose juvenile or adult sanctions upon juveniles transferred to the adult court.

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[48] *Id*.
[49] Department of Juvenile Justice Delinquency Profile 2012-2013 (hereinafter referenced as "Delinquency Profile").
[50] 385 out of the 1,585 total youth transferred to criminal court in FY 12-13 were 16 years old at the time they committed the offense (25%), while 1,016 were 17 years old or older when they committed the offense (66%). *Age at Arrest - Youth Transferred Statewide*, Delinquency Profile.
[51] *Id*.
[52] *Felonies – Youth Transferred Statewide*, Delinquency Profile and s. 812.14(1)(c)6., F.S.
[53] Section 985.265(5), F.S.

Direct Filing an Information by the State Attorney

The bill amends s. 985.557, F.S., by eliminating the mandatory direct file system and modifying the discretionary direct file system to a two-tiered system based on the juvenile's age and enumerated offense.

Tier One

The bill permits the state attorney to file an information in adult court when, in his or her judgment and discretion, the public interest requires that adult sanctions be considered and:

- The juvenile is 16 years of age or older and less than 18 years of age at the time of the alleged offense; and
- The juvenile committed, or attempted to commit, one of the following enumerated offenses:
  - Murder;
  - Manslaughter;
  - Sexual battery as defined in s. 794.011(3), F.S.;
  - Armed robbery;
  - Aggravated assault with a firearm;
  - Aggravated child abuse;
  - Aggravated stalking;
  - Kidnapping;
  - Unlawful throwing, placing, or discharging of a destructive device and bomb;
  - Aggravated battery resulting in great bodily harm, permanent disability, or permanent disfigurement;
  - Carrying, displaying, using, or threatening or attempting to use a weapon or firearm in furtherance of the commission of a felony, provided the use or threatened use does not include the mere acquisition of a deadly weapon or firearm during the felony;
  - Possessing or discharging a firearm on school property in violation of s. 790.115, F.S.;
  - Home invasion robbery;
  - Carjacking;
  - Aggravated animal cruelty by intentional acts;
  - DUI resulting in fatality, great bodily harm, permanent disability, or permanent disfigurement to a person; or
  - Arson in violation of s. 806.031.

Tier Two

The bill allows the state attorney to file an information in adult court when, in his or her judgment and discretion, the public interest requires adult sanctions be considered and:

- The juvenile is 14 or 15 years of age at the time of the alleged offense; and
- The juvenile committed, or attempted to commit, one of the following enumerated offenses:
  - Murder;
  - Manslaughter; or
  - Sexual battery in violation of s. 794.011(3).

A juvenile eligible for direct file cannot be transferred if he or she has:

- A pending competency hearing in juvenile court; or

- Been previously found to be incompetent to proceed and has not been restored to competency by a court.

The bill allows, rather than requires, the court to transfer any unresolved felony cases when the transfer is by direct file.

The bill allows a juvenile who is transferred by direct file to request a court hearing, in writing, to determine whether he or she will remain in adult court. The adult court, after considering certain factors, can waive the case back to juvenile court under the bill. These factors include the seriousness of the offense, the extent of the juvenile's alleged participation or role in the offense, the sophistication and maturity of the juvenile, and any prior offenses. This process is called a reverse waiver under the bill.

The bill also requires DJJ to collect and annually report data to the President of the Senate and Speaker of the House of Representatives relating to juveniles who qualify for transfer by direct file. This data includes, but is not limited to the following:

- Age;
- Race and ethnicity;
- Gender;
- Circuit and county of residence;
- Circuit and county of offense;
- Prior adjudicated offenses;
- Prior periods of probation;
- Previous contacts with law enforcement agencies or the courts;
- Initial charges;
- Charges at disposition;
- Whether adult codefendants were involved;
- Whether child codefendants were involved who were transferred to adult court;
- Whether the child was represented by counsel;
- Whether the child had waived counsel;
- Risk assessment instrument score;
- The child's medical, mental health, substance abuse, or trauma history;
- The child's history of physical or mental impairment or disability-related accommodations;
- The child's history of abuse or neglect;
- The child's history of foster care placements, including the number of prior placements;
- Whether the child has experienced a failed adoption;
- Whether the child has fetal alcohol syndrome or was exposed to controlled substances at birth;
- Whether the child has below-average intellectual functioning or is eligible for exceptional student education services;
- Whether the child has received mental health services or treatment;
- Whether the child has been the subject of a CINS/FINS or dependency petition;
- Plea offers made by the state and the outcome of any plea offers;
- Whether the child was transferred for criminal prosecution as an adult;
- The case resolution in juvenile court;

- The case resolution in adult court; and
- Disposition data, including, but not limited to, whether the child received adult sanctions, juvenile sanctions, or diversion, and, if sentenced to prison, length of prison sentence or enhanced sentence.

Indictment by Grand Jury

The bill amends s. 985.56, F.S., by:
- Limiting the state attorney's authority to convene a grand jury to a juvenile who is 14 years of age or older (currently available for juveniles of any age charged with an offense punishable by death or life imprisonment).
- Allowing, rather than requiring, the court to transfer any unresolved felony cases upon a returned indictment; and
- Prohibiting a juvenile who is eligible for indictment but who is pending a competency hearing in juvenile court or has been previously found to be incompetent and has not been restored to competency by a court from being transferred to adult court for criminal prosecution.

Imposing Adult or Juvenile Sanctions

Unlike current law, the bill never requires the court to impose adult sanctions. Instead, the bill amends s. 985.565, F.S., to provide that a juvenile who is transferred by direct file or judicial waiver and found to have committed a violation of law or a lesser included offense may be sentenced as:
- An adult;
- A youthful offender under ch. 958, F.S.; or
- A juvenile.

It also amends this section by modifying existing criteria and adding additional criteria the court must consider when determining whether juvenile sanctions or adult sanctions are appropriate. The bill includes the following additional criteria for courts to consider:
- The extent of the juvenile's participation or role in the offense;
- The effect, if any, of familial or peer pressure on the juvenile's actions; and
- Whether DOC has appropriate programs, facilities, and services immediately available for the juvenile.

The bill modifies the following existing criteria that a court considers:
- The sophistication and maturity of the juvenile, including:
  - The juvenile's age, intellectual capacity, and mental and emotional health at the time of the offense;
  - The juvenile's background, including his or her family, home, and community environment;
  - The effect, if any, of immaturity, impetuosity, or failure to appreciate the risks and consequences on the juvenile's participation in the offense; and
  - The effect, if any, of characteristics attributable to the juvenile's age on his or her judgment.

- The record and previous history of the juvenile, including:
  - Previous contacts with DOC, DJJ, HRS, and DCF and the adequacy and appropriateness of any services provided to address the juvenile's needs;
  - Previous contacts with law enforcement agencies and the courts;
  - History of abuse, abandonment, or neglect; and
  - Identification of the juvenile as having a mental, physical, or intellectual or developmental disability or having previously received mental health services or treatment.

The bill removes the provision allowing the court to consider whether adult sanctions would provide more appropriate punishment and deterrence to further violations of law than the imposition of juvenile sanctions.

The bill requires the court to render an order including specific findings of fact and the reasons for its decisions to impose adult sanctions. The order is reviewable on appeal under s. 985.534, F.S., and the Florida Rules of Appellate Procedure.

The bill requires the court to consider any reports that may assist the court in its decision to impose juvenile or adult sanctions. These include, but are not limited to:

- Prior predisposition reports, psychosocial assessments, individual education plans, developmental assessments, school records, abuse or neglect reports, home studies, protective investigations, and psychological or psychiatric evaluations.

Under the bill, the juvenile, state attorney, and defense counsel have the right to examine these reports, and to question the parties responsible for them at the hearing.

The bill also amends this section by removing the prohibition on imposing both adult and juvenile sanctions, as well as the requirement that DJJ return the juvenile to the sentencing court for further proceedings if the department determines that the sanction is inappropriate. (The bill does not, however, change another section of current law requiring DJJ to provide the sentencing court with written reasons upon determining that a juvenile is not suitable to a commitment program, juvenile probation program, or a treatment program within the department. A court must then determine whether to resentence the juvenile.)

Transferring Juveniles to Adult Jail for Detention

The bill deletes the provisions in s. 985.265(5), F.S., requiring the court to order a juvenile who is being transferred or indicted for criminal prosecution as an adult to be detained in an adult jail.

The effective date of the bill is July 1, 2015.

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 Criminal Justice Impact Conference (CJIC) met on March 11, 2015, and determined that this bill will have a negative indeterminate prison bed impact on the DOC (i.e., an unquantifiable negative bed impact).

According to the DJJ, the bill is likely to reduce the number of juveniles transferred to the adult system and increase the number of juveniles within the juvenile justice system, resulting in an indeterminate fiscal impact upon the department.[54]

The bill also requires the department to collect and report on specific data that will require modification of the Juvenile Justice Information (JJIS) System, which the DJJ estimates will cost $93,600.[55]

VI. Technical Deficiencies:

The bill appears to delete language that mandates how the court must sentence a juvenile that has been transferred to adult court by indictment. The word "indictment" may need to be added on line 413 to ensure that the court has authority to sentence such a juvenile as an adult, a youthful offender, or a juvenile.

VII. Related Issues:

The DJJ indicates that the reconfiguration of the JJIS system that will be required to capture the pertinent data elements under the bill may take up to 6 months to complete, making implementation by the effective date (July 1, 2015) difficult.[56]

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[54] Department of Juvenile Justice, *2015 Bill Analysis for SB 1082* (2015) (on file with the Senate Criminal Justice Committee.)
[55] *Id.*
[56] *Id.*

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 985.265, 985.56, 985.565, and 985.557.

This bill makes technical and conforming changes to the following sections of the Florida Statutes: 985.556, 985.04, 985.15, 985.265, and 985.514.

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 March 23, 2015:

- Deletes the judicial waiver provisions in the bill.
- Lowers the age of a juvenile who can be transferred to adult court by indictment from 16 years or older to 14 years or older.
- Deletes the repeal of the direct file transfer statute, s. 985.557, F.S.
- Amends the direct file transfer statute by eliminating the mandatory direct file system and modifying the discretionary direct file system to a two-tiered system based on the juvenile's age and enumerated offense.
- Provides a reverse waiver process that allows a juvenile who is transferred to adult court by direct file to request a court hearing to determine whether he or she will remain in adult court or be waived back to juvenile court.
- Deletes the provision requiring the Secretary of DJJ to transfer juveniles younger than 18 years who have been sentenced to the DOC from the DOC to the DJJ.

B. Amendments:

None.

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

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2015	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 129 - 735

and insert:

Section 2. Section 985.557, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 985.557, F.S., for present text.)

985.557 Direct filing of an information.—

(1) DIRECT FILE.—

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(a) With respect to a child who was 16 years of age or older or less than 18 years of age at the time the alleged offense was committed, the state attorney may file an information if, in the state attorney's judgment and discretion, the public interest requires that adult sanctions be considered and the offense charged is for the commission of or attempt to commit:

1. Murder;

2. Manslaughter;

3. Sexual battery as defined in s. 794.011(3);

4. Armed robbery;

5. Aggravated assault with a firearm;

6. Aggravated child abuse;

7. Arson in violation of S. 806.031;

8. Kidnapping;

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

10. Aggravated battery resulting in great bodily harm, permanent disability, or permanent disfigurement;

11. Carrying, displaying, using, or threatening or attempting to use a weapon or firearm in furtherance of the commission of a felony, if the use or threatened use does not include the mere acquisition of a deadly weapon or firearm during the felony;

12. Possessing or discharging a firearm on school property in violation of s. 790.115;

13. Home invasion robbery;

14. Aggravated stalking;

15. Carjacking;

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16. Aggravated animal cruelty by intentional acts; or

17. DUI resulting in fatality, great bodily harm, permanent disability, or permanent disfigurement to a person.

(b) With respect to a child who was 14 or 15 years of age at the time the alleged offense was committed, the state attorney may file an information if, in the state attorney's judgment and discretion, the public interest requires that adult sanctions be considered and the offense charged is for the commission of or attempt to commit:

1. Murder;

2. Manslaughter; or

3. Sexual battery in violation of S. 794.011(3).

(2) EFFECT OF DIRECT FILE.—

(a) When a child is transferred for criminal prosecution as an adult, the court may transfer and certify to the adult circuit court for prosecution of the child as an adult all related felony cases pertaining to the child which have not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. If the child is acquitted of all charged offenses or lesser included offenses contained in the original case transferred to adult court, any felony cases that were transferred to adult court under this subsection are subject to the same penalties they were subject to before their transfer.

(b) Once a child has been convicted and sentenced to adult sanctions pursuant to this section, he or she shall be handled as an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.565.

(3) TRANSFER PROHIBITION.—Notwithstanding any other law, a

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child who is eligible for direct file and who is pending a competency hearing in juvenile court or has previously been found to be incompetent and has not been restored to competency by a court may not be transferred to adult court for criminal prosecution.

(4) REVERSE WAIVER.—A child who is transferred to adult court pursuant to this section may request, in writing, a hearing to determine whether he or she shall remain in adult court. The adult court, in determining whether public safety would be best served by retaining jurisdiction, shall consider the seriousness of the offense, the extent of the child's alleged participation or role in the offense, the sophistication and maturity of the child, and any prior offenses the child has committed. The adult court may, based on these considerations, waive the case back to juvenile court.

(5) DATA COLLECTION RELATING TO DIRECT FILE.—

(a) The department shall collect data regarding children who qualify for direct file under subsection (1), including, but not limited to:

1. Age;

2. Race and ethnicity;

3. Gender;

4. Circuit and county of residence;

5. Circuit and county of offense;

6. Prior adjudicated offenses;

7. Prior periods of probation;

8. Previous contacts with law enforcement agencies or the courts;

9. Initial charges;

10. Charges at disposition;

11. Whether adult codefendants were involved;

12. Whether child codefendants were involved who were transferred to adult court;

13. Whether the child was represented by counsel;

14. Whether the child has waived counsel;

15. Risk assessment instrument score;

16. The child's medical, mental health, substance abuse, or trauma history;

17. The child's history of physical or mental impairment or disability-related accommodations;

18. The child's history of abuse or neglect;

19. The child's history of foster care placements, including the number of prior placements;

20. Whether the child has fetal alcohol syndrome or was exposed to controlled substances at birth;

21. Whether the child has below-average intellectual functioning or is eligible for exceptional student education services;

22. Whether the child has received mental health services or treatment;

23. Whether the child has been the subject of a CINS/FINS or dependency petition;

24. Plea offers made by the state and the outcome of any plea offers;

25. Whether the child was transferred for criminal prosecution as an adult;

26. The case resolution in juvenile court; or

27. The case resolution in adult court.

(b) When a child is transferred for criminal prosecution as an adult, the department shall also collect disposition data, including, but not limited to, whether the child received adult sanctions, juvenile sanctions, or diversion, and, if sentenced to prison, length of prison sentence or enhanced sentence.

(c) The department shall annually provide a report analyzing this aggregated data to the President of the Senate and the Speaker of the House of Representatives.

Section 3. Section 985.56, Florida Statutes, is amended to read:

985.56 Indictment of a juvenile.—

(1) A child 14 years of age or older ~~of any age~~ who is charged with a violation of state law punishable by death or by life imprisonment is subject to the jurisdiction of the court as set forth in s. 985.0301(2) unless and until an indictment on the charge is returned by the grand jury. When such indictment is returned, the petition for delinquency, if any, must be dismissed and the child must be tried ~~and handled in every respect~~ as an adult:

(a) On the indicting offense ~~punishable by death or by life imprisonment~~; and

(b) On all other felonies or misdemeanors charged in the indictment which are based on the same act or transaction as the indicting offense ~~punishable by death or by life imprisonment or on one or more acts or transactions connected with the offense punishable by death or by life imprisonment~~.

(2) An adjudicatory hearing may not be held until 21 days after the child is taken into custody and charged with having committed an indictable offense ~~punishable by death or by life~~

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~~imprisonment~~, unless the state attorney advises the court in writing that he or she does not intend to present the case to the grand jury, or has presented the case to the grand jury and the grand jury has not returned an indictment. If the court receives such a notice from the state attorney, or if the grand jury fails to act within the 21-day period, the court may proceed as otherwise authorized under this part.

(3) Notwithstanding any other law, a child who is eligible for indictment and who is pending a competency hearing in juvenile court or has been previously found to be incompetent and has not been restored to competency by a court may not be transferred to adult court for criminal prosecution ~~If the child is found to have committed the offense punishable by death or by life imprisonment, the child shall be sentenced as an adult. If the juvenile is not found to have committed the indictable offense but is found to have committed a lesser included offense or any other offense for which he or she was indicted as a part of the criminal episode, the court may sentence under s. 985.565~~.

(4)(a) Once a child has been indicted pursuant to this section and has been found to have committed any offense for which he or she was indicted as a part of the criminal episode, the child shall be handled thereafter ~~in every respect~~ as ~~if~~ an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.565.

(b) When a child has been indicted pursuant to this section, the court may ~~shall immediately~~ transfer and certify to the adult circuit court all related felony cases pertaining to the child, for prosecution of the child as an adult, which have

not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. If the child is acquitted of all charged offenses or lesser included offenses contained in the indictment case, any ~~all~~ felony cases that were transferred to adult court pursuant to this paragraph shall be subject to the same penalties such cases were subject to before being transferred to adult court.

Section 4. Subsection (1), paragraph (c) of subsection (3), and subsection (4) of section 985.565, Florida Statutes, are amended to read:

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

(1) POWERS OF DISPOSITION.—

(a) A child who is found to have committed a violation of law may, as an alternative to adult dispositions, be committed to the department for treatment in an appropriate program for children outside the adult correctional system or be placed on juvenile probation.

(b) In determining whether to impose juvenile or ~~sanctions instead of~~ adult sanctions, the court shall consider the following criteria:

1. The seriousness of the offense to the community and whether the protection of the community would be best served ~~be protected~~ by juvenile or adult sanctions.

2. The extent of the child's participation in the offense.

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

4.~~2.~~ Whether the offense was committed in an aggressive, violent, premeditated, or willful manner.

5.~~3.~~ Whether the offense was against persons or against property, with greater weight being given to offenses against persons, especially if personal injury resulted.

6.~~4.~~ The sophistication and maturity of the child, including: ~~offender~~

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

b. The child's background, including his or her family, home, and community environment.

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

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

7.~~5.~~ The record and previous history of the child ~~offender~~, including:

a. Previous contacts with the Department of Corrections, the Department of Juvenile Justice, the former Department of Health and Rehabilitative Services, the Department of Children and Families, ~~law enforcement agencies, and the courts~~ and the adequacy and appropriateness of the services provided to address the child's needs.

b. Prior periods of probation.

c. Prior adjudications that the offender committed a delinquent act or violation of law as a child.

d. Prior commitments to the Department of Juvenile Justice, the former Department of Health and Rehabilitative Services, the Department of Children and Families, or other facilities or institutions and the adequacy and appropriateness of the

services provided to address the child's needs.

e. Previous contacts with law enforcement agencies and the courts.

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

g. Identification of the child as having a disability or having previously received mental health services or treatment.

8.~~6.~~ The prospects for adequate protection of the public and the likelihood of deterrence and reasonable rehabilitation of the offender if assigned to services and facilities of the Department of Juvenile Justice.

9.~~7.~~ Whether the Department of Juvenile Justice has appropriate programs, facilities, and services immediately available.

~~8. Whether adult sanctions would provide more appropriate punishment and deterrence to further violations of law than the imposition of juvenile sanctions.~~

10. Whether the Department of Corrections has appropriate programs, facilities, and services immediately available.

(c) The adult court shall render an order including specific findings of fact and the reasons for its decision. The order shall be reviewable on appeal under s. 985.534 and the Florida Rules of Appellate Procedure.

(3) SENTENCING HEARING.—

(c) The court may receive and consider any other relevant and material evidence, including other reports, written or oral, in its effort to determine the action to be taken with regard to

the child, and may rely upon such evidence to the extent of its probative value even if the evidence would not be competent in an adjudicatory hearing. The court shall consider any reports that may assist it, including prior predisposition reports, psycho-social assessments, individualized educational programs, developmental assessments, school records, abuse or neglect reports, home studies, protective investigations, and psychological and psychiatric evaluations. The child, the child's defense counsel, and the state attorney, have the right to examine these reports and to question the parties responsible for them at the hearing.

(4) SENTENCING ALTERNATIVES.—

(a) ~~*Adult*~~ *Sanctions.*—

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

~~a. As an adult;~~

~~b. Under chapter 958; or~~

~~c. As a juvenile under this section.~~

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

1.~~a.~~ As an adult;

2.~~b.~~ As a youthful offender under chapter 958; or

3.~~c.~~ As a juvenile under this section.

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

(b)~~4.~~ *Findings.*—The court must ~~Any sentence imposing adult sanctions is presumed appropriate, and the court is not required to~~ set forth specific findings or enumerate the criteria in this subsection as any basis for its decision to impose adult sanctions.

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

(d)~~(b)~~ *Juvenile sanctions.*—If a juvenile sentence is ~~For juveniles transferred to adult court but who do not qualify for such transfer under s. 985.556(3) or s. 985.557(2)(a) or (b), the court may impose juvenile sanctions under this paragraph. If juvenile sentences are~~ imposed, the court shall, under this paragraph, adjudge the child to have committed a delinquent act. Adjudication of delinquency shall not be deemed a conviction, nor shall it operate to impose any of the civil disabilities ordinarily resulting from a conviction. ~~The court shall impose an adult sanction or a juvenile sanction and may not sentence~~

~~the child to a combination of adult and juvenile punishments.~~ An adult sanction or a juvenile sanction may include enforcement of an order of restitution or probation previously ordered in any juvenile proceeding. ~~However, if the court imposes a juvenile sanction and the department determines that the sanction is unsuitable for the child, the department shall return custody of the child to the sentencing court for further proceedings, including the imposition of adult sanctions.~~ Upon adjudicating a child delinquent under subsection (1), the court may:

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

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

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

(e) ~~(c)~~ *Adult sanctions upon failure of juvenile sanctions.*— If a child proves not to be suitable to a commitment program, juvenile probation program, or treatment program under paragraph (d) ~~(b)~~, the department shall provide the sentencing court with a written report outlining the basis for its objections to the

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juvenile sanction and shall simultaneously provide a copy of the report to the state attorney and the defense counsel. The department shall schedule a hearing within 30 days. Upon hearing, the court may revoke the previous adjudication, impose an adjudication of guilt, and impose any sentence which it may lawfully impose, giving credit for all time spent by the child in the department. The court may also classify the child as a youthful offender under s. 958.04, if appropriate. For purposes of this paragraph, a child may be found not suitable to a commitment program, community control program, or treatment program under paragraph (d) ~~(b)~~ if the child commits a new violation of law while under juvenile sanctions, if the child commits any other violation of the conditions of juvenile sanctions, or if the child's actions are otherwise determined by the court to demonstrate a failure of juvenile sanctions.

(f) ~~(d)~~ *Further proceedings heard in adult court.*—When a child is sentenced to juvenile sanctions, further proceedings involving those sanctions shall continue to be heard in the adult court.

(g) ~~(e)~~ *School attendance.*—If the child is attending or is eligible to attend public school and the court finds that the victim or a sibling of the victim in the case is attending or may attend the same school as the child, the court placement order shall include a finding pursuant to the proceeding described in s. 985.455(2), regardless of whether adjudication is withheld.

It is the intent of the Legislature that the criteria and guidelines in this subsection are mandatory and that a

determination of disposition under this subsection is subject to the right of the child to appellate review under s. 985.534.

Section 5. Subsection (1) of section 985.556, Florida Statutes, is amended to read:

985.556 Waiver of juvenile court jurisdiction; hearing.—

(1) VOLUNTARY WAIVER.—The court shall transfer and certify a child's criminal case for trial as an adult if the child is alleged to have committed a violation of law and, prior to the commencement of an adjudicatory hearing, the child, joined by a parent or, in the absence of a parent, by the guardian or guardian ad litem, demands in writing to be tried as an adult. Once a child has been transferred for criminal prosecution pursuant to a voluntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the child shall be handled thereafter in every respect as an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.565(4)(d) ~~s. 985.565(4)(b)~~.

Section 6. For the purpose of incorporating the amendment made by this act to sections 985.557, 985.56, and 985.565, Florida Statutes, in a reference thereto, subsection (2) of section 985.04, Florida Statutes, is reenacted to read:

985.04 Oaths; records; confidential information.—

(2) Notwithstanding any other provisions of this chapter, the name, photograph, address, and crime or arrest report of a child:

(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;

(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

shall not be considered confidential and exempt from s. 119.07(1) solely because of the child's age.

Section 7. For the purpose of incorporating the amendment made by this act to section 985.557, Florida Statutes, in a reference thereto, subsection (1) of section 985.15, Florida Statutes, is reenacted to read:

985.15 Filing decisions.—

(1) The state attorney may in all cases take action independent of the action or lack of action of the juvenile probation officer and shall determine the action that is in the best interest of the public and the child. If the child meets the criteria requiring prosecution as an adult under s. 985.556, the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such a request. In all other cases, the state attorney may:

(a) File a petition for dependency;

(b) File a petition under chapter 984;

(c) File a petition for delinquency;

(d) File a petition for delinquency with a motion to transfer and certify the child for prosecution as an adult;

(e) File an information under s. 985.557;

(f) Refer the case to a grand jury;

(g) Refer the child to a diversionary, pretrial intervention, arbitration, or mediation program, or to some other treatment or care program if such program commitment is voluntarily accepted by the child or the child's parents or legal guardian; or

(h) Decline to file.

Section 8. For the purpose of incorporating the amendment made by this act to section 985.557, Florida Statutes, in a reference thereto, subsection (5) of section 985.265, Florida Statutes, is reenacted to read:

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

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

(a) When the child has been transferred or indicted for criminal prosecution as an adult under part X, except that the court may not order or allow a child alleged to have committed a misdemeanor who is being transferred for criminal prosecution pursuant to either s. 985.556 or s. 985.557 to be detained or held in a jail or other facility intended or used for the detention of adults; however, such child may be held temporarily in a detention facility; or

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

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

Section 9. For the purpose of incorporating the amendment made by this act to section 985.557, Florida Statutes, in a reference thereto, subsection (3) of section 985.556, Florida Statutes, is reenacted to read:

985.556 Waiver of juvenile court jurisdiction; hearing.—

(3) INVOLUNTARY MANDATORY WAIVER.—

(a) If the child was 14 years of age or older, and if the child has been previously adjudicated delinquent for an act classified as a felony, which adjudication was for the commission of, attempt to commit, or conspiracy to commit murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, aggravated assault, or burglary with an assault or battery, and the child is currently charged with a second or subsequent violent crime against a person; or

(b) If the child was 14 years of age or older at the time of commission of a fourth or subsequent alleged felony offense and the child was previously adjudicated delinquent or had adjudication withheld for or was found to have committed, or to have attempted or conspired to commit, three offenses that are felony offenses if committed by an adult, and one or more of such felony offenses involved the use or possession of a firearm or violence against a person;

the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such request, or proceed under s. 985.557(1). Upon the state attorney's request, the court shall either enter an order transferring the case and certifying the case for trial as if the child were an adult or provide written reasons for not issuing such an order.

Section 10. For the purpose of incorporating the amendment made by this act to section 985.565, Florida Statutes, in a reference thereto, subsection (3) of section 985.514, Florida Statutes, is reenacted to read:

985.514 Responsibility for cost of care; fees.—

(3) When the court under s. 985.565 orders any child prosecuted as an adult to be supervised by or committed to the department for treatment in any of the department's programs for children, the court shall order the child's parents to pay fees as provided in s. 985.039.

Section 11. For the purpose of incorporating the amendment made by this act to section 985.565, Florida Statutes, in a reference thereto, paragraph (a) of subsection (5) of section

985.556, Florida Statutes, is reenacted to read:

985.556 Waiver of juvenile court jurisdiction; hearing.—

(5) EFFECT OF ORDER WAIVING JURISDICTION.—

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

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

And the title is amended as follows:

Delete lines 6 - 63

and insert:

s. 985.557, F.S.; revising the circumstances under which the state attorney is authorized to file an information when a child of a certain age range commits or attempts to commit specified crimes; deleting a requirement that a state attorney file an information under certain circumstances; revising the effects of the direct filing of a child; prohibiting the transfer of a child under certain circumstances based on the child's competency; requiring the court to consider certain factors after a written request is made for a hearing; authorizing the court, based on these factors, to waive the case back to juvenile court; requiring the Department of Juvenile Justice to collect specified data under certain circumstances; requiring the department to provide an annual report to the Legislature; amending s. 985.56, F.S.; revising

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the age of a child who is subject to the jurisdiction of a court for certain crimes; prohibiting the transfer of a child under certain circumstances based on the child's competency; removing provisions regarding sentencing of a child; authorizing, rather than requiring, a court to transfer a child indicted under certain circumstances; amending s. 985.565, F.S.; revising the criteria in determining whether to impose juvenile or adult sanctions; requiring the adult court to render an order including specific findings of fact and the reasons for its decision; providing that the order is reviewable on appeal; requiring the court to consider any reports that may assist it; providing for the examination of the reports; revising how a child may be sanctioned under certain circumstances; removing a provision which requires a court to impose adult sanctions under certain circumstances; requiring the court to explain the basis for imposing adult sanctions; revising when juvenile sanctions may be imposed; amending s. 985.556, F.S.; conforming a cross-reference; reenacting s. 985.04(2), F.S., relating to oaths, records, and confidential information, to incorporate the amendments made to ss. 985.557, 985.56, and 985.565, F.S., in a reference thereto; reenacting ss. 985.15(1), 985.265(5), and 985.556(3), F.S., relating to filing decisions; detention transfer and release, education, and adult jails; and waiver of juvenile court jurisdiction and hearings, respectively, to

incorporate the amendment made to s. 985.557, F.S., in references thereto; reenacting ss. 985.514(3) and 985.556(5)(a), F.S., relating to responsibility for cost of care and fees, and waiver of juvenile court jurisdiction and hearings, respectively, to incorporate the amendment made to s. 985.565, F.S., in references thereto;

By Senator Altman

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A bill to be entitled

An act relating to juvenile justice; amending s. 985.265, F.S.; deleting provisions requiring the court to order the delivery of a child to a jail or other facility intended or used to detain adults; amending s. 985.556, F.S.; deleting a provision that transfers and certifies a child's criminal case for trial as an adult if a parent or guardian demands his or her child to be tried as an adult; authorizing a state attorney to request, and the court to grant, a transfer and certify a child 16 years of age or older who commits specified crimes for prosecution as an adult, rather than providing for involuntary discretionary waiver or involuntary mandatory waiver for a child 14 years of age or older; revising the requirements for a waiver hearing and the procedures to be followed; prohibiting the transfer of a child to adult court under certain circumstances; authorizing, rather than requiring, the court to transfer and certify to the adult circuit court all felony cases pertaining to a child under certain circumstances; deleting a provision requiring that, under certain circumstances, a child be handled in every respect as an adult for any subsequent violation of law; requiring the Department of Juvenile Justice to collect specified information; requiring the department to annually provide a report to the Legislature analyzing the collected data; repealing s. 985.557, F.S., relating to direct filing of an information; amending s. 985.56, F.S.; providing that

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only a child who is 16 years of age or older, rather than a child of any age, may be indicted, tried, and handled in every respect as an adult, under certain circumstances; deleting certain crimes for which a child is required to be sentenced and handled as an adult; removing a provision requiring that a child who has been indicted as an adult be treated as an adult for subsequent violations of law; authorizing, rather than requiring, a court to transfer and certify to the adult circuit court all related felony cases; amending s. 985.565, F.S.; providing that a court may impose juvenile sanctions or adult sanctions; revising the criteria a court must consider in making that determination; requiring an adult court to include specific findings and reasons for its decision in its order; providing that the order is reviewable on appeal; adding further evidence that a court must consider; providing for parties to examine the reports; authorizing and revising how a court sentences children who have been transferred for criminal prosecution and found to have committed a violation of state law; requiring a court to specify the reasons for issuing a sentence to a child; deleting provisions authorizing a court, under certain circumstances, to issue juvenile sanctions; deleting provisions authorizing adult sanctions upon failure of juvenile sanctions; authorizing a court to issue certain juvenile sanctions; amending s. 985.57, F.S.; requiring, rather than authorizing, a child to be

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transferred from the Department of Corrections to the Department of Juvenile Justice under certain circumstances; amending s. 985.03, F.S.; conforming a cross-reference; amending ss. 985.04 and 985.15, 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 985.265, Florida Statutes, is amended to read:

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

(1) If a child is detained under this part, the department may transfer the child from nonsecure detention care to secure detention care only if significantly changed circumstances warrant such transfer.

(2) If a child is on release status and not detained under this part, the child may be placed into secure or nonsecure detention care only pursuant to a court hearing in which the original risk assessment instrument and the newly discovered evidence or changed circumstances are introduced into evidence with a rescored risk assessment instrument.

(3)(a) When a juvenile sexual offender is placed in detention, detention staff shall provide appropriate monitoring and supervision to ensure the safety of other children in the facility.

(b) When a juvenile is released from secure detention or transferred to nonsecure detention, detention staff shall

immediately notify the appropriate law enforcement agency, school personnel, and victim if the juvenile is charged with committing any of the following offenses or attempting to commit any of the following offenses:

1. Murder, under s. 782.04;

2. Sexual battery, under chapter 794;

3. Stalking, under s. 784.048; or

4. Domestic violence, as defined in s. 741.28.

(4)(a) While a child who is currently enrolled in school is in nonsecure detention care, the child shall continue to attend school unless otherwise ordered by the court.

(b) While a child is in secure detention care, the child shall receive education commensurate with his or her grade level and educational ability.

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

~~(a) When the child has been transferred or indicted for criminal prosecution as an adult under part X, except that the court may not order or allow a child alleged to have committed a misdemeanor who is being transferred for criminal prosecution pursuant to either s. 985.556 or s. 985.557 to be detained or held in a jail or other facility intended or used for the detention of adults; however, such child may be held temporarily in a detention facility; or~~

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

~~The child shall be housed separately from adult inmates to prohibit a child from having regular contact with incarcerated~~

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

Section 2. Section 985.556, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 985.556, F.S., for present text.)

985.556 Waiver of juvenile court jurisdiction; hearing.—

(1) JUDICIAL WAIVER.—A state attorney may request, and the court may grant, a waiver of juvenile court jurisdiction and transfer and certify a child's case for prosecution as an adult for any of the following reasons:

(a) If a child was 16 years of age or older at the time of the charged offense; has been previously adjudicated delinquent for an act classified as a felony, which adjudication was for the commission of, or attempt to commit, murder, sexual battery, armed robbery, carjacking, home-invasion robbery, aggravated battery resulting in great bodily harm, permanent disability, or permanent disfigurement, aggravated assault with a firearm, or burglary with an assault or battery; and is currently charged

with a second or subsequent violent felony against a person.

(b) If a child was 16 years of age or older at the time of commission of a fourth or subsequent alleged felony offense and the child was previously adjudicated delinquent or had adjudication withheld for, or was found to have committed or to have attempted to commit, three separate, nonrelated incidents that are felony offenses when committed by an adult, and one or more of such felony offenses involved the use or possession of a firearm or violence against a person.

(c) If a child is charged with, and was 16 years of age or older at the time of the alleged commission of, or attempt to commit:

1. Arson;

2. Sexual battery;

3. Armed robbery;

4. Kidnapping;

5. Aggravated child abuse;

6. Aggravated assault with a firearm;

7. Aggravated stalking;

8. Murder;

9. Manslaughter;

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

11. Armed burglary in violation of s. 810.02(2)(b), specified burglary of a dwelling or structure in violation of s. 810.02(2)(c), or burglary with an assault or battery in violation of s. 810.02(2)(a);

12. Aggravated battery resulting in great bodily harm, permanent disability, or permanent disfigurement;

13. Carrying, displaying, or using or threatening or attempting to use, a weapon or firearm during the commission of a felony;

14. Possessing or discharging any weapon or firearm at a school-sponsored event or on school property in violation of s. 790.115;

15. Home-invasion robbery; or

16. Carjacking.

(2) TRANSFER PROCEDURE.—

(a) After considering the recommendation of the juvenile probation officer, but before an adjudicatory hearing, the state attorney may file a motion requesting the court to transfer a child to adult court for criminal prosecution within 7 business days after the date a petition alleging that the child has committed a delinquent act or violation of law is filed, or later with the approval of the court.

(b) After the filing of the motion of the state attorney, a summons must be issued and served pursuant to s. 985.319. A copy of the motion and a copy of the delinquency petition, if not already served, must be attached to the summons.

(c) The court shall conduct a hearing on all transfer request motions for the purpose of determining whether a child should be transferred. In making its determination, the court shall consider:

1. The seriousness of the alleged offense and whether the safety of the community would be best served by juvenile or adult sanctions.

2. Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

3. The extent of the child's alleged participation or role in the offense.

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

5. Whether the alleged offense was against persons or against property, with greater weight given to offenses against persons, especially if personal injury resulted from the alleged offense.

6. The probable cause as found in the report, affidavit, or complaint.

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

a. The age, intellectual capacity, and mental and emotional health at the time of the alleged offense.

b. The background, including his or her family, home, and community environment.

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

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

e. Any history of abuse, abandonment, or neglect suffered by the child; foster care placements; failed adoption; fetal alcohol syndrome; exposure to controlled substances at or before birth; and below-average intellectual functioning.

f. If the child has been identified as having a disability.

g. If the child has previously received mental health services or treatment.

8. The court record and criminal history of the child, including:

a. Previous contacts with the department, the Department of Corrections, law enforcement agencies, the courts, the former Department of Health and Rehabilitative Services, and the Department of Children and Families, and the adequacy and appropriateness of the services provided to address the child's needs.

b. Previous periods of probation.

c. Previous adjudications that the child committed a delinquent act or violation of law, with greater weight given if the child has previously been found by a court to have committed a delinquent act or violation of law involving an offense classified as a felony or if the child has been found twice previously to have committed a delinquent act or violation of law involving an offense classified as a misdemeanor.

d. Previous commitments to institutions, and the adequacy and appropriateness of the services provided by those institutions to address the child's needs.

9. The prospects for adequate protection of the public and the likelihood of reasonable habilitation or rehabilitation of the child, if the child is found to have committed the alleged offense, by the use of procedures, services, and facilities currently available to the court.

(d) Before a hearing on the transfer request motion by the state attorney, an authorized agent of the department must submit to the court a written study and report that are relevant to the factors identified in paragraph (c). At the hearing, the child, the child's parent or guardian or legal custodian, the child's counsel, and the state attorney have the right to examine and to question the parties responsible for the study

and report. There is a rebuttable presumption that the case will remain in juvenile court unless the state proves by clear and convincing evidence that a transfer to adult court is necessary.

(e) The court shall also consider any other reports that may assist it, including, but not limited to, a predisposition report, psychosocial assessment, individualized education plan, developmental assessment, school record, abuse or neglect report, home study, protective investigation, and psychological or psychiatric evaluation. At the hearing, the child, the child's parent or guardian or legal custodian, the child's counsel, and the state attorney have the right to examine and to question the parties responsible for these records.

(f) Any order to transfer a child for criminal prosecution must be in writing and must consider, and find facts with respect to, the factors identified in paragraph (c). The order must also include a specific finding of fact concerning the reasons that led the court to transfer the case for adult prosecution. The order is reviewable on appeal pursuant to s. 985.534 and the Florida Rules of Appellate Procedure.

(3) WAIVER LIMITATION.—Notwithstanding any provision to the contrary, a child who may be subject to a waiver of juvenile court jurisdiction under subsection (1) and who has a competency hearing pending in juvenile court, or has been previously found to be incompetent and has not been restored to competency by a court, may not be transferred to adult court for criminal prosecution.

(4) EFFECT OF ORDER WAIVING JURISDICTION.—When a child's case is transferred for criminal prosecution as an adult, the court may transfer and certify to the adult circuit court all

related felony cases pertaining to the child which have not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. If the child is acquitted of all charged offenses or lesser included offenses contained in the original case transferred to adult court, any felony case that was transferred to adult court under this subsection carries the same penalties that it carried before being transferred to adult court.

(5) DATA COLLECTION RELATING TO JUDICIAL WAIVER.—

(a) The department shall collect data regarding children who meet the requirements for a waiver of juvenile court jurisdiction under subsection (1), including, but not limited to, the following:

1. Age.

2. Race and ethnicity.

3. Gender.

4. Circuit and county of residence.

5. Circuit and county of offense.

6. Previous adjudicated offenses.

7. Previous periods of probation.

8. Previous contacts with law enforcement agencies or the courts.

9. Initial charges.

10. Charges at disposition.

11. Whether adult codefendants were involved.

12. Whether child codefendants were involved who were transferred to adult court.

13. Whether the child was represented by counsel.

14. Whether the child waived counsel.

15. Risk assessment and Positive Achievement Change Tool score.

16. The child's medical, mental health, substance abuse, or trauma history.

17. The child's history of physical or mental impairment or disability-related accommodations.

18. The child's history of abuse or neglect.

19. The child's history of foster care placements, including the number of previous placements.

20. Whether the child has experienced a failed adoption.

21. Whether the child has fetal alcohol syndrome or was exposed to controlled substances at birth.

22. Whether the child has below-average intellectual functioning or is eligible for exceptional student education services.

23. Whether the child has received mental health services or treatment.

24. Whether the child has been the subject of a children-in-need-of-services or families-in-need-of-services case in the program administered under chapter 984 or has been the subject of a dependency petition.

25. Plea offers made by the state and the outcome of any plea offers.

26. Whether the child was transferred for criminal prosecution as an adult.

27. The case resolution in juvenile court.

28. The case resolution in adult court.

(b) When a child is transferred for criminal prosecution as an adult, the department shall also collect disposition data,

including, but not limited to, whether the child received adult sanctions, juvenile sanctions, diversion, and, if the child is sentenced to prison, the length of the prison sentence or enhanced sentence.

(c) The department shall annually provide a report analyzing these aggregated data to the President of the Senate and the Speaker of the House of Representatives.

Section 3. Section 985.557, Florida Statutes, is repealed.

Section 4. Section 985.56, Florida Statutes, is amended to read:

985.56 Indictment of a juvenile.—

(1) A child who is 16 years of age or older ~~of any age~~ who is charged with a violation of state law punishable by death or by life imprisonment is subject to the jurisdiction of the court as set forth in s. 985.0301(2) unless and until an indictment on the charge is returned by the grand jury. When the ~~such~~ indictment is returned, the petition for delinquency, if any, must be dismissed and the child must be tried and handled in every respect as an adult:

(a) On the offense punishable by death or by life imprisonment; and

(b) On all other felonies or misdemeanors charged in the indictment which are based on the same act or transaction as the offense punishable by death or by life imprisonment or on one or more acts or transactions connected with the offense punishable by death or by life imprisonment.

(2) An adjudicatory hearing may not be held until 21 days after the child is taken into custody and charged with having committed an offense punishable by death or by life

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imprisonment, unless the state attorney advises the court in writing that he or she does not intend to present the case to the grand jury, or has presented the case to the grand jury and the grand jury has not returned an indictment. If the court receives such a notice from the state attorney, or if the grand jury fails to act within the 21-day period, the court may proceed as otherwise authorized under this part.

~~(3) If the child is found to have committed the offense punishable by death or by life imprisonment, the child shall be sentenced as an adult. If the juvenile is not found to have committed the indictable offense but is found to have committed a lesser included offense or any other offense for which he or she was indicted as a part of the criminal episode, the court may sentence under s. 985.565.~~

~~(4)(a) Once a child has been indicted pursuant to this section and has been found to have committed any offense for which he or she was indicted as a part of the criminal episode, the child shall be handled thereafter in every respect as if an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.565.~~

(3) ~~(b)~~ When a child has been indicted pursuant to this section, the court may ~~shall immediately~~ transfer and certify to the adult circuit court all related felony cases pertaining to the child, for prosecution of the child as an adult, which have not yet resulted in a plea of guilty or nolo contendere or in which a finding of guilt has not been made. If the child is acquitted of all charged offenses or lesser included offenses contained in the indictment case, any ~~all~~ felony cases that were transferred to adult court pursuant to this subsection carry

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~~paragraph shall be subject to~~ the same penalties the ~~such~~ cases carried ~~were subject to~~ before being transferred to adult court.

Section 5. Section 985.565, Florida Statutes, is amended to read:

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

(1) POWERS OF DISPOSITION.—

(a) A child who is found to have committed a violation of law may, as an alternative to adult dispositions, be committed to the department for treatment in an appropriate program for children outside the adult correctional system or be placed on juvenile probation.

(b) In determining whether to impose juvenile or ~~sanctions instead of~~ adult sanctions, the court shall consider the following criteria:

1. The seriousness of the offense to the community and whether the community would best be protected by juvenile or adult sanctions.

2. The extent of the child's participation in the offense ~~Whether the offense was committed in an aggressive, violent, premeditated, or willful manner~~.

3. The effect, if any, of familial or peer pressure on the child's actions ~~Whether the offense was against persons or against property, with greater weight being given to offenses against persons, especially if personal injury resulted~~.

4. The sophistication and maturity of the child, including: ~~offender.~~

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

b. The child's background, including his or her family, home, and community environment.

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

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

5. The record and previous history of the child ~~offender~~, including:

a. Previous contacts with the Department of Corrections, the Department of Juvenile Justice, the former Department of Health and Rehabilitative Services, and the Department of Children and Families, and the adequacy and appropriateness of the services provided to address the child's needs ~~law enforcement agencies, and the courts~~.

b. Prior periods of probation.

c. Prior adjudications that the offender committed a delinquent act or violation of law as a child.

d. Prior commitments to the Department of Juvenile Justice, law enforcement agencies, the courts, the former Department of Health and Rehabilitative Services, the Department of Children and Families, or other facilities or institutions and the adequacy and appropriateness of the services provided to address the child's needs.

e. Any history of abuse, abandonment, or neglect suffered by the child; foster care placements; failed adoption; fetal alcohol syndrome; exposure to controlled substances at birth; and below-average intellectual functioning.

f. If the child has been identified as having a disability

or having previously received mental health services or treatment.

6. The prospects for adequate protection of the public and the likelihood of deterrence and reasonable rehabilitation of the offender if assigned to services and facilities of the Department of Juvenile Justice.

~~7. Whether the Department of Juvenile Justice has appropriate programs, facilities, and services immediately available.~~

7.~~8.~~ Whether adult sanctions would provide more appropriate punishment and deterrence to further violations of law than the imposition of juvenile sanctions.

8. Whether the Department of Corrections has appropriate programs, facilities, and services immediately available.

(c) The adult court shall render an order including specific findings of fact and the reasons for its decision. The order shall be reviewed on appeal under s. 985.534 and the Florida Rules of Appellate Procedure.

(2) PRESENTENCE INVESTIGATION REPORT.—

(a) Upon a plea of guilty, the court may refer the case to the department for investigation and recommendation as to the suitability of its programs for the child.

(b) Upon completion of the presentence investigation report, it must be made available to the child's counsel and the state attorney by the department prior to the sentencing hearing.

(3) SENTENCING HEARING.—

(a) At the sentencing hearing the court shall receive and consider a presentence investigation report by the Department of

Corrections regarding the suitability of the offender for disposition as an adult or as a juvenile. The presentence investigation report must include a comments section prepared by the Department of Juvenile Justice, with its recommendations as to disposition. This report requirement may be waived by the offender.

(b) After considering the presentence investigation report, the court shall give all parties present at the hearing an opportunity to comment on the issue of sentence and any proposed rehabilitative plan. Parties to the case include the parent, guardian, or legal custodian of the offender; the offender's counsel; the state attorney; representatives of the Department of Corrections and the Department of Juvenile Justice; the victim or victim's representative; representatives of the school system; and the law enforcement officers involved in the case.

(c) The court may receive and consider any other relevant and material evidence, including other reports, written or oral, in its effort to determine the action to be taken with regard to the child, and may rely upon such evidence to the extent of its probative value even if the evidence would not be competent in an adjudicatory hearing. The court may receive, and shall consider if it receives, a prior predisposition report, psychosocial assessment, individual education plan, developmental assessment, school record, abuse or neglect report, home study, protective investigation, and psychological or psychiatric evaluation. The child; the child's parent, guardian, or legal custodian; the child's counsel; and the state attorney have the right to examine these records and to question the parties responsible for them at the hearing.

(d) The court shall notify any victim of the offense of the hearing and shall notify, or subpoena if appropriate, the parents, guardians, or legal custodians of the child to attend the disposition hearing.

(4) SENTENCING ALTERNATIVES.—

(a) *Sanctions.*—If a child has been transferred for criminal prosecution as an adult and is found to have committed a violation of state law, the court may sentence the child as follows:

1. As an adult, except that mandatory minimum sentences do not apply;

2. As a youthful offender under chapter 958; or

3. As a juvenile under this section. ~~*Adult sanctions.*—~~

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

~~a. As an adult;~~

~~b. Under chapter 958; or~~

~~c. As a juvenile under this section.~~

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

~~a. As an adult;~~

~~b. Under chapter 958; or~~

~~c. As a juvenile under this section.~~

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

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

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

(b) *Court findings.*—The court must set forth specific findings or discuss the criteria in this section as the basis for its decision to impose adult, youthful offender, or juvenile sanctions. ~~*Juvenile sanctions.*—For juveniles transferred to adult court but who do not qualify for such transfer under s. 985.556(3) or s. 985.557(2)(a) or (b), the court may impose juvenile sanctions under this paragraph. If juvenile sentences are imposed, the court shall, under this paragraph, adjudge the child to have committed a delinquent act. Adjudication of delinquency shall not be deemed a conviction, nor shall it operate to impose any of the civil disabilities ordinarily~~

~~resulting from a conviction. The court shall impose an adult sanction or a juvenile sanction and may not sentence the child to a combination of adult and juvenile punishments. An adult sanction or a juvenile sanction may include enforcement of an order of restitution or probation previously ordered in any juvenile proceeding. However, if the court imposes a juvenile sanction and the department determines that the sanction is unsuitable for the child, the department shall return custody of the child to the sentencing court for further proceedings, including the imposition of adult sanctions. Upon adjudicating a child delinquent under subsection (1), the court may:~~

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

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

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

(c) *Restitution.*—When a child has been transferred for criminal prosecution as an adult and has been found to have committed a violation of state law, the disposition of the case

may include the enforcement of any restitution ordered in any juvenile proceeding ~~*Adult sanctions upon failure of juvenile sanctions.*—If a child proves not to be suitable to a commitment program, juvenile probation program, or treatment program under paragraph (b), the department shall provide the sentencing court with a written report outlining the basis for its objections to the juvenile sanction and shall simultaneously provide a copy of the report to the state attorney and the defense counsel. The department shall schedule a hearing within 30 days. Upon hearing, the court may revoke the previous adjudication, impose an adjudication of guilt, and impose any sentence which it may lawfully impose, giving credit for all time spent by the child in the department. The court may also classify the child as a youthful offender under s. 958.04, if appropriate. For purposes of this paragraph, a child may be found not suitable to a commitment program, community control program, or treatment program under paragraph (b) if the child commits a new violation of law while under juvenile sanctions, if the child commits any other violation of the conditions of juvenile sanctions, or if the child's actions are otherwise determined by the court to demonstrate a failure of juvenile sanctions.~~

(d) *Juvenile sanctions.*—If a juvenile sentence is imposed, the court shall adjudge the child to have committed a delinquent act. Adjudication of delinquency is not a conviction and does not impose any civil disability that ordinarily results from a conviction. A juvenile sanction may include enforcement of an order of restitution or probation previously ordered in any juvenile proceeding. Upon adjudicating a child delinquent, the court may do any of the following:

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

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

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

(e)~~(d)~~ *Further proceedings heard in adult court.*—When a child is sentenced to juvenile sanctions, further proceedings involving those sanctions shall continue to be heard in the adult court.

(f)~~(e)~~ *School attendance.*—If the child is attending or is eligible to attend public school and the court finds that the victim or a sibling of the victim in the case is attending or may attend the same school as the child, the court placement order shall include a finding pursuant to the proceeding described in s. 985.455(2), regardless of whether adjudication is withheld.

(g) *Legislative intent.*—It is the intent of the Legislature that the criteria and guidelines in this subsection are mandatory and that a determination of disposition under this

subsection is subject to the right of the child to appellate review under s. 985.534.

Section 6. Subsection (1) of section 985.57, Florida Statutes, is amended to read:

985.57 Transfer of children from the Department of Corrections to the Department of Juvenile Justice.—

(1) When any child under the age of 18 years is sentenced by any court of competent jurisdiction to the Department of Corrections, the Secretary of Juvenile Justice shall ~~may~~ transfer the ~~such~~ child to the department to serve the ~~for the remainder of the~~ sentence~~,~~ or until his or her 21st birthday, whichever results in the shorter term. If, upon such person's attaining his or her 21st birthday, the sentence has not terminated, he or she shall be transferred to the Department of Corrections for placement in a youthful offender program, transferred to the supervision of the department, or be given any other transfer that may lawfully be made.

Section 7. Subsection (54) of section 985.03, Florida Statutes, is amended to read:

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

(54) "Waiver hearing" means a hearing provided for under s. 985.556~~(4)~~.

Section 8. Subsection (2) of section 985.04, Florida Statutes, is amended to read:

985.04 Oaths; records; confidential information.—

(2) Notwithstanding any other provisions of this chapter, the name, photograph, address, and crime or arrest report of a child:

(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;

(b) Found by a court to have committed three or more violations of law which, if committed by an adult, would be misdemeanors; or

(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~~

~~(c) Transferred to the adult system but sentenced to the juvenile system under s. 985.565~~

may ~~shall~~ not be considered confidential and exempt from s. 119.07(1) solely because of the child's age.

Section 9. Subsection (1) of section 985.15, Florida Statutes, is amended to read:

985.15 Filing decisions.—

(1) The state attorney may in all cases take action independent of the action or lack of action of the juvenile probation officer and shall determine the action that is in the best interest of the public and the child. If the child meets the criteria authorizing ~~requiring~~ prosecution as an adult under s. 985.556, the state attorney may ~~shall~~ request the court to transfer and certify the child for prosecution as an adult ~~or shall provide written reasons to the court for not making such a request~~. In all other cases, the state attorney may:

(a) File a petition for dependency;

(b) File a petition under chapter 984;

(c) File a petition for delinquency;

(d) File a petition for delinquency with a motion to transfer and certify the child for prosecution as an adult;

~~(e) File an information under s. 985.557;~~

(e)~~(f)~~ Refer the case to a grand jury;

(f)~~(g)~~ Refer the child to a diversionary, pretrial intervention, arbitration, or mediation program, or to some other treatment or care program if such program commitment is voluntarily accepted by the child or the child's parents or legal guardian; or

(g)~~(h)~~ Decline to file.

Section 10. This act shall take effect July 1, 2015.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23/15
Meeting Date

1082
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Juvenile Justice

Name Alice Vickers

Job Title Attorney

Address 623 Beard St.
Street

Tallahassee FL 32303
City *State* *Zip*

Phone 850 556-3121

Email alicevickers@flacp.org

Speaking: ☑ For ☐ Against ☐ Information

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

Representing & Legal Needs of Children Committee of Florida Bar
Public Interest Law Section of Florida Bar

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)

March 23, 2015
Meeting Date

1082
Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Hon. Carlos Martinez

Job Title P.D., 11th Circuit, Miami-Dade

Address 1320 NW 14th Street
Street

Phone 305.545.1600

Miami FL 33125
City *State* *Zip*

Email cmartinez@pdmiami.com

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.

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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)

3/23/2015
Meeting Date

SB1082
Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Cathy Craig-Myers

Job Title Executive Director

Address 3333 W. Pensacola Street, Suite 240
Street

Phone 850-294-9960

Tallahassee FI 32304
City *State* *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.

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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)

03-23-15
Meeting Date

1082
Bill Number (if applicable)

Topic Juvenile Justice - Children tried as adults

Amendment Barcode (if applicable)

Name Colleen Mackin

Job Title

Address 111 S. Magnolia DR
Street

Tallahassee 32301
City *State* *Zip*

Phone 850-425-2600

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

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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)

3-23-18
Meeting Date

SB 1082
Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Nick Millar

Job Title Director

Address 3302 Dartmoor Dr
Street

Tallahassee
City *State* *Zip*

Phone 850-508-2971

Email nmillar@amikids.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing AMIkids

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23/15
Meeting Date

1082
Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Ingrid Delgado

Job Title Associate for Social Concerns & Respect Life

Address 201 W Park Ave
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 Conference of Catholic Bishops

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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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)

3-23-15
Meeting Date

1082
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Juvenile Justice

Name Christina Spudeas

Job Title Executive Director

Address 1801 N. University Drive, Ste 325
Street
Coral Springs, FL. 33071
City *State* *Zip*

Phone 954-796-0860

Email Christina.Spudeas@floridaschildrenfirst.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida's Children First

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)

3-23-15
Meeting Date

SB 1082
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Juvenile Justice

Name Anne Williams

Job Title Mother

Address 4835 Andrade
Street

Pensacola, Florida 32504
City *State* *Zip*

Phone 850-437-9499

Email AWILRN@aol.com

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

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

Representing Self

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23/15
Meeting Date

1082
Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Tania Galloni

Job Title Director - Florida Office / Southern Poverty Law Center

Address 4770 Biscayne Blvd., Ste 760
Street

Phone (786)347-2056

Miami FL 33137
City *State* *Zip*

Email tania.galloni@splcenter.org

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

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

Representing Southern Poverty Law Center

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23/15
Meeting Date

1082
Bill Number (if applicable)

Topic Juvenile Justice/Direct Filing

Amendment Barcode (if applicable)

Name Samantha Sexton

Job Title Associate Director of Government Affairs

Address One W. Adams St. #301
Street

Phone 904-383-9403

Jacksonville FL 32202
City *State* *Zip*

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.

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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)

3-23-15
Meeting Date

SB 1082
Bill Number (if applicable)

Topic Direct file

Amendment Barcode (if applicable)

Name Travis Keels

Job Title Director of Public Affairs

Address 100 North Duval
Street

Phone 904-571-1450

Tallahassee FL 32301
City *State* *Zip*

Email tkeels@jamesmadison.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The James Madison Institute

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)

3/23/15
Meeting Date

1082
Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Alice Vickers

Job Title Attorney

Address 623 Beard St.
Street

Tallahassee FL 32303
City *State* *Zip*

Phone 850 556 3121

Email alice.vickers@flacp.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Bar Public Interest Law Section

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23/15
Meeting Date

SB 1082
Bill Number (if applicable)

Topic Juveniles

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

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23
Meeting Date

SB 1082
Bill Number (if applicable)

Topic SB 1082

Amendment Barcode (if applicable)

Name Alba Morales

Job Title Researcher, Human Rights Watch

Address _____ Phone _____
Street

_____ Email moralea@hrw.org
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Human Rights Watch

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23
Meeting Date

1082
Bill Number (if applicable)

Topic SB 1082

Amendment Barcode (if applicable)

Name Veronica Lizmia

Job Title attorney

Address _____ Phone _____
Street

_____ Email _____
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3.23.2015
Meeting Date

1082
Bill Number (if applicable)

Topic Direct File / Juvenile Justice

Amendment Barcode (if applicable)

Name Carlos Hernandez

Job Title

Address 10536 Villa View Circle
Street

Phone 8134953170

Tampa FL 33647
City *State* *Zip*

Email Chernan1340@Gmail.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Self - for family

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)

3/23/15
Meeting Date

1082
Bill Number (if applicable)

Topic Juvenile Dual File

Amendment Barcode (if applicable)

Name Wansley Walters

Job Title Former Secretary of DJJ

Address 121 N Monroe St #7006
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 305 333 1469

Email WanGlyn@gmail.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Myself

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)

3/23/15
Meeting Date

1082
Bill Number (if applicable)

Topic Direct File

Amendment Barcode (if applicable)

Name Buddy Jacobs

Job Title General Counsel FLa. Prosecuting Attys, Assoc.

Address 961687 Gateway Blvd. Suite 201-i
Street

Phone 904-261-3693

Fernandina Bch, FL
City *State* *Zip*

Email

Speaking: ☐ For ☑ Against ☐ Information

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

Representing State Attorneys of FLa.

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)

Meeting Date

1082
Bill Number (if applicable)

Topic Jury Divert File

Amendment Barcode (if applicable)

Name Rep Ray Pilon

Job Title House Member Co-Prime Sponsor of House Companion

Address
Street

Phone

City State Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Waiver

Representing Self

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

Tallahassee, Florida 32399-1100

COMMITTEES:
Military and Veterans Affairs, Space, and Domestic Security, *Chair*
Children, Families, and Elder Affairs, *Vice-Chair*
Appropriations
Appropriations Subcommittee on General Government
Environmental Preservation and Conservation
Finance and Tax

SENATOR THAD ALTMAN
16th District

March 3, 2015

The Honorable Greg Evers
Senate Committee on Criminal Justice, Chair
510 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Evers:

I respectfully request that SB 1082, related to *Juvenile Justice*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

Thad Altman

CC: Amanda Cannon, Staff Director, 510 Knott Building
Sue Arnold, Committee Administrative Assistant

TA/svb

REPLY TO:
☐ 8710 Astronaut Blvd, Cape Canaveral, FL 32920 (321) 752-3138
☐ 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

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:	CS/SB 1098
INTRODUCER:	Criminal Justice Committee and Senator Bradley
SUBJECT:	Controlled Substances
DATE:	March 24, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	**Fav/CS**
2.			ACJ	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1098 places several synthetic cannabinoids in Schedule I of the controlled substance schedules. As a result of this scheduling, a person who possesses, purchases, delivers, sells, manufactures, or brings into this state any of these substances may be subject to criminal prosecution and punishment.

II. Present Situation:

Schedule I Controlled Substances

A substance is a "controlled substance" if it is listed in any of five schedules in s. 893.03, F.S. The particular scheduling determines penalties, which penalties may be imposed for unlawful possession, sale, etc., and the conditions under which the substance can be legally possessed, prescribed, sold, etc. Relevant to the bill, a substance in Schedule I is considered to have a high potential for abuse[1] and no currently accepted medical use in treatment in the United States and, in its use under medical supervision, does not meet accepted safety standards.[2]

[1] "Potential for abuse" means that a substance has properties of a central nervous system stimulant or depressant or an hallucinogen that create a substantial likelihood of its being: (a) Used in amounts that create a hazard to the user's health or the safety of the community; (b) Diverted from legal channels and distributed through illegal channels; or (c) Taken on the user's own initiative rather than on the basis of professional medical advice. Section 893.02(20), F.S.

[2] Section 893.03(1), F.S.

Non-Trafficking Controlled Substance Offenses

The bill does not amend s. 893.135, F.S., the drug trafficking statute, to list the synthetic cannabinoids the bill schedules. Therefore, possession, sale, etc., of these substances is subject to criminal penalties under s. 893.13, F.S.[3]

Under the bill, these substances are listed in s. 893.03(1)(c), F.S. (Schedule I(c) of the controlled substance schedules). Delivering, selling, manufacturing, bringing into this state, or possessing with intent to sell, manufacture, or deliver a controlled substance listed in s. 893.03(1)(c), F.S., is a third degree felony.[4] However, if any of these acts are committed within 1,000 feet of certain designated places, the felony degree and penalties are greater.[5] For example, selling a controlled substance listed in s. 893.03(1)(c), F.S., within 1,000 feet of the real property of a child care facility or secondary school is a second degree felony.[6]

Possessing, purchasing, or possessing with intent to purchase, a controlled substance listed in s. 893.13(1)(c), F.S., is a third degree felony.[7]

Synthetic Cannabinoids

"Synthetic Cannabinoids are chemicals that act as cannabinoid receptor agonists. Chemically they are not similar to cannabinoids but the term 'Synthetic Cannabinoids' or 'Cannabinomimetics' is widely used to refer to them as they are cannabinoid-like in their activity."[8]

The Florida Department of Law Enforcement (FDLE) has provided the following information relevant to the synthetic cannabinoids that the bill schedules:

> Florida law enforcement has noted the emergence of new chemical variants of several substances included in the most recent revisions to Section 893.03(1)(c), Florida Statutes, which became effective in June 2014. Although technically different from currently scheduled substances, these substances are generally classifiable as synthetic cannabinoids. These substances are being abused because they are ostensibly legal and oftentimes perceived as a safer alternative to illegal drugs such as marijuana. In many cases they are more dangerous and are commonly available over the Internet. These

[3] Section 893.13(9), F.S., provides an exception to the unlawful acts specified in s. 893.13(1)-(8), F.S., for delivery to, or actual or constructive possession for medical or scientific use or purpose only of controlled substances by, persons included in classes specified in this subsection, or the agents or employees of those persons, for use in the usual course of their business or profession or in the performance of their official duties.
[4] Section 893.13(1)(a)2., (4)(b), and (5)(b), F.S. A third degree felony is punishable by up to 5 years in state prison, a fine of up to $5,000, or both. Sections 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. Section 775.082(10), F.S.
[5] Section 893.13(1)(c)-(f) and (h), F.S.
[6] Section 893.13(1)(c)2., F.S. A second degree felony is punishable by up to 15 years in state prison, a fine of up to $10,000, or both. Sections 775.082 and 775.083, F.S.
[7] Section 893.13(2)(a)2. and (6)(a), F.S.
[8] "Synthetic Cannabinoid Drug Information," Redwood Toxicology Laboratory, available at https://www.redwoodtoxicology.com/resources/drug_info/synthetic_cannabinoids (last viewed on March 9, 2015).

substances are often purchased in wholesale quantities to be redistributed in specialty smoke shops and convenience stores, making them easily available to Florida's children and young adults. Abuse of these substances presents severe health risks and an immediate danger to the health, safety, and welfare of Florida residents and visitors.

FDLE has received information through recent crime laboratory submissions indicating that the referenced compounds are being inaccurately labeled and marketed as legitimate household products under a variety of pseudo brand names. The products usually contain the disclaimer "not for human consumption", but are sold in specialty smoke shops, over the Internet and in convenience stores for prices that are disproportionally high for the household product they purport to be (up to $110.00 for 10 gram packets). Furthermore, a pattern has emerged in which the distributors of these substances respond to the scheduling of additional controlled substances by introducing new variants with labels on the packaging that claim to conform to the new laws. In response to these trends, the Florida Department of Health issued a press release on July 16, 2013 warning the public about the health risks associated with illicit synthetic substances such as those referenced here. The State Surgeon General and Secretary of Health, Dr. John Armstrong stated, "Illicit synthetic drugs are dangerous to Florida's children, adults and families. These drugs destroy lives, and are threats to public health and safety."[9]

III. Effect of Proposed Changes:

The bill places the following substances in Schedule I of the controlled substance schedules:

- AB-CHMINACA: N-[1-(aminocarbonyl)-2-methylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide;
- FUB-PB-22: Quinolin-8-yl-1-(4-fluorobenzyl)-1H-indole-3-carboxylate;
- Fluoro-NNEI: 1-(Fluoropentyl)-N-(naphthalen-1-yl)-1H-indole-3-carboxamide;
- Fluoro-AMB: Methyl 2-(1-(fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate; and
- THJ-2201: [1-(5-Fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone.

This scheduling will also apply to optical, positional, or geometric isomers, and salts of isomers of any of these substances, if the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.[10]

As a result of this scheduling, a person who possesses, purchases, delivers, sells, manufactures, or brings into this state any of these substances may be subject to criminal prosecution and punishment.

The bill takes effect upon becoming a law.

[9] Analysis of SB 1098 (February 23, 2015), Florida Department of Law Enforcement (on file with the Senate Committee on Criminal Justice). This analysis is further cited as "FDLE Analysis."
[10] Section 893.03(1)(c), 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:

The bill may impact private businesses if they sell a product containing any of the synthetic cannabinoids scheduled by the bill. These businesses would be prohibited from selling products containing any of these substances.

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 have a positive insignificant prison bed impact (the bill may increase the Department of Corrections' prison bed population by 10 or fewer beds annually).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 893.03 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes to incorporate the amendment made to s. 893.03, F.S., in references to that statute: 39.01, 316.193, 322.2616, 327.35, 440.102, 458.3265, 459.0137, 782.04, 893.0356, 893.05, 893.12, 893.13, 893.135, and 921.0022.

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 March 23, 2015:

- Corrects chemical nomenclature used to describe two scheduled synthetic cannabinoids; and
- Changes the effective date.

B. Amendments:

None.

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

240386

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2015	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 306 - 308
and insert:
179. Fluoro-AMB: Methyl 2-(1-(fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate.
180. THJ-2201: [1-(5-Fluoropentyl)-1H-indazol-3-yl](naphthalen-1-

207936

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2015	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 1217

and insert:

Section 16. This act shall take effect upon becoming a law.

By Senator Bradley

7-01010A-15 20151098__

A bill to be entitled

An act relating to controlled substances; amending s. 893.03, F.S.; adding certain substances to the Schedule I list of controlled substances; reenacting ss. 39.01(30)(a) and (g), 316.193(5), 322.2616(2)(c), 327.35(5), 440.102(11)(b), 458.3265(1)(e), 459.0137(1)(e), 782.04(1)(a) and (4), 893.0356(2)(a) and (5), 893.05(1), 893.12(2)(b),(c), and (d), 893.13(1)(a), (c), (d), (e), (f), and (h), (2)(a), (4)(b), (5)(b), and (7)(a), 893.135(1)(k) and (l), and 921.0022(3)(b), (c), and (e), F.S., relating to the definitions used in ch. 39, F.S., driving under the influence, suspension of driver licenses, boating under the influence, drug-free workplace programs, pain-management clinics, murder, controlled substance analogs, practitioners and persons administering controlled substances in their absence, contraband seizure and forfeiture, controlled substance offenses, offenses involving trafficking in controlled substances, and the offense severity ranking chart of the Criminal Punishment Code, respectively, to incorporate the amendment made to s. 893.03, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraph (c) of subsection (1) of section 893.03, Florida Statutes, is amended to read:

893.03 Standards and schedules.—The substances enumerated

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in this section are controlled by this chapter. The controlled substances listed or to be listed in Schedules I, II, III, IV, and V are included by whatever official, common, usual, chemical, or trade name designated. The provisions of this section shall not be construed to include within any of the schedules contained in this section any excluded drugs listed within the purview of 21 C.F.R. s. 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt Anabolic Steroid Products."

(1) SCHEDULE I.—A substance in Schedule I has a high potential for abuse and has no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards. The following substances are controlled in Schedule I:

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following hallucinogenic substances or that contains any of their salts, isomers, including optical, positional, or geometric isomers, and salts of isomers, if the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Alpha-ethyltryptamine.

2. 2-Amino-4-methyl-5-phenyl-2-oxazoline (4-methylaminorex).

3. 2-Amino-5-phenyl-2-oxazoline (Aminorex).

4. 4-Bromo-2,5-dimethoxyamphetamine.

5. 4-Bromo-2,5-dimethoxyphenethylamine.
6. Bufotenine.
7. Cannabis.
8. Cathinone.
9. Diethyltryptamine.
10. 2,5-Dimethoxyamphetamine.
11. 2,5-Dimethoxy-4-ethylamphetamine (DOET).
12. Dimethyltryptamine.
13. N-Ethyl-1-phenylcyclohexylamine (PCE) (Ethylamine analog of phencyclidine).
14. N-Ethyl-3-piperidyl benzilate.
15. N-ethylamphetamine.
16. Fenethylline.
17. N-Hydroxy-3,4-methylenedioxyamphetamine.
18. Ibogaine.
19. Lysergic acid diethylamide (LSD).
20. Mescaline.
21. Methcathinone.
22. 5-Methoxy-3,4-methylenedioxyamphetamine.
23. 4-methoxyamphetamine.
24. 4-methoxymethamphetamine.
25. 4-Methyl-2,5-dimethoxyamphetamine.
26. 3,4-Methylenedioxy-N-ethylamphetamine.
27. 3,4-Methylenedioxyamphetamine.
28. N-Methyl-3-piperidyl benzilate.
29. N,N-dimethylamphetamine.
30. Parahexyl.
31. Peyote.
32. N-(1-Phenylcyclohexyl)-pyrrolidine (PCPY) (Pyrrolidine analog of phencyclidine).
33. Psilocybin.
34. Psilocyn.
35. *Salvia divinorum*, except for any drug product approved by the United States Food and Drug Administration which contains *Salvia divinorum* or its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, if the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation.
36. Salvinorin A, except for any drug product approved by the United States Food and Drug Administration which contains Salvinorin A or its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, if the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation.
37. Tetrahydrocannabinols.
38. 1-[1-(2-Thienyl)-cyclohexyl]-piperidine (TCP) (Thiophene analog of phencyclidine).
39. 3,4,5-Trimethoxyamphetamine.
40. 3,4-Methylenedioxymethcathinone.
41. 3,4-Methylenedioxypyrovalerone (MDPV).
42. Methylmethcathinone.
43. Methoxymethcathinone.
44. Fluoromethcathinone.
45. Methylethcathinone.
46. 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol, also known as CP 47,497 and its dimethyloctyl (C8) homologue.
47. (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-

methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol, also known as HU-210.

48. 1-Pentyl-3-(1-naphthoyl)indole, also known as JWH-018.

49. 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073.

50. 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl) indole, also known as JWH-200.

51. BZP (Benzylpiperazine).

52. Fluorophenylpiperazine.

53. Methylphenylpiperazine.

54. Chlorophenylpiperazine.

55. Methoxyphenylpiperazine.

56. DBZP (1,4-dibenzylpiperazine).

57. TFMPP (3-Trifluoromethylphenylpiperazine).

58. MBDB (Methylbenzodioxolylbutanamine).

59. 5-Hydroxy-alpha-methyltryptamine.

60. 5-Hydroxy-N-methyltryptamine.

61. 5-Methoxy-N-methyl-N-isopropyltryptamine.

62. 5-Methoxy-alpha-methyltryptamine.

63. Methyltryptamine.

64. 5-Methoxy-N,N-dimethyltryptamine.

65. 5-Methyl-N,N-dimethyltryptamine.

66. Tyramine (4-Hydroxyphenethylamine).

67. 5-Methoxy-N,N-Diisopropyltryptamine.

68. DiPT (N,N-Diisopropyltryptamine).

69. DPT (N,N-Dipropyltryptamine).

70. 4-Hydroxy-N,N-diisopropyltryptamine.

71. N,N-Diallyl-5-Methoxytryptamine.

72. DOI (4-Iodo-2,5-dimethoxyamphetamine).

73. DOC (4-Chloro-2,5-dimethoxyamphetamine).

74. 2C-E (4-Ethyl-2,5-dimethoxyphenethylamine).

75. 2C-T-4 (2,5-Dimethoxy-4-isopropylthiophenethylamine).

76. 2C-C (4-Chloro-2,5-dimethoxyphenethylamine).

77. 2C-T (2,5-Dimethoxy-4-methylthiophenethylamine).

78. 2C-T-2 (2,5-Dimethoxy-4-ethylthiophenethylamine).

79. 2C-T-7 (2,5-Dimethoxy-4-(n)-propylthiophenethylamine).

80. 2C-I (4-Iodo-2,5-dimethoxyphenethylamine).

81. Butylone (beta-keto-N-methylbenzodioxolylpropylamine).

82. Ethcathinone.

83. Ethylone (3,4-methylenedioxy-N-ethylcathinone).

84. Naphyrone (naphthylpyrovalerone).

85. N-N-Dimethyl-3,4-methylenedioxycathinone.

86. N-N-Diethyl-3,4-methylenedioxycathinone.

87. 3,4-methylenedioxy-propiophenone.

88. 2-Bromo-3,4-Methylenedioxypropiophenone.

89. 3,4-methylenedioxy-propiophenone-2-oxime.

90. N-Acetyl-3,4-methylenedioxycathinone.

91. N-Acetyl-N-Methyl-3,4-Methylenedioxycathinone.

92. N-Acetyl-N-Ethyl-3,4-Methylenedioxycathinone.

93. Bromomethcathinone.

94. Buphedrone (alpha-methylamino-butyrophenone).

95. Eutylone (beta-Keto-Ethylbenzodioxolylbutanamine).

96. Dimethylcathinone.

97. Dimethylmethcathinone.

98. Pentylone (beta-Keto-Methylbenzodioxolylpentanamine).

99. (MDPPP) 3,4-Methylenedioxy-alpha-pyrrolidinopropiophenone.

100. (MDPBP) 3,4-Methylenedioxy-alpha-pyrrolidinobutiophenone.

101. Methoxy-alpha-pyrrolidinopropiophenone (MOPPP).
102. Methyl-alpha-pyrrolidinohexiophenone (MPHP).
103. Benocyclidine (BCP) or benzothiophenylcyclohexylpiperidine (BTCP).
104. Fluoromethylaminobutyrophenone (F-MABP).
105. Methoxypyrrolidinobutyrophenone (MeO-PBP).
106. Ethyl-pyrrolidinobutyrophenone (Et-PBP).
107. 3-Methyl-4-Methoxymethcathinone (3-Me-4-MeO-MCAT).
108. Methylethylaminobutyrophenone (Me-EABP).
109. Methylamino-butyrophenone (MABP).
110. Pyrrolidinopropiophenone (PPP).
111. Pyrrolidinobutiophenone (PBP).
112. Pyrrolidinovalerophenone (PVP).
113. Methyl-alpha-pyrrolidinopropiophenone (MPPP).
114. JWH-007 (1-pentyl-2-methyl-3-(1-naphthoyl)indole).
115. JWH-015 (2-Methyl-1-propyl-1H-indol-3-yl)-1-naphthalenylmethanone).
116. JWH-019 (Naphthalen-1-yl-(1-hexylindol-3-yl)methanone).
117. JWH-020 (1-heptyl-3-(1-naphthoyl)indole).
118. JWH-072 (Naphthalen-1-yl-(1-propyl-1H-indol-3-yl)methanone).
119. JWH-081 (4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone).
120. JWH-122 (1-pentyl-3-(4-methyl-1-naphthoyl)indole).
121. JWH-133 ((6aR,10aR)-3-(1,1-Dimethylbutyl)-6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran)).
122. JWH-175 (3-(naphthalen-1-ylmethyl)-1-pentyl-1H-indole).

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

123. JWH-201 (1-pentyl-3-(4-methoxyphenylacetyl)indole).
124. JWH-203 (2-(2-chlorophenyl)-1-(1-pentylindol-3-yl)ethanone).
125. JWH-210 (4-ethylnaphthalen-1-yl-(1-pentylindol-3-yl)methanone).
126. JWH-250 (2-(2-methoxyphenyl)-1-(1-pentylindol-3-yl)ethanone).
127. JWH-251 (2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone).
128. JWH-302 (1-pentyl-3-(3-methoxyphenylacetyl)indole).
129. JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole).
130. HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol).
131. HU-308 ([(1R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl] methanol).
132. HU-331 (3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione).
133. CB-13 (Naphthalen-1-yl-(4-pentyloxynaphthalen-1-yl)methanone).
134. CB-25 (N-cyclopropyl-11-(3-hydroxy-5-pentylphenoxy)-undecanamide).
135. CB-52 (N-cyclopropyl-11-(2-hexyl-5-hydroxyphenoxy)-undecanamide).
136. CP 55,940 (2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-5-(2-methyloctan-2-yl)phenol).
137. AM-694 (1-[(5-fluoropentyl)-1H-indol-3-yl]-(2-

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

iodophenyl)methanone).

138. AM-2201 (1-[(5-fluoropentyl)-1H-indol-3-yl]-(naphthalen-1-yl)methanone).

139. RCS-4 ((4-methoxyphenyl) (1-pentyl-1H-indol-3-yl)methanone).

140. RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-methoxyphenylethanone).

141. WIN55,212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone).

142. WIN55,212-3 ([(3S)-2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone).

143. Pentedrone (2-(methylamino)-1-phenyl-1-pentanone).

144. Fluoroamphetamine.

145. Fluoromethamphetamine.

146. Methoxetamine.

147. Methiopropamine.

148. 4-Methylbuphedrone (2-Methylamino-1-(4-methylphenyl)butan-1-one).

149. APB ((2-aminopropyl)benzofuran).

150. APDB ((2-aminopropyl)-2,3-dihydrobenzofuran).

151. UR-144 ((1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone).

152. XLR11 ((1-(5-fluoropentyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone).

153. (1-(5-chloropentyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone.

154. AKB48 (1-pentyl-N-tricyclo[3.3.1.13,7]dec-1-yl-1H-

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

indazole-3-carboxamide).

155. AM-2233((2-iodophenyl)[1-[(1-methyl-2-piperidinyl)methyl]-1H-indol-3-yl]-methanone).

156. STS-135 (1-(5-fluoropentyl)-N-tricyclo[3.3.1.13,7]dec-1-yl-1H-indole-3-carboxamide).

157. URB-597 ((3'-(aminocarbonyl)[1,1'-biphenyl]-3-yl)-cyclohexylcarbamate).

158. URB-602 ([1,1'-biphenyl]-3-yl-carbamic acid, cyclohexyl ester).

159. URB-754 (6-methyl-2-[(4-methylphenyl)amino]-1-benzoxazin-4-one).

160. 2C-D (2-(2,5-Dimethoxy-4-methylphenyl)ethanamine).

161. 2C-H (2-(2,5-Dimethoxyphenyl)ethanamine).

162. 2C-N (2-(2,5-Dimethoxy-4-nitrophenyl)ethanamine).

163. 2C-P (2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine).

164. 25I-NBOMe (4-iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine).

165. 3,4-Methylenedioxymethamphetamine (MDMA).

166. PB-22 (1-pentyl-8-quinolinyl ester-1H-indole-3-carboxylic acid).

167. 5-Fluoro PB-22 (8-quinolinyl ester-1-(5-fluoropentyl)-1H-indole-3-carboxylic acid).

168. BB-22 (1-(cyclohexylmethyl)-8-quinolinyl ester-1H-indole-3-carboxylic acid).

169. 5-Fluoro AKB48 (N-((3s,5s,7s)-adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide).

170. AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide).

171. AB-FUBINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-

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

(4-fluorobenzyl)-1H-indazole-3-carboxamide).

172. ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide).

173. Fluoro ADBICA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(fluoropentyl)-1H-indole-3-carboxamide).

174. 25B-NBOMe (4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl) methyl]-benzeneethanamine).

175. 2C-C-NBOMe (4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine).

176. AB-CHMINACA: N-[1-(aminocarbonyl)-2-methylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide.

177. FUB-PB-22: Quinolin-8-yl-1-(4-fluorobenzyl)-1H-indole-3-carboxylate.

178. Fluoro-NNEI: 1-(Fluoropentyl)-N-(naphthalen-1-yl)-1H-indole-3-carboxamide.

179. 5-Fluoro-AMB: Methyl 2-(1-(fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate.

180. [1-(5-Fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone.

Section 2. For the purpose of incorporating the amendment made by this act to section 893.03, Florida Statutes, in references thereto, paragraphs (a) and (g) of subsection (30) of section 39.01, Florida Statutes, are reenacted to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(30) "Harm" to a child's health or welfare can occur when any person:

(a) Inflicts or allows to be inflicted upon the child physical, mental, or emotional injury. In determining whether

harm has occurred, the following factors must be considered in evaluating any physical, mental, or emotional injury to a child: the age of the child; any prior history of injuries to the child; the location of the injury on the body of the child; the multiplicity of the injury; and the type of trauma inflicted. Such injury includes, but is not limited to:

1. Willful acts that produce the following specific injuries:

a. Sprains, dislocations, or cartilage damage.

b. Bone or skull fractures.

c. Brain or spinal cord damage.

d. Intracranial hemorrhage or injury to other internal organs.

e. Asphyxiation, suffocation, or drowning.

f. Injury resulting from the use of a deadly weapon.

g. Burns or scalding.

h. Cuts, lacerations, punctures, or bites.

i. Permanent or temporary disfigurement.

j. Permanent or temporary loss or impairment of a body part or function.

As used in this subparagraph, the term "willful" refers to the intent to perform an action, not to the intent to achieve a result or to cause an injury.

2. Purposely giving a child poison, alcohol, drugs, or other substances that substantially affect the child's behavior, motor coordination, or judgment or that result in sickness or internal injury. For the purposes of this subparagraph, the term "drugs" means prescription drugs not prescribed for the child or

not administered as prescribed, and controlled substances as outlined in Schedule I or Schedule II of s. 893.03.

3. Leaving a child without adult supervision or arrangement appropriate for the child's age or mental or physical condition, so that the child is unable to care for the child's own needs or another's basic needs or is unable to exercise good judgment in responding to any kind of physical or emotional crisis.

4. Inappropriate or excessively harsh disciplinary action that is likely to result in physical injury, mental injury as defined in this section, or emotional injury. The significance of any injury must be evaluated in light of the following factors: the age of the child; any prior history of injuries to the child; the location of the injury on the body of the child; the multiplicity of the injury; and the type of trauma inflicted. Corporal discipline may be considered excessive or abusive when it results in any of the following or other similar injuries:

a. Sprains, dislocations, or cartilage damage.

b. Bone or skull fractures.

c. Brain or spinal cord damage.

d. Intracranial hemorrhage or injury to other internal organs.

e. Asphyxiation, suffocation, or drowning.

f. Injury resulting from the use of a deadly weapon.

g. Burns or scalding.

h. Cuts, lacerations, punctures, or bites.

i. Permanent or temporary disfigurement.

j. Permanent or temporary loss or impairment of a body part or function.

k. Significant bruises or welts.

(g) Exposes a child to a controlled substance or alcohol. Exposure to a controlled substance or alcohol is established by:

1. A test, administered at birth, which indicated that the child's blood, urine, or meconium contained any amount of alcohol or a controlled substance or metabolites of such substances, the presence of which was not the result of medical treatment administered to the mother or the newborn infant; or

2. Evidence of extensive, abusive, and chronic use of a controlled substance or alcohol by a parent when the child is demonstrably adversely affected by such usage.

As used in this paragraph, the term "controlled substance" means prescription drugs not prescribed for the parent or not administered as prescribed and controlled substances as outlined in Schedule I or Schedule II of s. 893.03.

Section 3. For the purpose of incorporating the amendment made by this act to section 893.03, Florida Statutes, in a reference thereto, subsection (5) of section 316.193, Florida Statutes, is reenacted to read:

316.193 Driving under the influence; penalties.—

(5) The court shall place all offenders convicted of violating this section on monthly reporting probation and shall require completion of a substance abuse course conducted by a DUI program licensed by the department under s. 322.292, which must include a psychosocial evaluation of the offender. If the DUI program refers the offender to an authorized substance abuse treatment provider for substance abuse treatment, in addition to any sentence or fine imposed under this section, completion of

all such education, evaluation, and treatment is a condition of reporting probation. The offender shall assume reasonable costs for such education, evaluation, and treatment. The referral to treatment resulting from a psychosocial evaluation shall not be waived without a supporting independent psychosocial evaluation conducted by an authorized substance abuse treatment provider appointed by the court, which shall have access to the DUI program's psychosocial evaluation before the independent psychosocial evaluation is conducted. The court shall review the results and recommendations of both evaluations before determining the request for waiver. The offender shall bear the full cost of this procedure. The term "substance abuse" means the abuse of alcohol or any substance named or described in Schedules I through V of s. 893.03. If an offender referred to treatment under this subsection fails to report for or complete such treatment or fails to complete the DUI program substance abuse education course and evaluation, the DUI program shall notify the court and the department of the failure. Upon receipt of the notice, the department shall cancel the offender's driving privilege, notwithstanding the terms of the court order or any suspension or revocation of the driving privilege. The department may temporarily reinstate the driving privilege on a restricted basis upon verification from the DUI program that the offender is currently participating in treatment and the DUI education course and evaluation requirement has been completed. If the DUI program notifies the department of the second failure to complete treatment, the department shall reinstate the driving privilege only after notice of completion of treatment from the DUI program. The organization that conducts the

substance abuse education and evaluation may not provide required substance abuse treatment unless a waiver has been granted to that organization by the department. A waiver may be granted only if the department determines, in accordance with its rules, that the service provider that conducts the substance abuse education and evaluation is the most appropriate service provider and is licensed under chapter 397 or is exempt from such licensure. A statistical referral report shall be submitted quarterly to the department by each organization authorized to provide services under this section.

Section 4. For the purpose of incorporating the amendment made by this act to section 893.03, Florida Statutes, in a reference thereto, paragraph (c) of subsection (2) of section 322.2616, Florida Statutes, is reenacted to read:

322.2616 Suspension of license; persons under 21 years of age; right to review.—

(2)

(c) When a driver subject to this section has a blood-alcohol or breath-alcohol level of 0.05 or higher, the suspension shall remain in effect until such time as the driver has completed a substance abuse course offered by a DUI program licensed by the department. The driver shall assume the reasonable costs for the substance abuse course. As part of the substance abuse course, the program shall conduct a substance abuse evaluation of the driver, and notify the parents or legal guardians of drivers under the age of 19 years of the results of the evaluation. The term "substance abuse" means the abuse of alcohol or any substance named or described in Schedules I through V of s. 893.03. If a driver fails to complete the

substance abuse education course and evaluation, the driver license shall not be reinstated by the department.

Section 5. For the purpose of incorporating the amendment made by this act to section 893.03, Florida Statutes, in a reference thereto, subsection (5) of section 327.35, Florida Statutes, is reenacted to read:

327.35 Boating under the influence; penalties; "designated drivers."—

(5) In addition to any sentence or fine, the court shall place any offender convicted of violating this section on monthly reporting probation and shall require attendance at a substance abuse course specified by the court; and the agency conducting the course may refer the offender to an authorized service provider for substance abuse evaluation and treatment, in addition to any sentence or fine imposed under this section. The offender shall assume reasonable costs for such education, evaluation, and treatment, with completion of all such education, evaluation, and treatment being a condition of reporting probation. Treatment resulting from a psychosocial evaluation may not be waived without a supporting psychosocial evaluation conducted by an agency appointed by the court and with access to the original evaluation. The offender shall bear the cost of this procedure. The term "substance abuse" means the abuse of alcohol or any substance named or described in Schedules I-V of s. 893.03.

Section 6. For the purpose of incorporating the amendment made by this act to section 893.03, Florida Statutes, in a reference thereto, paragraph (b) of subsection (11) of section 440.102, Florida Statutes, is reenacted to read:

440.102 Drug-free workplace program requirements.—The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(11) PUBLIC EMPLOYEES IN MANDATORY-TESTING OR SPECIAL-RISK POSITIONS.—

(b) An employee who is employed by a public employer in a special-risk position may be discharged or disciplined by a public employer for the first positive confirmed test result if the drug confirmed is an illicit drug under s. 893.03. A special-risk employee who is participating in an employee assistance program or drug rehabilitation program may not be allowed to continue to work in any special-risk or mandatory-testing position of the public employer, but may be assigned to a position other than a mandatory-testing position or placed on leave while the employee is participating in the program. However, the employee shall be permitted to use any accumulated annual leave credits before leave may be ordered without pay.

Section 7. For the purpose of incorporating the amendment made by this act to section 893.03, Florida Statutes, in a reference thereto, paragraph (e) of subsection (1) of section 458.3265, Florida Statutes, is reenacted to read:

458.3265 Pain-management clinics.—

(1) REGISTRATION.—

(e) The department shall deny registration to any pain-management clinic owned by or with any contractual or employment relationship with a physician:

1. Whose Drug Enforcement Administration number has ever been revoked.

2. Whose application for a license to prescribe, dispense, or administer a controlled substance has been denied by any jurisdiction.

3. Who has been convicted of or pleaded guilty or nolo contendere to, regardless of adjudication, an offense that constitutes a felony for receipt of illicit and diverted drugs, including a controlled substance listed in Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V of s. 893.03, in this state, any other state, or the United States.

Section 8. For the purpose of incorporating the amendment made by this act to section 893.03, Florida Statutes, in a reference thereto, paragraph (e) of subsection (1) of section 459.0137, Florida Statutes, is reenacted to read:

459.0137 Pain-management clinics.—

(1) REGISTRATION.—

(e) The department shall deny registration to any pain-management clinic owned by or with any contractual or employment relationship with a physician:

1. Whose Drug Enforcement Administration number has ever been revoked.

2. Whose application for a license to prescribe, dispense, or administer a controlled substance has been denied by any jurisdiction.

3. Who has been convicted of or pleaded guilty or nolo contendere to, regardless of adjudication, an offense that constitutes a felony for receipt of illicit and diverted drugs, including a controlled substance listed in Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V of s. 893.03, in this state, any other state, or the United States.

Section 9. For the purpose of incorporating the amendment made by this act to section 893.03, Florida Statutes, in references thereto, paragraph (a) of subsection (1) and subsection (4) of section 782.04, Florida Statutes, are reenacted to read:

782.04 Murder.—

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

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

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

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

b. Arson,

c. Sexual battery,

d. Robbery,

e. Burglary,

f. Kidnapping,

g. Escape,

h. Aggravated child abuse,

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

j. Aircraft piracy,

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

l. Carjacking,

m. Home-invasion robbery,

n. Aggravated stalking,

o. Murder of another human being,

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

q. Aggravated fleeing or eluding with serious bodily injury

or death,

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

(4) The unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than any:

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

(b) Arson,

(c) Sexual battery,

(d) Robbery,

(e) Burglary,

(f) Kidnapping,

(g) Escape,

(h) Aggravated child abuse,

(i) Aggravated abuse of an elderly person or disabled adult,

(j) Aircraft piracy,

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

(l) Unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,

(m) Carjacking,

(n) Home-invasion robbery,

(o) Aggravated stalking,

(p) Murder of another human being,

(q) Aggravated fleeing or eluding with serious bodily injury or death,

(r) Resisting an officer with violence to his or her person, or

(s) Felony that is an act of terrorism or is in furtherance of an act of terrorism,

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

Section 10. For the purpose of incorporating the amendment made by this act to section 893.03, Florida Statutes, in references thereto, paragraph (a) of subsection (2) and subsection (5) of section 893.0356, Florida Statutes, are reenacted to read:

893.0356 Control of new substances; findings of fact; "controlled substance analog" defined.—

(2)(a) As used in this section, "controlled substance analog" means a substance which, due to its chemical structure

and potential for abuse, meets the following criteria:

1. Is substantially similar to that of a controlled substance listed in Schedule I or Schedule II of s. 893.03; and

2. Has a stimulant, depressant, or hallucinogenic effect on the central nervous system or is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance listed in Schedule I or Schedule II of s. 893.03.

(5) A controlled substance analog shall, for purposes of drug abuse prevention and control, be treated as a controlled substance in Schedule I of s. 893.03.

Section 11. For the purpose of incorporating the amendment made by this act to section 893.03, Florida Statutes, in a reference thereto, subsection (1) of section 893.05, Florida Statutes, is reenacted to read:

893.05 Practitioners and persons administering controlled substances in their absence.—

(1) A practitioner, in good faith and in the course of his or her professional practice only, may prescribe, administer, dispense, mix, or otherwise prepare a controlled substance, or the practitioner may cause the same to be administered by a licensed nurse or an intern practitioner under his or her direction and supervision only. A veterinarian may so prescribe, administer, dispense, mix, or prepare a controlled substance for use on animals only, and may cause it to be administered by an assistant or orderly under the veterinarian's direction and supervision only. A certified optometrist licensed under chapter 463 may not administer or prescribe a controlled substance

listed in Schedule I or Schedule II of s. 893.03.

Section 12. For the purpose of incorporating the amendment made by this act to section 893.03, Florida Statutes, in references thereto, paragraphs (b), (c), and (d) of subsection (2) of section 893.12, Florida Statutes, are reenacted to read:

893.12 Contraband; seizure, forfeiture, sale.—

(2)

(b) All real property, including any right, title, leasehold interest, and other interest in the whole of any lot or tract of land and any appurtenances or improvements, which real property is used, or intended to be used, in any manner or part, to commit or to facilitate the commission of, or which real property is acquired with proceeds obtained as a result of, a violation of any provision of this chapter related to a controlled substance described in s. 893.03(1) or (2) may be seized and forfeited as provided by the Florida Contraband Forfeiture Act except that no property shall be forfeited under this paragraph to the extent of an interest of an owner or lienholder by reason of any act or omission established by that owner or lienholder to have been committed or omitted without the knowledge or consent of that owner or lienholder.

(c) All moneys, negotiable instruments, securities, and other things of value furnished or intended to be furnished by any person in exchange for a controlled substance described in s. 893.03(1) or (2) or a listed chemical in violation of any provision of this chapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of any provision of this chapter or which are acquired with proceeds

obtained in violation of any provision of this chapter may be seized and forfeited as provided by the Florida Contraband Forfeiture Act, except that no property shall be forfeited under this paragraph to the extent of an interest of an owner or lienholder by reason of any act or omission established by that owner or lienholder to have been committed or omitted without the knowledge or consent of that owner or lienholder.

(d) All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, or which are acquired with proceeds obtained, in violation of any provision of this chapter related to a controlled substance described in s. 893.03(1) or (2) or a listed chemical may be seized and forfeited as provided by the Florida Contraband Forfeiture Act.

Section 13. For the purpose of incorporating the amendment made by this act to section 893.03, Florida Statutes, in references thereto, paragraphs (a), (c), (d), (e), (f), and (h) of subsection (1), paragraph (a) of subsection (2), paragraph (b) of subsection (4), paragraph (b) of subsection (5), and paragraph (a) of subsection (7) of section 893.13, Florida Statutes, are reenacted to read:

893.13 Prohibited acts; penalties.—

(1)(a) Except as authorized by this chapter and chapter 499, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance. A person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. commits a felony of the second degree, punishable as provided in

s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a child care facility as defined in s. 402.302 or a public or private elementary, middle, or secondary school between the hours of 6 a.m. and 12 midnight, or at any time in, on, or within 1,000 feet of real property comprising a state, county, or municipal park, a community center, or a publicly owned recreational facility. As used in this paragraph, the term "community center" means a facility operated by a nonprofit community-based organization for the provision of recreational, social, or educational services to the public. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The defendant must be sentenced to a minimum term of imprisonment of 3 calendar years unless the offense was committed within 1,000 feet of the real

property comprising a child care facility as defined in s. 402.302.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

This paragraph does not apply to a child care facility unless the owner or operator of the facility posts a sign that is not less than 2 square feet in size with a word legend identifying the facility as a licensed child care facility and that is posted on the property of the child care facility in a conspicuous place where the sign is reasonably visible to the public.

(d) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a public or private college, university, or other postsecondary educational institution. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. commits a felony of the first degree, punishable as provided in

s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(e) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance not authorized by law in, on, or within 1,000 feet of a physical place for worship at which a church or religious organization regularly conducts religious services or within 1,000 feet of a convenience business as defined in s. 812.171. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine

and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(f) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a public housing facility at any time. As used in this section, the term "real property comprising a public housing facility" means real property, as defined in s. 421.03(12), of a public corporation created as a housing authority pursuant to part I of chapter 421. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(h) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising an assisted living facility, as that term is used in chapter 429. A person

who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)(a) Except as authorized by this chapter and chapter 499, a person may not purchase, or possess with intent to purchase, a controlled substance. A person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Except as authorized by this chapter, a person 18 years of age or older may not deliver any controlled substance to a person younger than 18 years of age, use or hire a person

younger than 18 years of age as an agent or employee in the sale or delivery of such a substance, or use such person to assist in avoiding detection or apprehension for a violation of this chapter. A person who violates this provision with respect to:

(b) A controlled substance named or described in 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) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Imposition of sentence may not be suspended or deferred, and the person so convicted may not be placed on probation.

(5) A person may not bring into this state any controlled substance unless the possession of such controlled substance is authorized by this chapter or unless such person is licensed to do so by the appropriate federal agency. A person who violates this provision with respect to:

(b) A controlled substance named or described in 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) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7)(a) A person may not:

1. Distribute or dispense a controlled substance in violation of this chapter.

2. Refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this chapter.

3. Refuse entry into any premises for any inspection or

refuse to allow any inspection authorized by this chapter.

4. Distribute a controlled substance named or described in s. 893.03(1) or (2) except pursuant to an order form as required by s. 893.06.

5. Keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.

6. Use to his or her own personal advantage, or reveal, any information obtained in enforcement of this chapter except in a prosecution or administrative hearing for a violation of this chapter.

7. Possess a prescription form unless it has been signed by the practitioner whose name appears printed thereon and completed. This subparagraph does not apply if the person in possession of the form is the practitioner whose name appears printed thereon, an agent or employee of that practitioner, a pharmacist, or a supplier of prescription forms who is authorized by that practitioner to possess those forms.

8. Withhold information from a practitioner from whom the person seeks to obtain a controlled substance or a prescription for a controlled substance that the person making the request has received a controlled substance or a prescription for a controlled substance of like therapeutic use from another practitioner within the previous 30 days.

9. Acquire or obtain, or attempt to acquire or obtain, possession of a controlled substance by misrepresentation,

fraud, forgery, deception, or subterfuge.

10. Affix any false or forged label to a package or receptacle containing a controlled substance.

11. Furnish false or fraudulent material information in, or omit any material information from, any report or other document required to be kept or filed under this chapter or any record required to be kept by this chapter.

12. Store anhydrous ammonia in a container that is not approved by the United States Department of Transportation to hold anhydrous ammonia or is not constructed in accordance with sound engineering, agricultural, or commercial practices.

13. With the intent to obtain a controlled substance or combination of controlled substances that are not medically necessary for the person or an amount of a controlled substance or substances that is not medically necessary for the person, obtain or attempt to obtain from a practitioner a controlled substance or a prescription for a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge, or concealment of a material fact. For purposes of this subparagraph, a material fact includes whether the person has an existing prescription for a controlled substance issued for the same period of time by another practitioner or as described in subparagraph 8.

Section 14. For the purpose of incorporating the amendment made by this act to section 893.03, Florida Statutes, in references thereto, paragraphs (k) and (l) of subsection (1) of section 893.135, Florida Statutes, are reenacted to read:

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

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

(k)1. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 10 grams or more of any of the following substances described in s. 893.03(1)(c):

a. 3,4-Methylenedioxymethamphetamine (MDMA);
b. 4-Bromo-2,5-dimethoxyamphetamine;
c. 4-Bromo-2,5-dimethoxyphenethylamine;
d. 2,5-Dimethoxyamphetamine;
e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
f. N-ethylamphetamine;
g. N-Hydroxy-3,4-methylenedioxyamphetamine;
h. 5-Methoxy-3,4-methylenedioxyamphetamine;
i. 4-methoxyamphetamine;
j. 4-methoxymethamphetamine;
k. 4-Methyl-2,5-dimethoxyamphetamine;
l. 3,4-Methylenedioxy-N-ethylamphetamine;
m. 3,4-Methylenedioxyamphetamine;
n. N,N-dimethylamphetamine;
o. 3,4,5-Trimethoxyamphetamine;
p. 3,4-Methylenedioxymethcathinone;
q. 3,4-Methylenedioxypyrovalerone (MDPV); or
r. Methylmethcathinone,

individually or analogs thereto or isomers thereto or in any combination of or any mixture containing any substance listed in sub-subparagraphs a.-r., commits a felony of the first degree,

which felony shall be known as "trafficking in Phenethylamines," punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. If the quantity involved:

a. Is 10 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of $50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of $100,000.

c. Is 400 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of $250,000.

3. A person who knowingly manufactures or brings into this state 30 kilograms or more of any of the following substances described in s. 893.03(1)(c):

a. 3,4-Methylenedioxymethamphetamine (MDMA);

b. 4-Bromo-2,5-dimethoxyamphetamine;

c. 4-Bromo-2,5-dimethoxyphenethylamine;

d. 2,5-Dimethoxyamphetamine;

e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);

f. N-ethylamphetamine;

g. N-Hydroxy-3,4-methylenedioxyamphetamine;

h. 5-Methoxy-3,4-methylenedioxyamphetamine;

i. 4-methoxyamphetamine;

j. 4-methoxymethamphetamine;

k. 4-Methyl-2,5-dimethoxyamphetamine;

l. 3,4-Methylenedioxy-N-ethylamphetamine;

m. 3,4-Methylenedioxyamphetamine;

n. N,N-dimethylamphetamine;

o. 3,4,5-Trimethoxyamphetamine;

p. 3,4-Methylenedioxymethcathinone;

q. 3,4-Methylenedioxypyrovalerone (MDPV); or

r. Methylmethcathinone,

individually or analogs thereto or isomers thereto or in any combination of or any mixture containing any substance listed in sub-subparagraphs a.-r., and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of Phenethylamines, a capital felony punishable as provided in ss. 775.082 and 921.142. A person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(l)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 1 gram or more of lysergic acid diethylamide (LSD) as described in s. 893.03(1)(c), or of any mixture containing lysergic acid diethylamide (LSD), commits a felony of the first degree, which felony shall be known as "trafficking in lysergic acid diethylamide (LSD)," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 1 gram or more, but less than 5 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of $50,000.

b. Is 5 grams or more, but less than 7 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of $100,000.

c. Is 7 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $500,000.

2. Any person who knowingly manufactures or brings into this state 7 grams or more of lysergic acid diethylamide (LSD) as described in s. 893.03(1)(c), or any mixture containing lysergic acid diethylamide (LSD), and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of lysergic acid diethylamide (LSD), a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

Section 15. For the purpose of incorporating the amendment made by this act to section 893.03, Florida Statutes, in references thereto, paragraphs (b), (c), and (e) of subsection (3) of section 921.0022, Florida Statutes, are reenacted to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(b) LEVEL 2

Florida Statute	Felony Degree	Description

379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(6)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
590.28(1)	3rd	Intentional burning of lands.
784.05(3)	3rd	Storing or leaving a loaded firearm within

		reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
806.13(1)(b)3.	3rd	Criminal mischief; damage $1,000 or more to public communication or any other public service.
810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; $300 or more but less than $5,000.
812.014(2)(d)	3rd	Grand theft, 3rd degree;

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		$100 or more but less than $300, taken from unenclosed curtilage of dwelling.
812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
817.234(1)(a)2.	3rd	False statement in support of insurance claim.
817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over $300.
817.52(3)	3rd	Failure to redeliver hired vehicle.
817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.

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817.60(5)	3rd	Dealing in credit cards of another.
817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
817.61	3rd	Fraudulent use of credit cards over $100 or more within 6 months.
826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.
831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.

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831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
843.08	3rd	Falsely impersonating an officer.
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.
893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.

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(c) LEVEL 3

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.

379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
400.9935(4)	3rd	Operating a clinic without a license or filing false license application or other required information.
440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
501.001(2)(b)	2nd	Tampers with a consumer product or the container

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		using materially false/misleading information.
624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than $20,000.
626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults

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		firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
812.0145(2)(c)	3rd	Theft from person 65 years of age or older; $300 or more but less than $10,000.
815.04(5)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
817.234 (8)(b) & (c)	3rd	Unlawful solicitation of persons involved in motor

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		vehicle accidents.
817.234(11)(a)	3rd	Insurance fraud; property value less than $20,000.
817.236	3rd	Filing a false motor vehicle insurance application.
817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
817.413(2)	3rd	Sale of used goods as new.
817.505(4)	3rd	Patient brokering.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.

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831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	3rd	Injure, disable, or kill police dog or horse.
860.15(3)	3rd	Overcharging for repairs and parts.
870.01(2)	3rd	Riot; inciting or encouraging.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2.,

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		(2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of university.
893.13(1)(f)2.	2nd	Sell, manufacture, or deliver 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 within 1,000 feet of public housing facility.
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery,

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		misrepresentation, etc.
893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
893.13(8)(a)3.	3rd	Knowingly write a

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		prescription for a controlled substance for a fictitious person.
893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).

(e) LEVEL 5

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Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
379.3671 (2)(c)3.	3rd	Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
624.401(4)(b)2.	2nd	Transacting insurance without a certificate or

		authority; premium collected $20,000 or more but less than $100,000.
626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
790.01(2)	3rd	Carrying a concealed firearm.
790.162	2nd	Threat to throw or discharge destructive device.
790.163(1)	2nd	False report of deadly explosive or weapon of mass destruction.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.

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796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.0145(2)(b)	2nd	Theft from person 65 years of age or older; $10,000 or more but less than $50,000.
812.015(8)	3rd	Retail theft; property stolen is valued at $300 or more and one or more specified acts.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.

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812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.
817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to $50,000.
817.234(11)(b)	2nd	Insurance fraud; property value $20,000 or more but less than $100,000.
817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment

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		avoided, or amount of injury or fraud, $5,000 or more or use of personal identification information of 10 or more individuals.
817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc.,

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		which includes sexual conduct by a child.
839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
843.01	3rd	Resist officer with violence to person; resist arrest with violence.
847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.

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874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
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., (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

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		municipal park or publicly owned recreational facility or community center.
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.
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 religious services or a specified business site.
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.
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).
893.1351(1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

Section 16. This act shall take effect October 1, 2015.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-23-15
Meeting Date

1098
Bill Number (if applicable)

Topic Controlled Substances

Amendment Barcode (if applicable)

Name Jill Gran

Job Title Leg Director

Address 2808 Mahan Dr
Street

Tallahassee FL 32308
City *State* *Zip*

Phone 878-2196

Email jill@fadaa.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Alcohol & Drug Abuse 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)

3.23.15
Meeting Date

1098
Bill Number (if applicable)

Topic ~~LAURA YOUMANS~~ CONTROLLED SUBSTANCES *Amendment Barcode (if applicable)*

Name LAURA YOUMANS

Job Title ADVOCATE

Address 101 N. MONROE ST *Street*

TAL FL 32301 *City* *State* *Zip*

Phone 294-1838

Email LYOUMANS@FLCOUNTIES.COM

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA ASSOCIATION OF COUNTIES

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)

3.23.15
Meeting Date

1098
Bill Number (if applicable)

Topic Controlled Substance

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Pres & CEO

Address 204 S. Monroe St., Ste. 201
Street

Phone 577.3032

Tall — FL — 32301
City — *State* — *Zip*

Email barney@smartjustice alliance.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

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: March 3, 2015

I respectfully request that **Senate Bill # 1098**, relating to Controlled Substances, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Rob Bradley
Florida Senate, District 7

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 1106
INTRODUCER:	Senator Flores
SUBJECT:	Human Trafficking
DATE:	March 20, 2015
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	**Favorable**
2.			ACJ	
3.			AP	

I. Summary:

SB 1106 amends s. 796.07, F.S., relating to prostitution, by enhancing the criminal penalties for a person who solicits, induces, entices, or procures another to commit prostitution, lewdness, or assignation as follows:

- A first violation becomes a first degree misdemeanor (currently a second degree misdemeanor);
- A second violation becomes a third degree felony (currently a first degree misdemeanor); and
- A third or subsequent violation becomes a second degree felony (currently a third degree felony).

The bill requires such person to perform 100 hours of community service and to pay for and attend an educational program about the negative effects of prostitution and human trafficking, if one exists. The bill allows a judge to order the offender's vehicle, if one is used in the offense, to be impounded or immobilized for up to 60 days (unless certain exceptions apply).

A person convicted of a second or subsequent solicitation violation under the bill is required to serve a minimum of 10 days in county jail.

The bill also amends s. 943.0583, F.S., relating to human trafficking victim expunction, to require the court to allow an advocate from the state attorney's office, law enforcement agency, safe house or safe foster home, or residential facility offering services to adult human trafficking victims to be present with the victim/petitioner during any expunction court proceeding.

II. Present Situation:

Prostitution

The human trafficking statute recognizes that many victims of human trafficking are forced to work in prostitution or the sexual entertainment industry.[1] Prostitution is criminalized in ch. 796, F.S. It is defined as the "giving or receiving of the body for sexual activity[2] for hire but excludes sexual activity between spouses."[3] Prohibited activities include, among others, soliciting, inducing, enticing, or procuring another to commit prostitution, lewdness[4], or assignation[5].[6]

A first solicitation violation is punishable as a second degree misdemeanor[7], a second violation as a first degree misdemeanor[8], and a third or subsequent violation as a third degree felony[9] under s. 796.07(4), F.S. A civil penalty of $5,000 is also required to be assessed, unless the offender is acquitted or the case is dismissed.[10]

Finally, the statute requires that a person who is charged with a third violation be offered admission to a pretrial intervention program or substance abuse treatment program under s. 948.08, F.S.[11]

Human Trafficking Victim Expunction

Section 943.0583, F.S., authorizes a victim of human trafficking to petition the court for an expunction of a criminal history record resulting from the arrest or filing of charges for an offense committed while he or she was a victim of human trafficking.[12] The statute defines "victim of human trafficking" to mean a person subjected to coercion for the purpose of being used in human trafficking, a child under 18 years of age subjected to human trafficking, or an individual subjected to human trafficking as defined by federal law.[13]

The court of original jurisdiction over the crime desired to be expunged is the court designated in the statute to hear the victim's petition.[14] A petition must be initiated by the petitioner with due

[1] Section 787.06(1)(b), F.S.
[2] "Sexual activity" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another; anal or vaginal penetration of another by any other object; or the handling or fondling of the sexual organ of another for the purpose of masturbation; however, it does not include acts done for bona fide medical purposes. Section 796.07(1)(d), F.S.
[3] Section 796.07(1)(a), F.S.
[4] Section 796.079(1)(b), F.S., defines "lewdness" as any indecent or obscene act.
[5] Section 796.07(1)(c), F.S., defines "assignation" as making an appointment or engagement for prostitution or lewdness.
[6] Section 796.07(2)(f), F.S.
[7] Incarceration not exceeding 60 days in county jail and/or a fine not exceeding $500. Sections 775.082 and 775.083, F.S.
[8] Incarceration not exceeding one year in county jail and/or a fine not exceeding $1,000. Sections 775.082 and 775.083, F.S.
[9] Imprisonment not exceeding 5 years and/or a fine not exceeding $5,000. Sections 775.082 and 775.083, F.S.
[10] Section 796.07(6), F.S.
[11] Section796.07(5), F.S.
[12] "Human trafficking" is defined under s. 787.06(2)(d), F.S., as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.
[13] Section 943.0583(1)(c), F.S.
[14] Section 943.0583(2), F.S.

diligence after the victim has ceased being a victim of human trafficking or has sought human trafficking services.[15] A petition to expunge must be accompanied by the following:

- A sworn statement attesting that the petitioner is eligible for an expunction to the best of his or her knowledge and does not have other petitions to expunge or seal pending before any court; and
- Official documentation of the petitioner's status as a human trafficking victim, if any exists.[16]

The petitioner or the petitioner's attorney is allowed under the statute to appear at the hearing telephonically, via video conference, or by other electronic means.[17]

If the court grants relief to the petitioner, the clerk of the court must certify copies of the expunction order to the appropriate state attorney or statewide prosecutor and the arresting agency. The Florida Department of Law Enforcement (FDLE) is responsible for forwarding the order to expunge to the Federal Bureau of Investigation.[18]

Any criminal justice agency having custody of such record, except FDLE, must physically destroy the record. Human trafficking victims receiving a record expunction under this statute are lawfully able to deny or fail to acknowledge the covered arrests, except if they are applying for employment with a criminal justice agency or are a defendant in a criminal prosecution.[19]

III. Effect of Proposed Changes:

Prostitution

The bill amends s. 796.07, F.S., by enhancing the criminal penalties for a person who solicits, induces, entices, or procures another to commit prostitution, lewdness, or assignation as follows:

- A first violation becomes a first degree misdemeanor (currently a second degree misdemeanor);
- A second violation becomes a third degree felony (currently a first degree misdemeanor); and
- A third or subsequent violation becomes a second degree felony[20] (currently a third degree felony).

The bill requires such person to perform 100 hours of community service and to pay for and attend an educational program about the negative effects of prostitution and human trafficking, if one exists.

It also requires a person convicted of a second or subsequent solicitation violation to serve a minimum of 10 days in county jail.

[15] Section 943.0583(4), F.S.
[16] Section 943.0583(6), F.S.
[17] Section 943.0583(7) (b), F.S.
[18] Section 943.0583(7)(c), F.S.
[19] Section 943.0583(8), F.S.
[20] Punishable by imprisonment not exceeding 15 years and/or a fine not exceeding $10,000. Sections 775.082 and 775.083, F.S.

The bill prohibits a person who is charged with a third or subsequent solicitation violation from attending a pretrial intervention program or substance abuse program.

The bill also allows a judge to order the offender's vehicle, if one is used in the offense, to be impounded or immobilized for up to 60 days. The order of impoundment or immobilization must include the names and telephone numbers of all immobilization agencies meeting the conditions of s. 316.193(13).[21] Within seven business days after the order is issued, the clerk of the court must send notice by certified mail, return receipt requested, to the registered owner of the vehicle, if the registered owner is a person other than the defendant, and to each person of record claiming a lien against the vehicle.

The owner of the vehicle may request the court to dismiss the order, and the court must dismiss the order, at no cost to the owner, if it finds any of the following to be true:

- The owner's family has no other private or public means of transportation;
- The vehicle was stolen at the time of the offense;
- The owner bought the vehicle after the offense was committed and it was not done to circumvent the order and allow the defendant continued access; or
- The vehicle is owned by the defendant but is operated solely by employees of the defendant or employees of a business owned by the defendant.

If the court denies the request to dismiss the order, the petitioner may request an evidentiary hearing. At that hearing, if the court finds that any of the above circumstances exist, it must dismiss the order, at no cost to the owner.

Human Trafficking Victim Expunction

The bill amends s. 943.0583, F.S., to require the court to allow an advocate from the state attorney's office, law enforcement agency, safe house or safe foster home, or residential facility offering services to adult human trafficking victims to be present with the petitioner during any expunction court proceeding. This requirement only applies if the petitioner requests it and an advocate is available.

The bill also provides that "a circuit court in the circuit in which the petitioner was arrested" is the appropriate court of jurisdiction to hear the expunction petition (presently it is "the court of original jurisdiction over the crime sought to be expunged.")

Finally, the bill amends ss. 456.074, 480.041, and 480.043, F.S., to make a technical and conforming cross-reference change.

The effective date of the bill is October 1, 2015.

[21] These conditions include, among others: having verifiable experience in immobilizing vehicles, maintaining accurate records, and employing persons that meet specified requirements.

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:

Persons convicted of soliciting prostitution may be subject to potentially higher fines under the bill. Their vehicles may also be subject to immobilization, which could have a positive fiscal impact on immobilization companies.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC) met on February 27, 2015, and determined that this bill has a positive insignificant impact on state prison beds because of the low volume of offenses.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 796.07 and 943.0583.

This bill makes a technical and conforming cross-reference change to the following sections of the Florida Statutes: 456.074, 480.041, and 480.043.

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 Flores

37-00751A-15 20151106__

A bill to be entitled

An act relating to human trafficking; amending s. 796.07, F.S.; providing enhanced criminal penalties for soliciting another to commit prostitution and similar offenses; requiring persons convicted of such offenses to perform community service and pay for and attend an education program; requiring the court to impose minimum mandatory terms of incarceration for persons convicted two or more times of soliciting another to commit prostitution and similar offenses; providing for impoundment of a vehicle used in soliciting another to commit prostitution and similar offenses; providing an opportunity for owners to prevent the impoundment or immobilization in certain circumstances; amending s. 943.0583, F.S.; providing that a circuit court in the circuit in which the petitioner was arrested may expunge the criminal history record of a victim of human trafficking; requiring a judge to allow an advocate to be present with a human trafficking victim in an expunction hearing in certain circumstances; amending ss. 456.074, 480.041, and 480.043, 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 796.07, Florida Statutes, is amended to read:

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

37-00751A-15 20151106__

796.07 Prohibiting prostitution and related acts.—

(1) As used in this section:

(a) "Prostitution" means the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses.

(b) "Lewdness" means any indecent or obscene act.

(c) "Assignation" means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.

(d) "Sexual activity" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another; anal or vaginal penetration of another by any other object; or the handling or fondling of the sexual organ of another for the purpose of masturbation; however, the term does not include acts done for bona fide medical purposes.

(2) It is unlawful:

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

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

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

(d) To direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or

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reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation.

(e) To offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation.

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

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

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

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

(3)(a) In the trial of a person charged with a violation of this section, testimony concerning the reputation of any place, structure, building, or conveyance involved in the charge, testimony concerning the reputation of any person residing in, operating, or frequenting such place, structure, building, or conveyance, and testimony concerning the reputation of the defendant is admissible in evidence in support of the charge.

(b) Notwithstanding any other provision of law, a police officer may testify as an offended party in an action regarding charges filed pursuant to this section.

(4)(a) A person who violates any provision of this section, other than paragraph (2)(f), commits:

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

2.~~(b)~~ A misdemeanor of the first degree for a second

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violation, punishable as provided in s. 775.082 or s. 775.083.

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

(b)~~(5)~~ A person who is charged with a third or subsequent violation of this section, other than paragraph (2)(f), shall be offered admission to a pretrial intervention program or a substance abuse treatment program as provided in s. 948.08.

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

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

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

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

(b) In addition to any other penalty imposed, the court shall order a person convicted of a violation of paragraph (2)(f) to:

1. Perform 100 hours of community service; and

2. Pay for and attend an educational program about the negative effects of prostitution and human trafficking, such as a sexual violence prevention education program, if such program exists in the judicial circuit in which the offender is sentenced.

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

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

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

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

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

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

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

3. If the court denies the request to dismiss the order, the petitioner may request an evidentiary hearing. If, at the

evidentiary hearing, the court finds to be true any of the circumstances described in sub-subparagraphs 2.a.-d., the court must dismiss the order and the owner of the vehicle will incur no costs.

(6) A person who violates paragraph (2)(f) shall be assessed a civil penalty of $5,000 if the violation results in any judicial disposition other than acquittal or dismissal. Of the proceeds from each penalty assessed under this subsection, the first $500 shall be paid to the circuit court administrator for the sole purpose of paying the administrative costs of treatment-based drug court programs provided under s. 397.334. The remainder of the penalty assessed shall be deposited in the Operations and Maintenance Trust Fund of the Department of Children and Families for the sole purpose of funding safe houses and safe foster homes as provided in s. 409.1678.

Section 2. Subsections (2) and (7) and paragraph (a) of subsection (8) of section 943.0583, Florida Statutes, are amended to read:

943.0583 Human trafficking victim expunction.—

(2) Notwithstanding any other provision of law, a circuit court in the circuit in which the petitioner was arrested ~~the court of original jurisdiction over the crime sought to be expunged~~ may order a criminal justice agency to expunge the criminal history record of a victim of human trafficking who complies with the requirements of this section. This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the discretion of the court.

(7)(a) In judicial proceedings under this section, a copy

of the completed petition to expunge shall be served upon the appropriate state attorney or the statewide prosecutor and upon the arresting agency; however, it is not necessary to make any agency other than the state a party. The appropriate state attorney or the statewide prosecutor and the arresting agency may respond to the court regarding the completed petition to expunge.

(b) The petitioner or the petitioner's attorney may appear at any hearing under this section telephonically, via video conference, or by other electronic means.

(c) The court shall allow an advocate from a state attorney's office, law enforcement agency, safe house, or safe foster home as defined in s. 409.1678(1), or a residential facility offering services to adult victims of human trafficking to be present with the petitioner during any court proceedings or hearings under this section, if the petitioner has made such a request and the advocate is able to be present.

(d) ~~(c)~~ If relief is granted by the court, the clerk of the court shall certify copies of the order to the appropriate state attorney or the statewide prosecutor and the arresting agency. The arresting agency is responsible for forwarding the order to any other agency listed in the court order to which the arresting agency disseminated the criminal history record information to which the order pertains. The department shall forward the order to expunge to the Federal Bureau of Investigation. The clerk of the court shall certify a copy of the order to any other agency that the records of the court reflect has received the criminal history record from the court.

(8)(a) Any criminal history record of a minor or an adult

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that is ordered expunged ~~by the court of original jurisdiction over the charges sought to be expunged~~ pursuant to this section must be physically destroyed or obliterated by any criminal justice agency having custody of such record, except that any criminal history record in the custody of the department must be retained in all cases.

Section 3. Paragraph (l) of subsection (5) of section 456.074, Florida Statutes, is amended to read:

456.074 Certain health care practitioners; immediate suspension of license.—

(5) The department shall issue an emergency order suspending the license of a massage therapist or establishment as defined in chapter 480 upon receipt of information that the massage therapist, a person with an ownership interest in the establishment, or, for a corporation that has more than $250,000 of business assets in this state, the owner, officer, or individual directly involved in the management of the establishment has been convicted or found guilty of, or has entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony offense under any of the following provisions of state law or a similar provision in another jurisdiction:

(l) Section 796.07(4)(a)3. ~~796.07(4)(c)~~, relating to a felony of the third degree for a third or subsequent violation of s. 796.07, relating to prohibiting prostitution and related acts.

Section 4. Paragraph (l) of subsection (7) of section 480.041, Florida Statutes, is amended to read:

480.041 Massage therapists; qualifications; licensure;

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endorsement.—

(7) The board shall deny an application for a new or renewal license if an applicant has been convicted or found guilty of, or enters a plea of guilty or nolo contendere to, regardless of adjudication, a felony offense under any of the following provisions of state law or a similar provision in another jurisdiction:

(l) Section 796.07(4)(a)3. ~~796.07(4)(c)~~, relating to a felony of the third degree for a third or subsequent violation of s. 796.07, relating to prohibiting prostitution and related acts.

Section 5. Paragraph (l) of subsection (8) of section 480.043, Florida Statutes, is amended to read:

480.043 Massage establishments; requisites; licensure; inspection.—

(8) The department shall deny an application for a new or renewal license if a person with an ownership interest in the establishment or, for a corporation that has more than $250,000 of business assets in this state, the owner, officer, or individual directly involved in the management of the establishment has been convicted or found guilty of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony offense under any of the following provisions of state law or a similar provision in another jurisdiction:

(l) Section 796.07(4)(a)3. ~~796.07(4)(c)~~, relating to a felony of the third degree for a third or subsequent violation of s. 796.07, relating to prohibiting prostitution and related acts.

Section 6. This act shall take effect October 1, 2015.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23/15
Meeting Date

S.B. 1106
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Greg Pound

Job Title _____

Address 9166 Sunrise Dr.
Street

Phone _____

Largo FL 33773
City *State* *Zip*

Email _____

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Florida 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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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3/23/15
Meeting Date

1106
Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Ingrid Delgado

Job Title Associate for Social Concerns & Respect Life

Address 201 W Park Ave
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 Conference of Catholic Bishops

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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3-23-15
Meeting Date

SB 1106
Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Amy Datz

Job Title Legislative Liaison

Address 2130 Crestview Ave
Street
Tallahassee FL 32303
City *State* *Zip*

Phone 850 322-7599

Email Amaliedatz@mac.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing National Council of Jewish Women

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)

3/23/2015
Meeting Date

SB 1106
Bill Number (if applicable)

Topic HUMAN TRAFFICKING

Amendment Barcode (if applicable)

Name ANN MITCHELL

Job Title

Address 6530 BOCA DEL MAR DR #336
Street

Phone 561-368-7065

BOCA RATON FL 33433
City *State* *Zip*

Email ANNMITCH@COMCAST.NET

Speaking: ☐ For ☐ Against ☐ Information

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

Representing NATIONAL COUNCIL JEWISH WOMEN

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)

MARCH 23/15 — *Meeting Date*

SB 1106 — *Bill Number (if applicable)*

Topic HUMAN TRAFFICKING — *Amendment Barcode (if applicable)*

Name DR. LINDA GELLER-SCHWARTZ

Job Title STATE POLICY ADVOCATE

Address 6861 CALLE DEL PAZ — *Street*

Phone 561 362-8069

BOCA RATON, FL 33433 — *City* *State* *Zip*

Email lindagellerschwartz@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing National Council of Jewish Women

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)

3/23/15
Meeting Date

SB 1106
Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Jennifer Dritt

Job Title Executive Director

Address 1820 E. Park Avenue, Suite 100
Street

Phone (850) 297-2000

Tallahassee FL 32301
City *State* *Zip*

Email jdritt@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)

3/23/15
Meeting Date

1106
Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Samantha Sexton

Job Title Associate Director of Government Affairs

Address One W. Adams St. #301 *Street*

Phone 904-383-9403

Jacksonville *City* FL *State* 32202 *Zip*

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

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S-001 (10/14/14)

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3.23.15
Meeting Date

1106
Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Linda Kearschner

Job Title Volunteer

Address _____
Street

Phone 727.669.7979

_____
City *State* *Zip*

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Parent Teacher Assoc. (PTA)

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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3-23-15
Meeting Date

1106
Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Erin Choy

Job Title Chair-Elect

Address 404 E. Sixth Avenue
Street
Tallahassee FL 32303
City *State* *Zip*

Phone (850) 556-4133

Email echoy@nationalstrategies.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Junior Leagues of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

The Florida Senate

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: March 4, 2015

I respectfully request that **Senate Bill #1106**, relating to Human Trafficking, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 1108
INTRODUCER:	Senator Flores
SUBJECT:	Public Records/Identity of a Victim/Human Trafficking Offenses
DATE:	March 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	**Favorable**
2.			GO	
3.			AP	

I. Summary:

SB 1108, which is linked to the passage of SB 1106 or similar legislation, expands the current public records exemption for certain criminal intelligence and criminal investigative information to include identifying information of a child victim of human trafficking for labor or services, as well as any victim of human trafficking for commercial sexual activity.

The bill also creates a public record exemption for this newly described criminal intelligence or investigative information relating to human trafficking victims that is expunged or ordered expunged under s. 943.0583, F.S.

The bill provides for repeal of the exemptions on October 2, 2020, pursuant to the Open Government Sunset Review Act, unless reviewed and reenacted by the Legislature. It also provides a statement of public necessity as required by the Florida Constitution.

This bill expands an existing public record exemption and creates a new one; therefore, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

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]

[1] FLA. CONST., art. I, s. 24(a).
[2] *Id*.

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act[3] guarantees every person's right to inspect and copy any state or local government public record[4] 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 provisions[8] 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 Act[10] 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]

---

[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 (s*ee 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.

Public Record Exemption for Investigation Information

Section 119.071(2)(h), F.S., provides that specified criminal intelligence information[13] or criminal investigative information[14,15] is confidential and exempt from public records requirements, including the following:

- Any information, including the photograph, name, address, or other fact, which reveals the identity of the victim of the crime of child abuse as defined by ch. 827, F.S. (child abuse);
- Any information, which may reveal the identity of a person who is a victim of any sexual offense, including a sexual offense proscribed in ch. 794, F.S. (sexual battery), ch. 796, F.S. (prostitution), ch. 800, F.S. (lewdness and indecent exposure), ch. 827, F.S. (abuse of children), or ch. 847, F.S. (obscenity); and
- A photograph, videotape, or image of any part of the body of the victim of a sexual offense prohibited under ch. 794, F.S. (sexual battery), ch. 796, F.S. (prostitution), ch. 800, F.S. (lewdness and indecent exposure), s. 810.145, F.S. (video voyeurism), ch. 827, F.S. (abuse of children), or ch. 847, F.S. (obscenity), regardless of whether the photograph, videotape, or image identifies the victim.[16]

This confidential and exempt criminal investigative and criminal intelligence information may be disclosed by a law enforcement agency in specified instances, including:

- In the furtherance of its official duties and responsibilities;
- For print, publication, or broadcast if the law enforcement agency determines that such release would assist in locating or identifying a person that such agency believes to be missing or endangered;[17] or
- To another governmental agency in the furtherance of its official duties and responsibilities.

[13] Section 119.011(3)(a), F.S., defines "criminal intelligence information" to mean information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity.

[14] Section 119.011(3)(b), F.S., defines "criminal investigative information" to mean information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance.

[15] Section 119.011(3)(c), F.S., provides "criminal intelligence information" and "criminal investigative information" shall not include:

- The time, date, location, and nature of a reported crime.
- The name, sex, age, and address of a person arrested or of the victim of a crime except as provided in s. 119.071(2)(h), F.S.
- The time, date, and location of the incident and of the arrest.
- The crime charged.
- Documents given or required by law or agency rule to be given to the person arrested, except as provided in s. 119.071(2)(h), F.S., and, except that the court in a criminal case may order that certain information required by law or agency rule to be given to the person arrested be maintained in a confidential manner and exempt from the provisions of s. 119.071(1), F.S., until released at trial if it is found that the release of such information would:
  - Be defamatory to the good name of a victim or witness or would jeopardize the safety of such victim or witness; and
  - Impair the ability of a state attorney to locate or prosecute a codefendant.
- Informations and indictments except as provided in s. 905.26, F.S.

[16] Section 119.071(2)(h)3., F.S., requires the exemption to apply to confidential and exempt criminal intelligence and criminal investigative information held by a law enforcement agency before, on, or after the effective date of the exemption.

[17] Section 119.071(2)(h)2.b., F.S., provides the information disclosed should be limited to that needed to identify or locate the victim and not include the sexual nature of the offense committed against the person.

Public Record Exemption for Expunged Criminal History Records

A criminal history record of a minor or an adult that is ordered expunged must be physically destroyed by any criminal justice agency having custody of such record, except that the FDLE must retain criminal history records in all cases.[18] Current law provides that a criminal history record ordered expunged that is retained by FDLE is confidential and exempt from public records requirements, and is not available to any person or entity except upon order of the court with jurisdiction.[19]

In addition, information relating to the existence of an expunged criminal history record is confidential and exempt from public record requirements, except that FDLE must disclose the existence of such record to specified entities for their respective licensing, access authorization, and employment purposes as well as to criminal justice agencies for their respective criminal justice purposes.[20] Disclosure of the existence of such record to unauthorized persons is a first degree misdemeanor.[21]

Human Trafficking Victim Expunction/Public Record Exemption

Section 943.0583, F.S., authorizes a victim of human trafficking to petition the court for an expunction of a criminal history record resulting from the arrest or filing of charges for an offense committed while he or she was a victim of human trafficking.[22] The statute defines "victim of human trafficking" to mean a person subjected to coercion for the purpose of being used in human trafficking, a child under 18 years of age subjected to human trafficking, or an individual subjected to human trafficking as defined by federal law.[23]

The court of original jurisdiction over the crime desired to be expunged is the court designated in the statute to hear the victim's petition.[24] A petition must be initiated by the petitioner with due diligence after the victim has ceased being a victim of human trafficking or has sought human trafficking services.[25] A petition to expunge must be accompanied by the following:

- A sworn statement attesting that the petitioner is eligible for an expunction to the best of his or her knowledge and does not have other petitions to expunge or seal pending before any court; and
- Official documentation of the petitioner's status as a human trafficking victim, if any exists.[26]

[18] Section 943.0585(4), F.S.
[19] *Id*.
[20] Section 943.0585(4)(c), F.S.
[21] *Id.* A first degree misdemeanor is punishable by serving up to one year in county jail and/or paying a fine not exceeding $1,000. Sections 775.082 and 775.083, F.S.
[22] "Human trafficking" is defined under s. 787.06(2)(d), F.S., as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.
[23] Section 943.0583(1)(c), F.S.
[24] Section 943.0583(2), F.S.
[25] Section 943.0583(4), F.S.
[26] Section 943.0583(6), F.S.

The petitioner or the petitioner's attorney is allowed under the statute to appear at the hearing telephonically, via video conference, or by other electronic means.[27]

If the court grants relief to the petitioner, the clerk of the court must certify copies of the expunction order to the appropriate state attorney or statewide prosecutor and the arresting agency. The Florida Department of Law Enforcement (FDLE) is responsible for forwarding the order to expunge to the Federal Bureau of Investigation.[28]

Any criminal justice agency having custody of such record, except FDLE, must physically destroy the record. Human trafficking victims receiving a record expunction under this statute are lawfully able to deny or fail to acknowledge the covered arrests, except if they are applying for employment with a criminal justice agency or are a defendant in a criminal prosecution.[29]

A criminal history record ordered expunged under this section that is retained by FDLE is confidential and exempt from public record requirements and shall only be made available to criminal justice agencies for their respective criminal justice purposes and to any governmental agency that is authorized to determine eligibility to buy or possess a firearm or to carry a concealed firearm for use in the course of such agency's official duties. A criminal justice agency may retain a notation indicating compliance with an order to expunge. The exemption is repealed on October 2, 2018, unless reviewed and reenacted by the Legislature.[30]

III. Effect of Proposed Changes:

SB 1108, which is linked to the passage of SB 1106 or similar legislation, expands the current public records exemption for certain criminal intelligence and criminal investigative information under s. 119.071(2)(h), F.S., to include the following:

- Any information that reveals the identity of a person under 18 who is the victim of human trafficking for labor or services under s. 787.06(3)(a), F.S.;
- Any information that may reveal the identity of a person who is the victim of human trafficking for commercial sexual activity under s. 787.06(3)(b), (d), (f), or (g), F.S.; and
- Any photograph, videotape, or image of a body part of a victim of human trafficking involving commercial sexual activity under s. 787.06(3)(b), (d), (f), or (g), F.S.

It also creates a public record exemption for this newly described criminal intelligence or investigative information relating to human trafficking victims that is expunged or ordered expunged under s. 943.0583, F.S. Such information is confidential and exempt from public record requirements, except that the information may be disclosed by a law enforcement agency as follows:

- In the furtherance of its official duties and responsibilities;
- For print, publication, or broadcast if the law enforcement agency determines that such release would assist in locating or identifying a person that such agency believes to be missing or endangered;[31] or

[27] Section 943.0583(7) (b), F.S.
[28] Section 943.0583(7)(c), F.S.
[29] Section 943.0583(8), F.S.
[30] Section 943.0583(10), F.S.
[31] See Note 17.

- To another governmental agency in the furtherance of its official duties and responsibilities.

The exemption applies to information held by a law enforcement agency before, on, or after the effective date of the exemption.

The bill provides the following public necessity statement as required by the Florida Constitution:

> The Legislature finds that it is a public necessity to make confidential and exempt from public records requirements certain intelligence or investigative records revealing the identity of a minor victim for labor or any victim for commercial sexual activity of human trafficking. The identity of such victims is of a sensitive personal nature and protecting the release of such information protects them from further embarrassment, harassment, or injury.
>
> The Legislature also finds that it is a public necessity that intelligence or investigative records related to a criminal history record ordered expunged under s. 943.0583, Florida Statutes, which would or could reasonably be expected to reveal the identity of a victim of human trafficking whose criminal history record has been ordered expunged be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State Constitution. Persons who are victims of human trafficking and who have been charged with crimes allegedly committed at the behest of their traffickers are themselves victims of crimes. Such victims face barriers to employment and other life opportunities as long as these criminal charges remain on record and accessible to potential employers and others. It is necessary that these records be made confidential in order for human trafficking victims to have the chance to rebuild their lives and reenter society.

It also provides for repeal of the exemptions on October 2, 2020, unless reviewed and reenacted by the Legislature.

Finally, the bill will take effect on the same date that SB 1106 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

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 and creates 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 and creates 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 intelligence and criminal investigative information relating to human trafficking and it creates a public record exemption limited to such information that has been ordered expunged.

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: 119.071 and 943.0583.

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 Flores

37-00752-15 20151108__

A bill to be entitled

An act relating to public records; amending s. 119.071, F.S.; revising an exemption from public records requirements for certain criminal intelligence and investigative information to exempt information that reveals the identity of a victim of certain human trafficking offenses; amending s. 943.0583, F.S.; providing an exemption from public records requirements for investigative information relating to criminal history records of human trafficking victims that have been ordered expunged; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Paragraph (h) of subsection (2) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(h)1. The following criminal intelligence information or criminal investigative information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

a. Any information that~~, including the photograph, name, address, or other fact, which~~ reveals the identity of the victim of the crime of child abuse as defined by chapter 827 or that

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37-00752-15 20151108__

reveals the identity of a person under the age of 18 who is the victim of the crime of human trafficking proscribed in s. 787.06(3)(a).

b. Any information that ~~which~~ may reveal the identity of a person who is a victim of any sexual offense, including a sexual offense proscribed in s. 787.06(3)(b), (d), (f), or (g), chapter 794, chapter 796, chapter 800, chapter 827, or chapter 847.

c. A photograph, videotape, or image of any part of the body of the victim of a sexual offense prohibited under s. 787.06(3)(b), (d), (f), or (g), chapter 794, chapter 796, chapter 800, s. 810.145, chapter 827, or chapter 847, regardless of whether the photograph, videotape, or image identifies the victim.

2. Criminal investigative information and criminal intelligence information made confidential and exempt under this paragraph may be disclosed by a law enforcement agency:

a. In the furtherance of its official duties and responsibilities.

b. For print, publication, or broadcast if the law enforcement agency determines that such release would assist in locating or identifying a person that such agency believes to be missing or endangered. The information provided should be limited to that needed to identify or locate the victim and not include the sexual nature of the offense committed against the person.

c. To another governmental agency in the furtherance of its official duties and responsibilities.

3. This exemption applies to such confidential and exempt criminal intelligence information or criminal investigative

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information held by a law enforcement agency before, on, or after the effective date of the exemption.

4. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15, and shall stand repealed on October 2, 2020 ~~2016~~, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. Subsection (11) is added to section 943.0583, Florida Statutes, to read:

943.0583 Human trafficking victim expunction.—

(11)(a) The following criminal intelligence information or criminal investigative information is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

1. Any information that reveals the identity of a person who is a victim of human trafficking whose criminal history record has been expunged under this section.

2. Any information that may reveal the identity of a person who is a victim of human trafficking whose criminal history record has been ordered expunged under this section.

(b) Criminal investigative information and criminal intelligence information made confidential and exempt under this subsection may be disclosed by a law enforcement agency:

1. In the furtherance of its official duties and responsibilities.

2. For print, publication, or broadcast if the law enforcement agency determines that such release would assist in locating or identifying a person that the agency believes to be missing or endangered. The information provided should be limited to that needed to identify or locate the victim.

3. To another governmental agency in the furtherance of its official duties and responsibilities.

(c) This exemption applies to such confidential and exempt criminal intelligence information or criminal investigative information held by a law enforcement agency before, on, or after the effective date of the exemption.

(d) 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 3. The Legislature finds that it is a public necessity to make confidential and exempt from public records requirements certain criminal intelligence information or criminal investigative information that reveals the identity of a victim of the crime of human trafficking of a minor for labor or any victim of human trafficking for commercial sexual activity. The Legislature finds that it is important to strengthen the protections afforded victims of human trafficking for labor who are minors and victims of human trafficking for commercial sexual activity, regardless of age, in order to ensure their privacy and to prevent their revictimization by making such information confidential and exempt. The identity of these victims is information of a sensitive personal nature. As such, this exemption serves to minimize the trauma to victims because the release of such information would compound the tragedy already visited upon their lives and would be defamatory to or cause unwarranted damage to the good name or reputation of the victims. Protecting the release of identifying information of such victims protects them from further embarrassment,

harassment, or injury. The Legislature also finds that it is a public necessity that information in the investigative or intelligence records related to a criminal history record ordered expunged under s. 943.0583, Florida Statutes, which would or could reasonably be expected to reveal the identity of a person who is a victim of human trafficking whose criminal history record has been ordered expunged under s. 943.0583, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Persons who are victims of human trafficking and who have been charged with crimes allegedly committed at the behest of their traffickers are themselves victims of crimes. Such victims face barriers to employment and other life opportunities as long as these criminal charges remain on record and accessible to potential employers and others. Therefore, it is necessary that these records be made confidential and exempt in order for human trafficking victims to have the chance to rebuild their lives and reenter society.

Section 4. This act shall take effect on the same date that SB ___ or similar legislation relating to human trafficking takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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THE FLORIDA SENATE

APPEARANCE RECORD

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3/23/15
Meeting Date

1108
Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Ingrid Delgado

Job Title Associate for Social Concerns & Respect Life

Address 201 W Park Ave.
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 Conference of Catholic Bishops

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

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MARCH 23/15
Meeting Date

SB 1108
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic PUBLIC RECORDS

Name DR. LINDA GELLER-SCHWARTZ

Job Title STATE POLICY ADVOCATE

Address 6861 Calle del Paz S
Street

Boca Raton FL 33433
City *State* *Zip*

Phone 561 362-8069

Email lindagellerschwartz@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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3-23
Meeting Date

SB 1108
Bill Number (if applicable)

Topic Public Records Human Trafficking

Amendment Barcode (if applicable)

Name Amy Datz

Job Title Legislative Liaison

Address 1130 Crestview Ave.
Street
Tallahassee FL 32303
City *State* *Zip*

Phone 850-322-7599

Email amalie datz@ncjw.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing National Council of Jewish Women

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)

3-23-15
Meeting Date

SB 1108
Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Samantha Sexton

Job Title Associate Director of Government Affairs

Address One W. Adams St. #301
Street

Phone 904-383-9403

Jacksonville, FL 32202
City *State* *Zip*

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-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)

Meeting Date	Bill Number (if applicable)
	1108

Topic Public Records / Identity of Victim — Amendment Barcode (if applicable)

Name Linda Kearschner

Job Title Volunteer

Address _____ Phone 727.669.7979
Street

_____ Email _____
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Parent Teacher Assoc. (PTA)

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-23-15
Meeting Date

1108
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Public Records/Identity of a Victim/Human Trafficking Offenses

Name Erin Choy

Job Title Chair-Elect

Address 404 E. Sixth Avenue
Street

Tallahassee FL 32303
City *State* *Zip*

Phone (850) 556-4133

Email echoy@nationalstrategies.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Junior Leagues 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

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: March 4, 2015

I respectfully request that **Senate Bill #1108**, relating to Public Record/ Identity of Victim/ Human Trafficking Offenses, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 1110
INTRODUCER:	Senator Flores
SUBJECT:	Public Records/Residential Facilities Serving Victims of Sexual Exploitation and Human Trafficking
DATE:	March 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	**Favorable**
2.			GO	
3.			AP	

I. Summary:

SB 1110, which is linked to the passage of SB 1106 or similar legislation, creates a public records exemption for the location information of a safe house, safe foster home, or other residential facility serving child victims of sexual exploitation. It also creates an exemption for the location information of a residential facility offering services for adult victims of human trafficking involving commercial sexual activity. (These exemptions apply to information held by an agency.)

The exempted location information can be disclosed to an agency as necessary to maintain health and safety standards or to address emergency situations in the safe house or residential facility.

The bill provides for repeal of the exemptions on October 2, 2020, pursuant to the Open Government Sunset Review Act, unless reviewed and reenacted by the Legislature. It also provides a statement of public necessity as required by the Florida Constitution.

Since the bill creates two public records exemptions, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

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 Act[3] guarantees every person's right to inspect and copy any state or local government public record[4] 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 provisions[8] 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 Act[10] 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 (s*ee 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.

Residential Facilities Serving Victims of Sexual Exploitation and Human Trafficking

The human trafficking statute, s. 787.06, F.S., states that the Legislature finds that this crime is a form of modern-day slavery and that victims of human trafficking include young children, teenagers, and adults. These victims are subjected to force, fraud, or coercion so they can become forced labor or be sexually exploited.[13] The statute also expresses legislative intent that the Department of Children and Families (DCF) and other state agencies cooperate with other state and federal agencies to ensure that these victims can access social services and benefits to alleviate their plight.[14]

Section 409.1678, F.S., provides specialized residential options for children who are victims of sexual exploitation[15] to include safe foster homes and safe houses. A "safe foster home" is a foster home certified by the DCF to care for sexually exploited children.[16] A "safe house" is a group residential placement certified by the DCF to also care for sexually exploited children.[17] To be certified, a safe foster home must hold a license as a family foster home, and a safe house must hold a license as a residential child-caring agency, both defined under s. 409.175, F.S.[18]

These residential facilities must also do the following to be designated a safe foster home or safe house under the statute: use strength-based and trauma-informed approaches to care; serve exclusively one sex; group sexually exploited children by age or maturity level; care for them in a way that separates them from children with other needs; have awake staff members on duty 24 hours a day; provide appropriate security; and meet all other department criteria.[19]

There are traditional residential facilities that serve both children and adult victims of sexual exploitation, but if these facilities serve adults, they cannot be designated a safe foster home or safe house under s. 409.1678, F.S.

III. Effect of Proposed Changes:

SB 1110, which is linked to the passage of SB 1106 or similar legislation, creates a public records exemption for the location information of a safe house, safe foster home, or other residential facility serving child victims of sexual exploitation. It also creates an exemption for the location information of a residential facility offering services for adult victims of human trafficking involving commercial sexual activity. (These exemptions apply to information held by an agency as defined in s. 119.011, F.S.[20])

[13] Section 787.06(1)(a), F.S.
[14] Section 787.06(1)(d), F.S.
[15] Defined in part, to include allowing, encouraging, or forcing a child to participate in the trade of human trafficking for commercial sexual activity. Section 39.01(69)(g)3., F.S.
[16] Section 409.1678(1)(a), F.S.
[17] Section 409.1678(1)(b), F.S.
[18] Section 409.1678(2)(c), F.S.
[19] *Id.*
[20] Agency is defined 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 the Ethics Commission, Public Service Commission, 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 bill allows the exempted location information to be disclosed to an agency as necessary to maintain health and safety standards or to address emergency situations in the safe house or residential facility.

The bill provides the following public necessity statement as required by the Florida Constitution:

> The Legislature finds that it is a public necessity to make confidential and exempt from public records requirements the location information of safe houses, safe foster homes, and other residential facilities serving child victims of sexual exploitation or adult victims of human trafficking involving commercial sexual activity. Knowledge about such location information could enable the individuals who victimized these persons to locate and attempt to return them to their former situations, or continue their victimization and inhibit their recoveries. It could also enable other individuals to locate and attempt to victimize the residents.

It also provides for repeal of the exemptions on October 2, 2020, unless reviewed and reenacted by the Legislature.

Finally, the bill will take effect on the same date that SB 1106 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

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 creates two public records exemptions; 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 creates two public records exemptions; 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 creates two public records exemptions limited to location information of safe houses, safe foster homes, and other residential facilities serving child victims of sexual exploitation and adult victims of human trafficking involving commercial sexual activity.

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: 409.1678 and 787.06.

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 Flores

37-00753-15 20151110__

A bill to be entitled

An act relating to public records; amending s. 409.1678, F.S.; providing an exemption from public records requirements for information held by an agency about the location of safe houses, safe foster homes, and other residential facilities serving victims of sexual exploitation; providing for future legislative review and repeal of the exemption; amending s. 787.06, F.S.; providing an exemption from public records requirements for information held by an agency about the location of residential facilities serving adult victims of human trafficking involving commercial sexual activity; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (6) is added to section 409.1678, Florida Statutes, to read:

409.1678 Specialized residential options for children who are victims of sexual exploitation.—

(6)(a) LOCATION INFORMATION.—Information about the location of a safe house, safe foster home, or other residential facility serving children who are victims of sexual exploitation, as defined in s. 39.01(69)(g), which is held by an agency, as defined in s. 119.011, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

37-00753-15 20151110__

(b) Information about the location of a safe house, safe foster home, or other residential facility serving children who are victims of sexual exploitation, as defined in s. 39.01(69)(g), may be provided to an agency, as defined in s. 119.011, as necessary to maintain health and safety standards and to address emergency situations in the safe house, safe foster home, or other residential facility.

(c) 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 2. Subsection (9) is added to section 787.06, Florida Statutes, to read:

787.06 Human trafficking.—

(9)(a) Information about the location of a residential facility offering services for adult victims of human trafficking involving commercial sexual activity, which is held by an agency, as defined in s. 119.011, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Information about the location of a residential facility offering services for adult victims of human trafficking involving commercial sexual activity may be provided to an agency, as defined in s. 119.011, as necessary to maintain health and safety standards and to address emergency situations in the residential facility.

(c) 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

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

repeal through reenactment by the Legislature.

Section 3. The Legislature finds that it is a public necessity that information about the location of safe houses, safe foster homes, and other residential facilities serving children who are victims of sexual exploitation, as defined in s. 39.01(69)(g), Florida Statutes, or adult victims of human trafficking involving commercial sexual activity, held by an agency, as defined in s. 119.011, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Safe houses, safe foster homes, and other residential facilities serving victims of sexual exploitation, as defined in s. 39.01(69)(g), Florida Statutes, or adult victims of human trafficking involving commercial sexual activity, are intended as refuges for sexually exploited victims from those who exploited them. If the individuals who victimized these people were able to learn the location of such facilities, they may attempt to contact their victims, exploit their vulnerabilities, and return them to the situations in which they were victimized. Even without the return of these victims to their former situations, additional contact with those who victimized them would have the effect of continuing their victimization and inhibiting their recoveries. Additionally, knowledge about the location of safe houses, safe foster homes, and other residential facilities serving victims of sexual exploitation, as defined in s. 39.01(69)(g), Florida Statutes, or adult victims of human trafficking involving commercial sexual activity, could enable other individuals to locate and attempt to victimize the residents. Therefore, it is the finding of the Legislature that such information must be

made confidential and exempt from public records requirements.

Section 4. This act shall take effect on the same date that SB ____ or similar legislation relating to human trafficking takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23/15
Meeting Date

1110
Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Ingrid Delgado

Job Title Associate for Social Concerns & Respect Life

Address 201 W Park Ave
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 Conference of Catholic Bishops

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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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)

Meeting Date

1110
Bill Number (if applicable)

Topic Public Records/Residential Facilities

Amendment Barcode (if applicable)

Name Linda Kearschner

Job Title Volunteer

Address
Street

Phone 727.669.7979

City State Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Parent Teacher Assoc. (PTA)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

MARCH 23/15
Meeting Date

SB 1110
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic PUBLIC RECORDS / RESIDENTIAL

Name DR CINDA GELLER-SCHWARTZ

Job Title STATE POLICY ADVOCATE

Address 6861 CALLE DEL PAZ S
Street

Phone 561 362-8069

BOCA RATON FL 33433
City *State* *Zip*

Email lndgellerschwartz@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing National Council of Jewish Women

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)

3-23-15
Meeting Date

1110
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Public Recs/Residential Facilities Serving Victims of Sexual Exploitation & Human Trafficking

Name Erin Choy

Job Title Chair-Elect

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City *State* *Zip*

Phone (850) 556-4133

Email echoy@nationalstrategies.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Junior Leagues 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

APPEARANCE RECORD

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

3/23/15
Meeting Date

SB 1110
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Human Trafficking

Name Samantha Sexton

Job Title Associate Director of Gavernment Affairs

Address One W Adams St. #301
Street

Phone 904-383-9403

Jacksonville FL 32202
City *State* *Zip*

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-001 (10/14/14)

The Florida Senate

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: March 4, 2015

I respectfully request that **Senate Bill #1110**, relating to Public Records/ Residential Facilities Serving Victims of Sexual Exploitation and Human Traficking, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 1112
INTRODUCER:	Criminal Justice Committee and Senator Abruzzo
SUBJECT:	Sexting
DATE:	March 31, 2015
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	**Fav/CS**
2.			ACJ	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1112 amends s. 985.0301, F.S., to provide that the circuit court has exclusive original jurisdiction of proceeding in which a child is alleged to have committed a noncriminal violation that has been assigned to juvenile court by law.

The bill amends the punishment schedule for sexting in s. 847.0141, F.S., by including the issuance of a citation for first violations and making it permissive for second violations. The bill requires all court records and information obtained or produced in relation to a noncriminal sexting violation to be afforded the same level of confidentiality provided under ss. 985.04 and 985.045, F.S. All noncriminal sexting violations that occurred on or after October 1, 2011, are considered confidential.

II. Present Situation:

Sexting occurs when a minor knowingly uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any photograph or video of any person which depicts nudity, as defined in s. 847.001(9), F.S., and is harmful to minors, as defined in s. 847.0016, F.S.

The term "nudity" is defined in s. 847.001(9), F.S., to mean:

> [T]he showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother's breastfeeding of her baby does not under any circumstance constitute "nudity," irrespective of whether or not the nipple is covered during or incidental to feeding.

Section 847.001(6), F.S., defines "harmful to minors" to mean:

> [A]ny reproduction, imitation, characterization, description, exhibition, presentation, or representation, of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it:
> (a) Predominantly appeals to a prurient, shameful, or morbid interest;
> (b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and
> (c) Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

A mother's breastfeeding of her baby is not under any circumstance "harmful to minors."

The transmission or distribution of multiple photographs or videos is a single offense if the photographs or videos were transmitted or distributed within the same 24-hour period.

Following is the graduated punishment schedule for a violation of sexting:

- A first sexting violation is a noncriminal violation, punishable by eight hours of community service or, if ordered by the court in lieu of community service, a $60 fine. The court may also order the minor to participate in suitable training or instruction in lieu of, or in addition to, the community service or fine.
- A sexting violation that occurs after being found to have committed a noncriminal violation for sexting is a first-degree misdemeanor. A first-degree misdemeanor is punishable by a jail term of not more than one year and may include a fine of not more than $1,000.
- A sexting violation that occurs after being found to have committed a first-degree misdemeanor violation for sexting is an unranked third-degree felony. A third-degree felony is punishable by state imprisonment for not more than five years and may include a fine of not more than $5,000. However, because the felony is unranked, the offender may be sentenced to a term of probation under supervision by the Department of Corrections.

The sexting provisions do not prohibit the prosecution of a minor for conduct relating to material that includes the depiction of sexual conduct or sexual excitement, and does not prohibit the prosecution of a minor for stalking under s. 784.048, F.S.

State v. C.M.

In January 2015, Florida's Fourth District Court of Appeal (DCA) decided State v. C.M.[1] The case involved a minor who was charged via a delinquency petition with committing a first-time

[1] 154 So. 3d 1177 (Fla. 4th DCA 2015).

violation of the sexting statute – a noncriminal violation. At trial, the defense filed a motion to dismiss arguing that because the minor did not commit a delinquent act, she could not be subject to prosecution through a petition for delinquency. The trial court agreed and granted the motion.

On appeal, the Fourth DCA recognized that under the delinquency statutes, the state attorney files a petition for delinquency to obtain a finding that a child has committed a delinquent act or violation of law. The court held that because a first offense of sexting (a noncriminal violation) does not fit within the definition of "delinquent act" or "violation of law," a petition for delinquency was not the proper method to prosecute such offense.

The state argued that the trial court's dismissal left them without a remedy, and asserted that the court should authorize the use of a petition for delinquency because it was the only method to determine if a noncriminal first offense of sexting occurred. The Fourth DCA disagreed reasoning that courts "are not at liberty to add words to statutes that were not placed there by the Legislature." The court went on to state:

> [O]nly the legislature can add to the sexting statute to set out the procedure for the prosecution and determination if there has been a violation of the first offense. Until that is effectuated by the legislature, we are bound to the letter of the law and "must apply a statute as [we] find it, leaving to the legislature the correction of assorted inconsistencies and inequalities in its operation."

III. Effect of Proposed Changes:

The bill amends the punishment schedule in s. 847.0141, F.S., by including the issuance of a citation for first violations. The bill specifies that for a first violation of sexting the minor must sign and accept a citation indicating a promise to appear before the juvenile court. In lieu of appearing in court, the minor may complete 8 hours of community service work, pay a $60 civil penalty, or participate in a cyber-safety program, if such a program is locally available. The minor must satisfy any penalty within 30 days after receipt of the citation.

The citation must be in a form prescribed by the issuing law enforcement agency, must be signed by the minor, and must contain all of the following:

- The date and time of issuance;
- The name and address of the minor to whom the citation is issued;
- A thumbprint of the minor to whom the citation is issued;
- Identification of the noncriminal violation and the time it was committed;
- The facts constituting reasonable cause;
- The specific section of law violated;
- The name and authority of the citing officer; and
- The procedures that the minor must follow to contest the citation, perform the required community service, pay the civil penalty, and participate in a cyber-safety program.

If the citation is contested and the court determines that the minor committed a noncriminal violation under this section, the court may order the minor to perform 8 hours of community service, pay a $60 civil penalty, or participate in a cyber-safety program, or any combination thereof.

A minor who fails to comply with the citation waives the right to contest it and the court may impose any of the stated penalties or issue an order to show cause. Upon a finding of contempt, the court may impose additional age-appropriate penalties, which may include issuance of an order to the Department of Highway Safety and Motor Vehicles to withhold issuance of, or suspend the driver license or driving privilege of, the minor for 30 consecutive days. The court may not impose incarceration.

The bill provides that a minor commits a first degree misdemeanor for a violation that occurs after the minor has been found to have committed a noncriminal violation or has satisfied the penalty imposed in lieu of a court appearance unless a law enforcement officer elects to issue a civil citation as provided in this section.

The bill requires all court records and information obtained or produced in relation to a noncriminal sexting violation to be afforded the same level of confidentiality provided under ss. 985.04 and 985.045, F.S. All noncriminal sexting violations that occurred on or after October 1, 2011, are considered confidential.

The bill also requires 80 percent of all civil penalties received by a juvenile court pursuant to the citation process outlined above to be remitted by the clerk of the court to the county commission to provide training on cyber safety for minors. The remaining 20 percent must remain with the clerk of the court to defray administrative costs.

The bill specifically addresses the holding in State v. C.M. by amending s. 985.0301, F.S., to provide that the circuit court has exclusive original jurisdiction of proceeding in which a child is alleged to have committed a noncriminal violation that has been assigned to juvenile court by 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:

None.

C. Government Sector Impact:

The bill requires 80 percent of all civil penalties received by a juvenile court pursuant to the citation process be remitted by the clerk of the court to the county commission to provide training on cyber safety for minors

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 847.0141 and 985.0301.

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 March 30, 2015:
The Committee Substitute permits a law enforcement officer to issue a citation on a second violation of sexting in lieu of criminal penalties being imposed.

B. Amendments:

None.

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

917056

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/30/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete line 94
and insert:
or s. 775.083, unless a law enforcement officer elects to issue a civil citation as provided in paragraph (3)(a) of this section.

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:

917056

Delete line 16

and insert:

additional penalties in certain circumstances; providing for law enforcement to issue a civil citation in lieu of criminal penalties;

650934

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/27/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 94 - 98

and insert:

or s. 775.083. As an alternative to a first degree misdemeanor a law enforcement officer may issue a civil citation as specified in paragraph (3)(a) of this section.

(c) Commits a felony of the third degree for a violation that occurs after the minor has been ~~being~~ found to have committed a misdemeanor of the first degree for sexting,

650934

punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As an alternative to a third degree felony a law enforcement officer may issue a civil citation as specified in paragraph (3)(a) of this section.

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

And the title is amended as follows:

Delete line 16

and insert:

additional penalties in certain circumstances; providing for law enforcement to issue a civil citation in lieu of criminal penalties;

By Senator Abruzzo

25-00323A-15 20151112__

A bill to be entitled

An act relating to sexting; amending s. 847.0141, F.S.; removing the court's discretion to impose a specified penalty for a first violation of sexting; requiring a minor cited for a first violation to sign and accept a citation to appear before juvenile court or, in lieu of appearing in court, to complete community service work, pay a civil penalty, or participate in a cyber-safety program within a certain period of time, if such program is locally available; requiring the citation to be in a form prescribed by the issuing law enforcement agency; requiring such citation to include certain information; authorizing a court to order certain penalties under certain circumstances; authorizing a court to order specified additional penalties in certain circumstances; prohibiting the court from imposing incarceration; specifying that all court records and any information obtained or produced are confidential; providing retroactive application of confidentiality provisions for certain violations; conforming provisions to changes made by the act; requiring that a specified percentage of civil penalties received by a juvenile court be remitted by the clerk of court to the county commission to provide cyber-safety training for minors; requiring that the remaining percentage remain with the clerk of the court to cover administrative costs; amending s. 985.0301, F.S.; creating exclusive original jurisdiction in the circuit court when a

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

25-00323A-15 20151112__

child is alleged to have committed a noncriminal violation that is assigned to juvenile court; providing an effective date.

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

Section 1. Subsections (3) and (5) of section 847.0141, Florida Statutes, are amended, and subsection (6) is added to that section, to read:

847.0141 Sexting; prohibited acts; penalties.—

(3) A minor who violates subsection (1):

(a) Commits a noncriminal violation for a first violation~~,~~ ~~punishable by 8 hours of community service or, if ordered by the court in lieu of community service, a $60 fine. The court may also order the minor to participate in suitable training or instruction in lieu of, or in addition to, community service or a fine~~. The minor must sign and accept a citation indicating a promise to appear before the juvenile court. In lieu of appearing in court, the minor may complete 8 hours of community service work, pay a $60 civil penalty, or participate in a cyber-safety program, if such a program is locally available. The minor must satisfy any penalty within 30 days after receipt of the citation.

1. A citation issued to a minor under this subsection must be in a form prescribed by the issuing law enforcement agency, must be signed by the minor, and must contain all of the following:

a. The date and time of issuance.

b. The name and address of the minor to whom the citation

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is issued.

c. A thumbprint of the minor to whom the citation is issued.

d. Identification of the noncriminal violation and the time it was committed.

e. The facts constituting reasonable cause.

f. The specific section of law violated.

g. The name and authority of the citing officer.

h. The procedures that the minor must follow to contest the citation, perform the required community service, pay the civil penalty, and participate in a cyber-safety program.

2. If the citation is contested and the court determines that the minor committed a noncriminal violation under this section, the court may order the minor to perform 8 hours of community service, pay a $60 civil penalty, or participate in a cyber-safety program, or any combination thereof.

3. A minor who fails to comply with the citation waives his or her right to contest it, and the court may impose any of the penalties identified in subparagraph 2. or issue an order to show cause. Upon a finding of contempt, the court may impose additional age-appropriate penalties, which may include issuance of an order to the Department of Highway Safety and Motor Vehicles to withhold issuance of, or suspend the driver license or driving privilege of, the minor for 30 consecutive days. However, the court may not impose incarceration.

4. All court records and information obtained or produced under this paragraph shall be afforded the same level of confidentiality provided under ss. 985.04 and 985.045. All noncriminal violations for sexting that occurred on or after

October 1, 2011, are considered confidential.

(b) Commits a misdemeanor of the first degree for a violation that occurs after the minor has been ~~being~~ found to have committed a noncriminal violation for sexting or has satisfied the penalty imposed in lieu of a court appearance as provided in paragraph (a), punishable as provided in s. 775.082 or s. 775.083.

(c) Commits a felony of the third degree for a violation that occurs after the minor has been ~~being~~ found to have committed a misdemeanor of the first degree for sexting, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) As used in this section, the term "found to have committed" means a determination of guilt that is the result of a plea or trial, or a finding of delinquency that is the result of a plea or an adjudicatory hearing, regardless of whether adjudication is withheld.

(6) Eighty percent of all civil penalties received by a juvenile court pursuant to this section shall be remitted by the clerk of the court to the county commission to provide training on cyber safety for minors. The remaining 20 percent shall remain with the clerk of the court to defray administrative costs.

Section 2. Subsection (1) of section 985.0301, Florida Statutes, is amended to read:

985.0301 Jurisdiction.—

(1) The circuit court has exclusive original jurisdiction of proceedings in which a child is alleged to have committed:

(a) ~~to have committed~~ A delinquent act or violation of law.

(b) A noncriminal violation that has been assigned to

juvenile court by law.

Section 3. This act shall take effect October 1, 2015.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23/15
Meeting Date

SB 1112
Bill Number (if applicable)

Topic Sexting

Amendment Barcode (if applicable)

Name Jeanne Howard

Job Title Asst. State Attorney

Address 401 N. Dixie Hwy
Street

Phone

WPB FLA 33401
City *State* *Zip*

Email jhoward

Speaking: ☐ For ☐ Against ☐ Information

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

Representing State Attorney Dave Aronberg and 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)

3.23.15
Meeting Date

1112
Bill Number (if applicable)

Topic Sexting

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Pres & CEO

Address 204 S. Monroe St., Ste. 201
Street

Phone 577.3032

Tall | FL | 32301
City | *State* | *Zip*

Email barney@smartjustice alliance.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

Tallahassee, Florida 32399-1100

COMMITTEES:
Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Communications, Energy, and Public Utilities
Community Affairs
Fiscal Policy
Regulated Industries

JOINT COMMITTEE:
Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO
Minority Whip
25th District

March 2nd, 2015

The Honorable Greg Evers
308 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Evers:

I respectfully request that Senate Bill 1112, Sexting, be considered for placement on the Criminal Justice agenda. This piece of legislation will provide jurisdiction to juvenile court to enforce a child's first offense of a noncriminal violation for sexting. It will also clarify the acceptance of a citation for a minor's first violation and provide other methods in lieu of appearing in court through participation in community service, paying a civil penalty, or participating in a cyber-safety program.

Thank you in advance for your consideration. Please feel free to notify me if I can provide you with any additional information.

Sincerely,

Joseph Abruzzo

Cc: Amanda Cannon, Staff Director

REPLY TO:
❒ 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774 FAX: (888) 284-6495
❒ 110 Dr. Martin Luther King, Jr. Boulevard, Belle Glade, Florida 33430-3900 (561) 829-1410
❒ 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

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 1270
INTRODUCER:	Senator Soto
SUBJECT:	Sexual Offenses/Statute of Limitations
DATE:	March 20, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	**Favorable**
2.			ACJ	
3.			FP	

I. Summary:

SB 1270 amends s. 775.15, F.S., by extending the current statute of limitation time periods of 3 or 4 years to 10 years for a first or second degree felony sexual battery prosecution when the victim is 16 years of age or older and does not report the crime within 72 hours. (If a 16 year old or older victim of *second* degree felony sexual battery or an 18 year old or older victim of *first* degree felony sexual battery report the crime within 72 hours, current law is applicable and there is no time limitation for bringing a prosecution.)

II. Present Situation:

Statutes of Limitation in Criminal Cases

Historical Perspective

At common law, there was no time limit restriction under which a criminal charge was barred from prosecution. Time limitations, or statutes of limitation, for criminal prosecutions exist only as a creation of statute and are considered to be acts of grace by the sovereign.[1]

In *State v. Hickman*, the court stated:

> The only purpose of a Statute limiting the time within which a criminal charge may be prosecuted is to protect every person from being interminably under the threat or cloud of possible criminal prosecution, which otherwise might be indefinitely delayed until the time when defense witnesses might die, disappear or otherwise become unavailable, judges would change office, or innumerable other time

[1] *State v. Hickman*, 189 So. 2d 254, 261 (Fla. 2d DCA 1966).

> hazards might develop, which could conceivably defeat, or at least hamper, an otherwise good defense.[2]

Since the creation of statutes of limitation, courts have held that:

(1) Generally, the statute of limitation that was in effect when a crime was committed controls.[3]
(2) Statutes of limitation in criminal cases should be construed liberally in favor of the defendant.[4]
(3) The Legislature may extend the limitations period without violating the ex post facto clause of the State Constitution[5] if the Legislature makes the change before the prosecution is barred under the old statute and clearly demonstrates that the new statute applies to cases pending when the extension takes effect.[6]

Existing Provisions

Section 775.15, F.S., sets forth time limitations, or statutes of limitation, after which criminal prosecutions are barred.

The statute of limitation for prosecuting a criminal case begins to run on the day after the offense is committed.[7] An offense is deemed to have been committed when either every element of the offense has occurred or if it plainly appears that the legislative purpose is to prohibit a continuing course of conduct, at the time when the course of conduct or the defendant's complicity therein is terminated.[8]

Section 775.15, F.S., provides the following time limitations for initiating a criminal prosecution for a felony offense:

- There is no time limitation for prosecuting a capital felony, a life felony, a felony resulting in death,[9] any sexual battery on a victim younger than 16,[10] a first degree felony sexual battery on a victim younger than 18,[11] or a first or second degree felony sexual battery and the victim reports the crime to law enforcement within 72 hours.[12]
- A 10-year limitation applies to prosecutions for any felony that results in injury to a person when the felony arises from the use of a destructive device.[13]
- A 4-year time limitation applies to prosecutions for a first degree felony.[14]
- A 3-year time limitation applies to prosecutions for any other felony.[15]

---

[2] *Id*.
[3] *Beyer v. State*, 76 So. 3d 1132, 1135 (Fla. 4th DCA 2012).
[4] *Id*.
[5] FLA. CONST. art. I, s.10.
[6] *Andrews v. State*, 392 So. 2d 270, 271 (Fla. 2d DCA 1980).
[7] Section 775.15(3), F.S.
[8] *Id*.
[9] Section 775.15(1), F.S.
[10] Section 775.15(13)(c), F.S.
[11] Section 775.15(13)(b), F.S.
[12] Section 775.15(13) and (14), F.S.
[13] Section 775.15(7), F.S.
[14] Section 775.15(2)(a), F.S.
[15] Section 775.15(2)(b), F.S.

In addition to these enumerated time periods, the offenses of sexual battery, lewd or lascivious acts, and certain other felony offenses[16] may be prosecuted at any time after the date on which the offender's identity is established, or should have been established through the exercise of due diligence, through the analysis of DNA evidence. However, the DNA sample for these prosecutions must be available for testing by the accused.[17]

There is also an extension of time if a victim of sexual battery, lewd or lascivious behavior, incest, "statutory rape" under former s. 794.05, F.S., or computer pornography is under the age of 18. In these cases, the applicable period of limitation does not begin to run until the victim reaches the age of 18 or the violation is reported to a law enforcement or governmental agency, whichever occurs first.[18]

If a victim 18 years or older reports a first or second degree felony sexual battery within 72 hours of the crime, there is no statute of limitation. If the victim does not report the crime within this time period, the statute of limitation is 4 years for a first degree felony sexual battery[19] and 3 years for a second degree felony sexual battery.[20]

Similarly, if a 16 or 17 year old who is a victim of a second degree felony sexual battery does not report the crime within 72 hours, the applicable time period to bring a prosecution is 3 years.[21] (There is no limitation period if they are a victim of a first degree felony sexual battery, regardless of whether they report the crime.[22] There is also no limitation period if they report within 72 hours of being a victim of second degree felony sexual battery.[23])

III. Effect of Proposed Changes:

The bill amends s. 775.15, F.S., by extending the current statute of limitation time periods of 3 or 4 years to 10 years for a first or second degree felony sexual battery prosecution when the victim is 16 years of age or older and does not report the crime within 72 hours. (If a 16 year old or older victim of *second* degree felony sexual battery or an 18 year old or older victim of *first* degree felony sexual battery report the crime within 72 hours, current law is applicable and there is no time limitation for bringing a prosecution.)

The bill makes this change apply to any such offense except one already time-barred on or before July 1, 2015 (meaning it applies retroactively to previously committed offenses as long as the statute of limitation has not run on these offenses prior to July 1, 2015).

---

[16] These other felony offenses include aggravated battery or any felony battery offense under ch. 784, F.S., kidnapping or false imprisonment, sexual battery, lewd or lascivious offense, burglary, robbery, carjacking, and aggravated child abuse.
[17] Section 775.15(16)(a)4., F.S.
[18] Section 775.15(13)(a), F.S.
[19] Section 775.15(14), F.S. First degree felony sexual battery is defined as non-consensual sexual battery under certain enumerated circumstances, including in part, the victim is physically helpless to resist, the victim is threatened, the victim is physically or mentally incapacitated, or the offender is law enforcement. Section 794.011(4), F.S.
[20] Section 775.15(14), F.S. Second degree felony sexual battery is defined as non-consensual sexual battery without the use of physical force or violence likely to cause serious personal injury. Section 794.011(5)(b), F.S.
[21] The 3 year limitation does not commence until the earlier of the date that the victim turns 18 or the crime is reported. Section 775.15(13)(a), F.S.
[22] Section 775.15(13)(b), F.S.
[23] Section 775.15(13(a), F.S.

The bill also provides that this act may be cited as the "43 Days Initiative Act."

The effective date of the bill is July 1, 2015.

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 Criminal Justice Impact Conference (CJIC) met February 27, 2015, and determined that this bill will have a positive moderate impact on state prison beds (meaning CJIC estimates that it may increase the prison population by more than 10 but less than 25 inmates annually).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 775.15 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 Soto

14-00557B-15 20151270__

A bill to be entitled

An act relating to sexual offenses; providing a short title; amending s. 775.15, F.S.; revising time limitations for the criminal prosecution of specified sexual battery offenses if the victim is 16 years of age or older; providing applicability; providing an effective date.

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

Section 1. This act may be cited as the "43 Days Initiative Act."

Section 2. Paragraph (b) of subsection (13) of section 775.15, Florida Statutes, is republished, and subsection (14) of that section is amended, to read:

775.15 Time limitations; general time limitations; exceptions.—

(13)

(b) If the offense is a first degree felony violation of s. 794.011 and the victim was under 18 years of age at the time the offense was committed, a prosecution of the offense may be commenced at any time. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before October 1, 2003.

(14)(a) A prosecution for a first or second degree felony violation of s. 794.011, if the victim is 16 ~~18~~ years of age or older at the time of the offense and the offense is reported to a law enforcement agency within 72 hours after commission of the offense, may be commenced at any time. ~~If the offense is not reported within 72 hours after the commission of the offense, the prosecution must be commenced within the time periods prescribed in subsection (2).~~

(b) Except as provided in paragraph (a) or paragraph (13)(b), a prosecution for a first or second degree felony violation of s. 794.011, if the victim is 16 years of age or older at the time of the offense, must be commenced within 10 years after the violation is committed. This paragraph applies to any such offense except an offense the prosecution of which would have been barred by subsection (2) on or before July 1, 2015.

Section 3. This act shall take effect July 1, 2015.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-23-15
Meeting Date

1270
Bill Number (if applicable)

Topic Sexual Offenses

Amendment Barcode (if applicable)

Name Matt Dunagan

Job Title Assistant Executive Director

Address 2617 Mahan Drive
Street

Phone

Tallahassee FL
City *State* *Zip*

Email

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

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

Representing Florida Sheriffs Association

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3.23.15
Meeting Date

1270
Bill Number (if applicable)

Topic Sexual Offenses

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Pres & CEO

Address 204 S. Monroe St., Ste. 201
Street

City *State* *Zip*

Phone 577.3032

Email barney@smartjustice alliance.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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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)

3/23/2015
Meeting Date

1270
Bill Number (if applicable)

Topic Sexual Offenses

Amendment Barcode (if applicable)

Name Jennifer Dritt

Job Title Executive Director

Address 1820 E. Park Ave #100
Street

Phone 850 297-2000

Tallahassee FL 32301
City *State* *Zip*

Email jdritt@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.

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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)

3/23/15
Meeting Date

1270
Bill Number (if applicable)

Topic 43 Days Initiative

Amendment Barcode (if applicable)

Name Danielle Sullivan

Job Title 43 Days Initiative

Address 687 Mourning Dove Circle
Street

Phone 407-340-5104

Lake Mary FL 32746
City *State* *Zip*

Email info@43daysinitiative.org

Speaking: ☑ For ☐ Against ☐ Information

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

Representing 43 Days Initiative

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/23/15
Meeting Date

1270
Bill Number (if applicable)

Topic 43 Days Initiative

Amendment Barcode (if applicable)

Name Amy Schipper

Job Title

Address 1935 South Conway Rd. 53
Street
Orlando FL 32812
City *State* *Zip*

Phone 407-451-4638

Email amyschipper@dsfr.com

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

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

Representing

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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S-001 (10/14/14)

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
Democratic Caucus Rules Chair
14th District

March 4, 2015

The Honorable Greg Evers
Committee on Criminal Justice
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Evers,

I respectively request that Senate Bill 1270, Sexual Offenses, be placed on the agenda as soon as possible. Senate Bill 1270 creates the "43 Days Initiative Act," which extends the statute of limitations for victims of rape to 10 years after the violation is committed.

Thank you for your consideration. Should you have any questions or concerns, please feel free to contact me at 850-487-5014.

Sincerely,

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

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 1464
INTRODUCER:	Senator Dean
SUBJECT:	Public Facilities
DATE:	March 20, 2015
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	**Pre-meeting**
2.			ACJ	
3.			FP	

I. Summary:

SB 1464 creates legislative intent to secure privacy and safety for all individuals using public facilities. It provides that there is an expectation of privacy in public facilities which are places of increased vulnerability and present the potential for crimes against individuals using the facilities.

The bill defines Public Accommodations and Public Facilities. The bill provides that a person who knowingly and willfully enters a public facility with the intent to harass or engage in harassment, lewd behavior, assault, battery, molestation, rape, or voyeurism commits a felony of the second degree.

The bill creates a private cause of action by providing that a person who knowingly and willfully enters a public facility with the intent to harass or engage in harassment, lewd behavior, assault, battery, molestation, rape, or voyeurism is liable for a civil action to any person who is using the public facility at the time of the unlawful entry for the damages caused by the unlawful entry, together with reasonable attorney fees and costs. The bill provides for civil liability of an owner of public accommodations, a school, or a place of employment who maintain public facilities who encourages use of the facilities contrary to its lawful use.

II. Present Situation:

Places of Public Accommodation

Section 760.02, F.S., defines the term to mean "places of public accommodation, lodgings, facilities principally engaged in selling food for consumption on the premises, gasoline stations, places of exhibition or entertainment, and other covered establishments. Each of the following establishments which serves the public is a place of public accommodation within the meaning of this section:

- Any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than four rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his or her residence.
- Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment, or any gasoline station.
- Any motion picture theater, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment.
- Any establishment which is physically located within the premises of any establishment otherwise covered by this subsection, or within the premises of which is physically located any such covered establishment, and which holds itself out as serving patrons of such covered establishment."

Lewdness

Under s. 796.07(1)(b), F.S., prohibiting prostitution "lewdness" is defined as any indecent or obscene act. However there is nothing in the Florida Statutes prohibiting a lewd and lascivious act that does not "otherwise define the behavior that constitutes a lewd and lascivious act."[1] There is case law defining lewdness as the "equivalent of both licentiousness[2] and lasciviousness.[3]

Assault

Section 784.011, F.S., defines an "assault" as an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent. Whoever commits an assault shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

Battery

Section 784.03, F.S., provides that the offense of battery occurs when a person:
- Actually and intentionally touches or strikes another person against the will of the other; or
- Intentionally causes bodily harm to another person.

Except as provided below, a person who commits battery commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

A person who has one prior conviction for battery, aggravated battery, or felony battery and who commits any second or subsequent battery commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S. For purposes of this subsection,

[1] 16A Fla. Jur 2d, *Criminal Law –Substantive Principles/Offenses* s. 793(2015).
[2] *State ex rel Swanboro v. Mayo*, 155, Fla 330, 19 So. 2d 883 (1944).
[3] *Holton v. State*, 28 Fla. 303, 9 So. 716(1891)

"conviction" means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

Harassment

The definition of "Harass" under s. 784.048, F.S., of the Stalking statute means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.

Voyeurism

Section 810.14, F.S., provides that a person commits the offense of voyeurism when he or she, with lewd, lascivious, or indecent intent:

- Secretly observes another person when the other person is located in a dwelling, structure, or conveyance and such location provides a reasonable expectation of privacy.
- Secretly observes another person's intimate areas in which the person has a reasonable expectation of privacy, when the other person is located in a public or private dwelling, structure, or conveyance. As used in this paragraph, the term "intimate area" means any portion of a person's body or undergarments that is covered by clothing and intended to be protected from public view.

Sexual Battery

Sexual Battery means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.[4]

III. Effect of Proposed Changes:

The bill creates the following legislative intent:

The purpose of the act is to secure privacy and safety for all individual using public facilities. It makes legislative findings that:

- There is an expectation of privacy in public facilities.
- Public facilities are places of increased vulnerability and present the potential for crimes against individuals using those facilities, including, but not limited to, harassment, lewd behavior, assault, battery, molestation, rape, and voyeurism.

The bill creates s. 398.01, F.S. It provides a definition of "public accommodations" for purposes of the section to mean places of public accommodation, lodgings, facilities principally engaged in selling food for consumption on the premises, gasoline stations, places of exhibition or entertainment, and other covered establishments.

[4] See s. 794.011, F.S.

The following establishments are places of public accommodation:

- Any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than four rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his or her residence.
- Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment, or any gasoline station.
- Any motion picture theater, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment.
- Any establishment which is physically located within the premises of any establishment otherwise covered by this subsection, or within the premises of which is physically located in any such covered establishment, and which holds itself out as serving patrons of such covered establishment.

The bill defines "public facilities" as bathrooms, restrooms, dressing rooms, fitting rooms, locker rooms, showers, and other similar facilities where there is a reasonable expectation of privacy; that are maintained by an owner of public accommodations, a school, or a place of employment; and that are designed or designated to be used by more than one person at a time.

Prohibited Conduct

The bill provides that a person who knowingly and willfully enters a public facility with the intent to harass or engage in harassment, lewd behavior, assault, battery, molestation, rape, or voyeurism commits a felony of the second degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

Private Cause of Action

The bill provides that a person who knowingly and willfully enters a public facility with the intent to harass or engage in harassment, lewd behavior, assault, battery, molestation, rape, or voyeurism is liable for a civil action to any person who is using the public facility at the time of the unlawful entry for the damages caused by the unlawful entry, together with reasonable attorney fees and costs.

The bill provides that an owner of public accommodations, a school, or a place of employment who maintains public facilities and advertises, promotes, or encourages use of those facilities in violation of the above referenced section governing prohibited conduct, or fails to take reasonable remedial measures after learning of the use, is liable in a civil action to any person who is lawfully using those facilities at the time of the unlawful entry for the damages caused by the unlawful entry, together with reasonable attorney fees and costs.

Effective Date

The bill provides an effective date of October 1, 2015.

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:

The bill creates a private cause of action for damages, costs, and fees.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bills use of the term "rape" is no longer used in the Florida Statutes. "Sexual Battery" is now the standard terminology to describe oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object in defined circumstances outlined in the Florida Statues.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 398.01 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 Dean

5-00284B-15 20151464__

A bill to be entitled

An act relating to public facilities; providing a purpose and legislative findings; creating s. 398.01, F.S.; defining terms; providing penalties for specified crimes; providing for a private cause of action for damages, costs, and fees; providing for liability for an owner of public accommodations under certain circumstances for damages, costs, and fees; providing an effective date.

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

Section 1. Purpose; legislative findings.—

(1) The purpose of this act is to secure privacy and safety for all individuals using public facilities.

(2) The Legislature finds that:

(a) There is an expectation of privacy in public facilities.

(b) Public facilities are places of increased vulnerability and present the potential for crimes against individuals using those facilities, including, but not limited to, harassment, lewd behavior, assault, battery, molestation, rape, and voyeurism.

Section 2. Section 398.01, Florida Statutes, is created to read:

398.01 Privacy for persons using public facilities.—

(1) DEFINITIONS.—For purposes of this section, the term:

(a) "Public accommodations" means places of public accommodation, lodgings, facilities principally engaged in

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

5-00284B-15 20151464__

selling food for consumption on the premises, gasoline stations, places of exhibition or entertainment, and other covered establishments. Each of the following establishments which serves the public is a place of public accommodation within the meaning of this section:

1. Any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than four rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his or her residence.

2. Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment, or any gasoline station.

3. Any motion picture theater, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment.

4. Any establishment which is physically located within the premises of any establishment otherwise covered by this subsection, or within the premises of which is physically located in any such covered establishment, and which holds itself out as serving patrons of such covered establishment.

(b) "Public facilities" means bathrooms, restrooms, dressing rooms, fitting rooms, locker rooms, showers, and other similar facilities where there is a reasonable expectation of privacy; that are maintained by an owner of public accommodations, a school, or a place of employment; and that are designed or designated to be used by more than one person at a

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

time.

(2) PROHIBITED CONDUCT.—A person who knowingly and willfully enters a public facility with the intent to harass or engage in harassment, lewd behavior, assault, battery, molestation, rape, or voyeurism commits a felony of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) PRIVATE CAUSE OF ACTION.—

(a) A person who knowingly and willfully enters a public facility with the intent to harass or engage in harassment, lewd behavior, assault, battery, molestation, rape, or voyeurism is liable in a civil action to any person who is using the public facility at the time of the unlawful entry for the damages caused by the unlawful entry, together with reasonable attorney fees and costs.

(b) An owner of public accommodations, a school, or a place of employment who maintains public facilities and advertises, promotes, or encourages use of those facilities in violation of subsection (2), or fails to take reasonable remedial measures after learning of such use, is liable in a civil action to any person who is lawfully using those facilities at the time of the unlawful entry for the damages caused by the unlawful entry, together with reasonable attorney fees and costs.

Section 3. This act shall take effect October 1, 2015.

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THE FLORIDA SENATE

APPEARANCE RECORD

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23 MAR 15
Meeting Date

SB 1464
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name James Dundorf

Job Title Analyst

Address 6001 SW 70th St. Apt 602
Street

Phone

South Miami FL 33143
City *State* *Zip*

Email

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

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3/23/14
Meeting Date

1464
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Ann Dugger

Job Title Exec. Dir.

Address 1935 Lane Ave S
Street

Jacksonville Fl. 32210
City *State* *Zip*

Phone 904-783-6319

Email adugger@justicecoalition.org

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Justice Coalition

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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3/23/15
Meeting Date

1464
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Fabiola Hallovic

Job Title

Address 4036 Augustine Green CT
Street

Jacksonville FL 32257
City *State* *Zip*

Phone (904) 207-9178

Email editamesic

Speaking: ☑ For ☐ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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23 MAR 15
Meeting Date

1464
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name James Dundorf

Job Title Analyst

Address 6001 SW 70th St.
Street

Phone 305-342-2872

South Miami FL 33143
City *State* *Zip*

Email

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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03/23/2015
Meeting Date

SB 1464
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Ms. Sybol N. Lee

Job Title ~~CFC - Human Rights~~ Retired Educator

Address 602 N.W. 100th Street
Street

Phone 305 754-5073

Miami FL 33150
City *State* *Zip*

Email SLEE150@bellsouth.net

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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3/23/15
Meeting Date

1464
Bill Number (if applicable)

Topic PUBLIC FACILITIES

Amendment Barcode (if applicable)

Name ALEX McCOY

Job Title COMMUNITY RELATIONS SPECIALIST

Address ~~311 NW 135 ST~~ 1584 NE 152ND *Street* Phone (954) 478-9885

NORTH MIAMI BEACH *City* FL *State* 33162 *Zip* Email MACCSUMUS.MM@gmail.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing ~~CHRISTIAN FAMILY [illegible] AND~~ PULSE / SELF

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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3/23/2015
Meeting Date

SB 1464
Bill Number (if applicable)

Topic SB 1464 (PUBLIC FACILITIES)

Amendment Barcode (if applicable)

Name NATHANIEL J. WILCOX

Job Title ORGANIZER

Address 3111 NW 135 ST
Street

Phone (786) 488-2979

OPA-LOCKA FL 33054
City *State* *Zip*

Email nwilcox2@AOL.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing [redacted] PULSE

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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03-23-15
Meeting Date

SB-1464
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Francine M. Wilcox

Job Title Teacher

Address 3111 N.W. 135th Street
Street

Phone (305) 491-5629

Opa-locka FL 33054
City *State* *Zip*

Email franwilcox@aol.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing ~~Christian Family Coalition~~ Self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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3/23/15
Meeting Date

~~Charlotte County Location~~

SB 1464
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name ELSA M. FIGUERAS, Esq.

Job Title Attorney (Litigation/trial/appeals); Lobbyist Former In-House Counsel Corporate 50

Address 1033 N.E. 17th Way Ste 904
Street

Fort Lauderdale FL 33304
City *State* *Zip*

Phone ↳ Direct 754.

Email ELSAESQ@GMAIL.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Self, Client interests, church

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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3/23/15
Meeting Date

1464
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Armando V. Pomar

Job Title Cuban National Honored Life Member.

Address P.O. Box 654503
Street

Phone (786)285-4090

Miami FL 33265
City *State* *Zip*

Email armandovpomar@yahoo.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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3/23/15
Meeting Date

1464
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Antonio Verdugo

Job Title

Address 10005 SW 28 St.
Street

Phone (786) 447-6431

Miami Florida 33165
City *State* *Zip*

Email mdccc1@hotmail.com

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

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

Representing

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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03-23-15
Meeting Date

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

SB-1464
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Public Safety

Name A. MAX TOUAR

Job Title

Address 9741 N.W. 45 lane
Street
Doral FL 33178
City *State* *Zip*

Phone (780) 306-0672

Email max@mediamax.cc

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

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

Representing self

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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)

Meeting Date

1464
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB1464

Name Naomi Brasley

Job Title N/A

Address 420 High St
Street

Phone

Tallahassee FL [redacted] Zip 32304
City State

Email

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Trans Lives Matter

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)

3/23/15
Meeting Date

SB 1464
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name ELSA M. FIGUERAS, ESQ

Job Title Attorney / Former In House Counsel Co Fortune 50 | Woman concerned about her safety

Address 1033 NE 17 Way, #904
Street

Phone Direct 754-224-8854

Ft. Lauderdale FL 33304
City *State* *Zip*

Email ELSAESQ@GMAIL.COM
ELSA@EMFLAW.COM

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Myself | Church | as Woman concerned about my privacy & safety as a lawyer

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)

Meeting Date

1464
Bill Number (if applicable)

Topic Public Funding

Amendment Barcode (if applicable)

Name Jennifer Dritt

Job Title Executive Director

Address 1820 E. Park Ave
Street

Phone (850) 297-2000

Tallahassee, FL 32301
City State Zip

Email jdritt@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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

Mar-23-2014 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) SB 1464

Meeting Date *Bill Number (if applicable)*

Topic SB 1464 *Amendment Barcode (if applicable)*

Name Nora McKenzie

Job Title concerned constituant

Address 117 Freedom Rd Phone

Street

Tallahassee FL 32317 Email

City *State* *Zip*

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.

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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)

3-26-15
Meeting Date

SB 1464
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Single Sex Facilities

Name Mark Phillips

Job Title lobbyist

Address 1101 Victoria Dr.
Street

Dunedin FL 34698
City *State* *Zip*

Phone 813-532-5023

Email mphillips3wka@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL Family Policy Council

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)

3/23/15
Meeting Date

SB 1464
Bill Number (if applicable)

Topic SB 1464/ Bathrooms in Athletics/Public Places *Amendment Barcode (if applicable)*

Name Laura Forster

Job Title Home maker

Address 8077 Archer Circle *Street*

Phone 850 894-0582

TALL *City* FL *State* 32309 *Zip*

Email theforsterfour@gmail

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

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

Representing Florida Family Policy Council

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23/2015
Meeting Date

SB 1464
Bill Number (if applicable)

Topic SB 1464

Amendment Barcode (if applicable)

Name BARRY WEBSTER

Job Title

Address 350 MILESTONE DRIVE
Street

Phone 850-894-8240

Tallahassee FL 32312
City *State* *Zip*

Email BARRYJWEBSTER@AOL.COM

Speaking: ☑ For ☐ Against ☐ Information

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

Representing FL FAMILY POLICY COUNCIL / CELEBRATION

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)

03/23/15
Meeting Date

SB 1464 / HB 583
Bill Number (if applicable)

Topic SINGLE SEX PUBLIC FACILITIES

Amendment Barcode (if applicable)

Name Barbara Berry

Job Title

Address 2622 Noble Drive
Street

Tallahassee FL 32308
City *State* *Zip*

Phone 850-385-5671

Email hakataga171@aol.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Family Policy Council

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)

3/23/15
Meeting Date

1464
Bill Number (if applicable)

Topic 1464 - Public Facilities

Amendment Barcode (if applicable)

Name Pam Olsen

Job Title Pastor

Address PO Box 14017
Street

TLH.
City *State* *Zip*

Phone 850-906-9170

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing self.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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)

Meeting Date

SB-1464
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Robert Meyers

Job Title Miami Baptist Church

Address 14380 SW 166 St
Street

Phone

Miami 33177
City State Zip

Email

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

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

Representing Self

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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)

3/23/14
Meeting Date

1464
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Edita Mesic

Job Title School

Address 4036 Agustine green ct
Street

Jacksonville FC 32257
City *State* *Zip*

Phone 904-207-9178

Email editamesic@live.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing All children

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)

Meeting Date	Bill Number (if applicable)
	SB 1464

Amendment Barcode (if applicable)

Topic PUBLIC FACILITIES

Name ANN MITCHELL

Job Title

Address 6530 BOCA DEL MAR DR (Street)

Phone 561-368-1265

BOCA RATON (City) FL (State) 33433 (Zip)

Email AMITCH1@COMCAST.NET

Speaking: ☐ For ☐ Against ☐ Information

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

Representing NATIONAL COUNCIL JEWISH WOMEN

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)

3-23-15
Meeting Date

SB 1464
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Amy Datz

Job Title Legislative Liaison

Address 1130 Crestview Ave.
Street

Tallahassee FL. 32303
City *State* *Zip*

Phone 850 322-7599

Email AmalieDatz@mac.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing ~~Self~~ National Council of Jewish Women

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23/2015
Meeting Date

1464
Bill Number (if applicable)

Topic "Public Accommodations"

Amendment Barcode (if applicable)

Name Tania Galloni

Job Title Director, Florida Office - Southern Poverty Law Center

Address 4770 Biscayne Blvd, Ste 760
Street

Phone (786)347-2056

Miami FL 33138
City *State* *Zip*

Email tania.galloni@splcenter.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Southern Poverty Law Center

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23/15
Meeting Date

SB 1464
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Public Facilities

Name Edgar Castro

Job Title Lobbyist

Address 123 S Adams St
Street

Phone 850-671-4401

Tallahassee FL 32301
City *State* *Zip*

Email Castro@sostrategy.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing City of Miami Beach

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23/15
Meeting Date

1464
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Kimberly Slusser

Job Title _____

Address 1812 Tyndall Dr.
Street

Phone _____

Tallahassee FL 32304
City *State* *Zip*

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date	1464 *Bill Number (if applicable)*
Topic SB 1464	*Amendment Barcode (if applicable)*
Name Shivaani Ehsaan	
Job Title FSU student	
Address *Street*	Phone
City *State* *Zip*	Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Trans Lives Matter Tallahassee

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-23-15
Meeting Date

SB-1464
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Mrs. Dorothy Price

Job Title Homemaker

Address 12550 202 Place
Street

Phone 386-730-4013

O'Brien FL 32071
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Christian Family Coalition

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)

3-23-2015
Meeting Date

SB JH 6H
Bill Number (if applicable)

Topic PUBLIC FACILITIES

Amendment Barcode (if applicable)

Name MAX R. PRI

Job Title RETIRED

Address 12550 202 PLACE
Street
OBRIEN FL. 32071
City *State* *Zip*

Phone 386-330-4013

Email MRP4013@AOL.COM

Speaking: ☐ For ☐ Against ☐ Information

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

Representing C.F.C.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-23-15
Meeting Date

SB 1464
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Deborah Phillips

Job Title retired - Law Enforcement (MDPD)

Address 12712 202nd Pl
Street

O'Brien, Fl 32071
City *State* *Zip*

Phone 386-364-7028

Email jeep5149@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Christian Family Coalition

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

Tallahassee, Florida 32399-1100

COMMITTEES:
Environmental Preservation and Conservation, *Chair*
Agriculture, *Vice Chair*
Appropriations Subcommittee on General Government
Children, Families, and Elder Affairs
Communications, Energy, and Public Utilities
Community Affairs

SENATOR CHARLES S. DEAN, SR.
5th District

March 18, 2015

The Honorable Greg Evers
308 Senate Office Building
404 South Monroe St.
Tallahassee, FL 32399-1100

Dear Chairman Evers:

Thank you for allowing Senate Bill 1464, relating to Public Facilities, to be placed on your agenda. Unfortunately, I will be unable to attend the Committee meeting and would like to request your permission to allow my aide, Nicholas Abrahams, to present this bill in my place.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Charles S. Dean
State Senator, District 5

Cc: Amanda Cannon, Staff Director

REPLY TO:
❒ 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
❒ 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
❒ 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

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:	CS/SB 1514
INTRODUCER:	Criminal Justice Committee and Senator Flores
SUBJECT:	Offenses Concerning Racketeering and Illegal Debts
DATE:	March 24, 2015 REVISED:

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1514 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 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;
- 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).

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 activity or through the collection of an unlawful debt[2] 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;[3]
- 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.[4]

[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] 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.
[3] 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.
[4] Section 895.03(1)-(4), F.S. (prohibited activities).

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, intended for use in the course of, derived from, or realized through conduct in violation of the act.[5]

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 notice[6] 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.[7] "[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."[8]

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.[9] "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."[10] 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.[11] The 90-day time limit may be extended by the court for good cause shown by the investigative agency.[12]

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;

[5] Section 895.05(2), F.S.
[6] 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.
[7] Section 895.05(2), F.S.,
[8] Analysis of SB 1514 (March 5, 2015), Department of Legal Affairs (on file with the Senate Committee on Criminal Justice). This analysis is further cited as "Department of Legal Affairs Analysis."
[9] Section 895.06, F.S.
[10] *Check 'N Go of Florida, Inc. v. State*, 790 So.2d 454, 457 (Fla. 5th DCA 2001).
[11] 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.
[12] *Id*.

- Address consent decrees or settlement agreements in civil actions for Florida RICO Act violations; and
- Authorize restitution to RICO victims.

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 in which the real or personal tangible property is located, or in a circuit court in the state for intangible property;
- 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;
- 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;[13]
- 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;

[13] 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.

- 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, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

CS/SB 1514 provides 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. CS/SB 1514 appears to be linked to SB 1536, which makes confidential and exempt from public disclosure information held by an investigative agency pursuant to an investigation of a violation of the Florida RICO Act. Under SB 1536, the 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. An investigation is considered complete once the investigative agency either files an action or closes its investigation without filing an action.

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 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."[14]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 16.56, 895.02, 895.05, 895.06, 895.09, and 905.34.

This bill reenacts 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 Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on March 23, 2015:

- Authorizes an investigative agency, on behalf of the state, to institute a RICO civil proceeding for forfeiture in a circuit court in this state where the personal property is located or in a circuit court in the state for intangible property;
- Provides that the list of claims for which a court directs distribution of forfeiture funds includes claims for restitution by RICO victims; and
- Provides 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).

B. Amendments:

None.

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

[14] Department of Legal Affairs Analysis.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/23/2015	.	
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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 895.02, Florida Statutes, is reordered and amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(8)~~(1)~~ "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

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(a) Any crime that is chargeable by petition, indictment, or information under the following provisions of the Florida Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 316.1935, relating to fleeing or attempting to elude a law enforcement officer and aggravated fleeing or eluding.

3. Section 403.727(3)(b), relating to environmental control.

4. Section 409.920 or s. 409.9201, relating to Medicaid fraud.

5. Section 414.39, relating to public assistance fraud.

6. Section 440.105 or s. 440.106, relating to workers' compensation.

7. Section 443.071(4), relating to creation of a fictitious employer scheme to commit reemployment assistance fraud.

8. Section 465.0161, relating to distribution of medicinal drugs without a permit as an Internet pharmacy.

9. Section 499.0051, relating to crimes involving contraband and adulterated drugs.

10. Part IV of chapter 501, relating to telemarketing.

11. Chapter 517, relating to sale of securities and investor protection.

12. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

13. Chapter 550, relating to jai alai frontons.

14. Section 551.109, relating to slot machine gaming.

15. Chapter 552, relating to the manufacture, distribution,

and use of explosives.

16. Chapter 560, relating to money transmitters, if the violation is punishable as a felony.

17. Chapter 562, relating to beverage law enforcement.

18. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.

19. Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.

20. Chapter 687, relating to interest and usurious practices.

21. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.

22. Section 775.13(5)(b), relating to registration of persons found to have committed any offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.

23. Section 777.03, relating to commission of crimes by accessories after the fact.

24. Chapter 782, relating to homicide.

25. Chapter 784, relating to assault and battery.

26. Chapter 787, relating to kidnapping or human trafficking.

27. Chapter 790, relating to weapons and firearms.

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

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increasing a criminal gang member's own standing or position within a criminal gang.

29. Former section 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 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.

(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.

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(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) ~~895.05(12)~~ or in s. 895.07.

(6)~~(7)~~ "Investigative agency" means the Department of Legal 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 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. Present subsections (9) through (12) of section 895.05, Florida Statutes, are renumbered as subsections (10) through (13), respectively, subsection (2) and present subsections (9) through (12) are amended, and a new subsection (9) is added to that section, 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 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

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

and attorney ~~attorney's~~ fees incurred by the investigative agency in the action. In the alternative, the court may order the forfeiture of any other property of the 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) ~~(c)~~ 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.

(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 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 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

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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 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.—

~~(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 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 other person or entity except 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

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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 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

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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 response to a subpoena issued under this section.

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 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)(c)~~, 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 the racketeering activity. Where 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 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 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 provisions of the Florida Anti-Fencing Act;

5. Any violation of the provisions 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 the provisions of chapter 815;

9. Any criminal violation of part I of chapter 499;

10. Any violation of the provisions 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 Investor Protection Act; or

15. Any violation of the provisions of chapter 787, as well as any and all offenses related to a violation of the provisions 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 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, 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)-(c)~~, 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:

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, 2015.

========== 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 offenses concerning racketeering and illegal debts; reordering and amending s. 895.02, F.S.; specifying the earliest date that incidents constituting a pattern of racketeering activity may have occurred; conforming a cross-reference; amending s. 895.05, F.S.; authorizing an investigative agency to institute a civil proceeding for forfeiture in a circuit court in certain circumstances; adding diminution in value as a ground for an action under certain circumstances; removing certain grounds for an action; authorizing a court to order the forfeiture of other property of the defendant up to the value of the unavailable property in certain circumstances; authorizing the Department of Legal Affairs to bring an action for certain violations to obtain specified relief, fees, and costs for certain purposes; providing for civil penalties for natural persons and other persons who commit certain violations; providing for deposit of moneys received for certain violations; authorizing a party to a specific civil action to petition the court for entry of a consent decree or

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for approval of a settlement agreement; providing requirements for such decrees or agreements; amending s. 895.06, F.S.; deleting the definition of "investigative agency" for purposes of provisions relating to civil investigative subpoenas; providing that a subpoena must be confidential for a specified time; restricting to whom the subpoenaed person or entity may disclose the existence of the subpoena; requiring certain information to be included in the subpoena; authorizing the investigative agency to apply for an order extending the amount of time the subpoena remains confidential rather than having it extended by the court for a specified period; providing that the investigative agency has the authority to stipulate to protective orders with respect to documents and information submitted in response to a subpoena; amending s. 895.09, F.S.; conforming a cross-reference; providing for distribution of forfeiture proceeds to victims; amending ss. 16.56 and 905.34, F.S.; conforming cross-references; reenacting and amending s. 16.53, F.S., relating to the Department of Legal Affairs Trust Fund, to incorporate the amendment made by the act to s. 895.05, F.S., in references thereto; conforming a cross-reference; reenacting ss. 27.345(1) and 92.142(3), F.S., relating to the State Attorney RICO Trust Fund and witness pay, respectively, to incorporate the amendment made by the act to s. 895.05, F.S., in references thereto; providing an

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649 effective date.

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/23/2015	.	
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The Committee on Criminal Justice (Brandes) recommended the following:

Senate Amendment to Amendment (120332) (with title amendment)

Delete lines 453 - 592
and insert:
Section 5. Section 932.7055, Florida Statutes, is amended to read:
932.7055 Disposition of liens and forfeited property.—
(1) When a seizing agency obtains a final judgment granting forfeiture of real property or personal property, it may elect

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to:

~~(a) Retain the property for the agency's use;~~

(a) ~~(b)~~ Sell the property at public auction or by sealed bid to the highest bidder, except for real property, which must ~~should~~ be sold in a commercially reasonable manner after appraisal by listing on the market; or

(b) ~~(c) Salvage,~~ Trade~~,~~ or transfer the property to a ~~any public or~~ nonprofit organization.

(2) Notwithstanding subsection (1), a seizing agency must destroy any image and the medium on which the image is recorded, including, but not limited to, a photograph, video tape, diskette, compact disc, or fixed disk made in violation of s. 810.145 when the image and the medium on which it is recorded is no longer needed for an official purpose. The agency may not sell or retain any image.

(3) If the forfeited property is subject to a lien preserved by the court as provided in s. 932.703(6)(b), the agency shall:

(a) Sell the property with the proceeds being used towards satisfaction of any liens; or

(b) Have the lien satisfied prior to taking any action authorized by subsection (1).

(4) The proceeds from the sale of forfeited property shall be disbursed in the following priority:

(a) Payment of the balance due on any lien preserved by the court in the forfeiture proceedings.

(b) Payment of the cost incurred by the seizing agency in connection with the storage, maintenance, security, and forfeiture of such property.

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(c) Payment of court costs incurred in the forfeiture proceeding.

~~(d) Notwithstanding any other provision of this subsection, and for the 2014-2015 fiscal year only, the funds in a special law enforcement trust fund established by the governing body of a municipality may be expended to reimburse the general fund of the municipality for moneys advanced from the general fund to the special law enforcement trust fund before October 1, 2001. This paragraph expires July 1, 2015.~~

(5)(a) If the seizing agency is a county or municipal agency, 50 percent of the ~~remaining~~ proceeds shall be deposited into ~~in~~ a special law enforcement trust fund established by the board of county commissioners or the governing body of the municipality. Such proceeds and interest earned therefrom shall be used for school resource officer, crime prevention, safe neighborhood, or drug abuse education and prevention programs. The remaining 50 percent of the proceeds shall be deposited into the Crimes Compensation Trust Fund~~, or for other law enforcement purposes, which include defraying the cost of protracted or complex investigations, providing additional equipment or expertise, purchasing automated external defibrillators for use in law enforcement vehicles, and providing matching funds to obtain federal grants~~. ~~The proceeds and interest may not be used to meet normal operating expenses of the law enforcement agency.~~

(b) These funds may be expended upon request by the sheriff to the board of county commissioners or by the chief of police to the governing body of the municipality, accompanied by a written certification that the request complies with the provisions of this subsection, and only upon appropriation to

the sheriff's office or police department by the board of county commissioners or the governing body of the municipality.

(c) An agency or organization, other than the seizing agency, which ~~that~~ wishes to receive such funds shall apply to the sheriff or chief of police for an appropriation. The ~~and its~~ application shall be accompanied by a written certification that the moneys will be used for an authorized purpose. Such requests for expenditures shall include a statement describing anticipated recurring costs for the agency for subsequent fiscal years. An agency or organization that receives money pursuant to this subsection shall provide an accounting for such moneys and shall furnish the same reports as an agency of the county or municipality that receives public funds. Such funds may be ~~expended in accordance with the following procedures:~~

~~1. Such funds may be~~ used only for school resource officer, crime prevention, safe neighborhood, drug abuse education, or drug prevention programs ~~or such other law enforcement purposes as the board of county commissioners or governing body of the municipality deems appropriate~~.

~~2. Such funds shall not be a source of revenue to meet normal operating needs of the law enforcement agency.~~

(d)~~3. After July 1, 1992, and~~ During each ~~every~~ fiscal year ~~thereafter~~, any local law enforcement agency that acquires at least $15,000 pursuant to the Florida Contraband Forfeiture Act within a fiscal year must expend or donate 50 ~~no less than 15~~ percent of such proceeds in excess of $15,000 pursuant to the Florida Contraband Forfeiture Act for the support or operation of ~~any~~ drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer

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programs ~~program(s)~~. An agency or organization, other than the seizing agency, which wishes to receive such funds must apply to the seizing local law enforcement agency for an appropriation. Funding requests by such agencies or organizations must be accompanied by a written certification stating that the moneys will be used for an authorized purpose, detailing how the funds will be used, and affirming that the expenditure will be used for only the support of drug treatment, drug abuse education, drug prevention, crime prevention, safe neighborhood, or school resource officer programs. Such requests are public records as defined in chapter 119. The local law enforcement agency has the discretion to determine which programs ~~program(s)~~ will receive the designated proceeds.

(e) Notwithstanding the drug abuse education, drug treatment, drug prevention, crime prevention, safe neighborhood, or school resource officer programs minimum expenditures or donations, the sheriff and the board of county commissioners or the chief of police and the governing body of the municipality may agree to expend or donate such funds over a period of years if the expenditure or donation of the ~~such~~ minimum amount in any given fiscal year would exceed the needs of the county or municipality for such programs ~~program(s)~~. ~~Nothing in this section precludes the expenditure or donation of forfeiture proceeds in excess of the minimum amounts established herein.~~

(6) If the seizing agency is a state agency, all remaining proceeds shall be deposited into the Crimes Compensation Trust Fund ~~General Revenue Fund~~. ~~However, if the seizing agency is:~~

~~(a) The Department of Law Enforcement, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture~~

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~~Act shall be deposited into the Forfeiture and Investigative Support Trust Fund as provided in s. 943.362 or into the department's Federal Law Enforcement Trust Fund as provided in s. 943.365, as applicable.~~

~~(b) The Division of Alcoholic Beverages and Tobacco, the proceeds accrued pursuant to the Florida Contraband Forfeiture Act shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund or into the department's Federal Law Enforcement Trust Fund as provided in s. 561.027, as applicable.~~

~~(c) The Department of Highway Safety and Motor Vehicles, the proceeds accrued pursuant to the Florida Contraband Forfeiture Act shall be deposited into the Department of Highway Safety and Motor Vehicles Law Enforcement Trust Fund as provided in s. 932.705(1)(a) or into the department's Federal Law Enforcement Trust Fund as provided in s. 932.705(1)(b), as applicable.~~

~~(d) The Fish and Wildlife Conservation Commission, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act shall be deposited into the State Game Trust Fund as provided in ss. 379.338, 379.339, and 379.3395 or into the Marine Resources Conservation Trust Fund as provided in s. 379.337.~~

~~(e) A state attorney's office acting within its judicial circuit, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act shall be deposited into the State Attorney's Forfeiture and Investigative Support Trust Fund to be used for the investigation of crime and prosecution of criminals within the judicial circuit.~~

~~(f) A school board security agency employing law~~

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~~enforcement officers, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act shall be deposited into the School Board Law Enforcement Trust Fund.~~

~~(g) One of the State University System police departments acting within the jurisdiction of its employing state university, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act shall be deposited into that state university's special law enforcement trust fund.~~

~~(h) The Department of Agriculture and Consumer Services, the proceeds accrued pursuant to the Florida Contraband Forfeiture Act shall be deposited into the General Inspection Trust Fund or into the department's Federal Law Enforcement Trust Fund as provided in s. 570.205, as applicable.~~

~~(i) The Department of Military Affairs, the proceeds accrued from federal forfeiture sharing pursuant to 21 U.S.C. ss. 881(e)(1)(A) and (3), 18 U.S.C. s. 981(e)(2), and 19 U.S.C. s. 1616a shall be deposited into the Armory Board Trust Fund and used for purposes authorized by such federal provisions based on the department's budgetary authority or into the department's Federal Law Enforcement Trust Fund as provided in s. 250.175, as applicable.~~

~~(j) The Medicaid Fraud Control Unit of the Department of Legal Affairs, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act shall be deposited into the Department of Legal Affairs Grants and Donations Trust Fund to be used for investigation and prosecution of Medicaid fraud, abuse, neglect, and other related cases by the Medicaid Fraud Control Unit.~~

~~(k) The Division of State Fire Marshal in the Department of~~

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~~Financial Services, the proceeds accrued under the Florida Contraband Forfeiture Act shall be deposited into the Insurance Regulatory Trust Fund to be used for the purposes of arson suppression, arson investigation, and the funding of anti-arson rewards.~~

~~(l) The Division of Insurance Fraud of the Department of Financial Services, the proceeds accrued pursuant to the provisions of the Florida Contraband Forfeiture Act shall be deposited into the Insurance Regulatory Trust Fund as provided in s. 626.9893 or into the Department of Financial Services' Federal Law Enforcement Trust Fund as provided in s. 17.43, as applicable.~~

(7) If more than one law enforcement agency is acting substantially to effect the forfeiture, the court having jurisdiction over the forfeiture proceedings shall, upon motion, equitably distribute all proceeds and other property among the seizing agencies.

(8) Upon the sale of any motor vehicle, vessel, aircraft, real property, or other property requiring a title, the appropriate agency shall issue a title certificate to the purchaser. Upon the request of any law enforcement agency which elects to retain titled property after forfeiture, the appropriate state agency shall issue a title certificate for such property to said law enforcement agency.

(9) A ~~Neither the~~ law enforcement agency, or ~~nor~~ the entity having budgetary control over the law enforcement agency, may not ~~shall~~ anticipate future forfeitures or the proceeds from those forfeitures ~~therefrom~~ in the adoption and approval of the agency's budget ~~for the law enforcement agency~~.

Section 6. 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 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) ~~s. 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 provisions of the Florida Anti-Fencing Act;

5. Any violation of the provisions 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 the provisions of chapter 815;

9. Any criminal violation of part I of chapter 499;

10. Any violation of the provisions 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 Investor Protection Act; or

15. Any violation of the provisions of chapter 787, as well as any and all offenses related to a violation of the provisions 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

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judicial circuits and counties in which crimes affecting such circuits or counties are alleged to have been connected with an organized criminal conspiracy.

Section 7. 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) ~~s. 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;

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 8. 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, 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) ~~s. 895.09(1)(a)-(c)~~, 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

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and costs.

Section 9. 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 10. 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:

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 11. For the purpose of incorporating the amendment made by this act to section 932.7055, Florida Statutes, in a reference thereto, paragraph (b) of subsection (5) of section 381.0081, Florida Statutes, is reenacted to read:

381.0081 Permit required to operate a migrant labor camp or

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residential migrant housing; penalties for unlawful establishment or operation; allocation of proceeds.—

(5) SEIZURE.—

(b) After satisfying any liens on the property, the remaining proceeds from the sale of the property seized under this section shall be allocated as follows if the department participated in the inspection or investigation leading to seizure and forfeiture under this section:

1. One-third of the proceeds shall be allocated to the law enforcement agency involved in the seizure, to be used as provided in s. 932.7055.

2. One-third of the proceeds shall be allocated to the department, to be used for purposes of enforcing the provisions of this section.

3. One-third of the proceeds shall be deposited in the State Apartment Incentive Loan Fund, to be used for the purpose of providing funds to sponsors who provide housing for farmworkers.

Section 12. For the purpose of incorporating the amendment made by this act to section 932.7055, Florida Statutes, in a reference thereto, paragraph (c) of subsection (2) of section 895.09, Florida Statutes, is reenacted to read:

895.09 Disposition of funds obtained through forfeiture proceedings.—

(2)

(c) Any funds distributed to an investigating law enforcement agency under paragraph (a) shall be deposited in the applicable law enforcement trust fund established for that agency pursuant to s. 932.7055 and expended for the purposes and

in the manner authorized in that section. In addition, any funds distributed to an investigating law enforcement agency pursuant to this section may be used to pay the costs of investigations of violations of this chapter and the criminal prosecutions and civil actions related thereto, pursuant to s. 932.7055. Such costs may include all taxable costs; costs of protecting, maintaining, and forfeiting the property; employees' base salaries and compensation for overtime; and such other costs directly attributable to the investigation, prosecution, or civil action.

Section 13. For the purpose of incorporating the amendment made by this act to section 932.7055, Florida Statutes, in a reference thereto, paragraph (b) of subsection (6) of section 932.703, Florida Statutes, is reenacted to read:

932.703 Forfeiture of contraband article; exceptions.—

(6)

(b) A bona fide lienholder's interest that has been perfected in the manner prescribed by law prior to the seizure may not be forfeited under the Florida Contraband Forfeiture Act unless the seizing agency establishes by a preponderance of the evidence that the lienholder had actual knowledge, at the time the lien was made, that the property was being employed or was likely to be employed in criminal activity. If a lienholder's interest is not subject to forfeiture under the requirements of this section, such interest shall be preserved by the court by ordering the lienholder's interest to be paid as provided in s. 932.7055.

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

And the title is amended as follows:

Delete lines 599 - 648

and insert:

An act relating to forfeiture of property; reordering and amending s. 895.02, F.S.; specifying the earliest date that incidents constituting a pattern of racketeering activity may have occurred; conforming a cross-reference; amending s. 895.05, F.S.; authorizing an investigative agency to institute a civil proceeding for forfeiture in a circuit court in certain circumstances; adding diminution in value as a ground for an action under certain circumstances; removing certain grounds for an action; authorizing a court to order the forfeiture of other property of the defendant up to the value of the unavailable property in certain circumstances; authorizing the Department of Legal Affairs to bring an action for certain violations to obtain specified relief, fees, and costs for certain purposes; providing for civil penalties for natural persons and other persons who commit certain violations; providing for deposit of moneys received for certain violations; authorizing a party to a specific civil action to petition the court for entry of a consent decree or for approval of a settlement agreement; providing requirements for such decrees or agreements; amending s. 895.06, F.S.; deleting the definition of "investigative agency" for purposes of provisions relating to civil investigative subpoenas; providing that a subpoena must be confidential for a specified time; restricting to whom

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the subpoenaed person or entity may disclose the existence of the subpoena; requiring certain information to be included in the subpoena; authorizing the investigative agency to apply for an order extending the amount of time the subpoena remains confidential rather than having it extended by the court for a specified period; providing that the investigative agency has the authority to stipulate to protective orders with respect to documents and information submitted in response to a subpoena; amending s. 895.09, F.S.; providing for distribution of forfeiture proceeds to victims; conforming a cross-reference; amending s. 932.7055, F.S.; deleting a provision authorizing a seizing agency to retain seized property for its use; deleting a provision authorizing a seizing agency to salvage seized property and give it to a public organization; deleting an obsolete provision; revising the distribution and the use of proceeds from the sales of forfeited property seized by a county or municipal agency; authorizing an agency or organization, other than a seizing agency, to apply for funds from specified proceeds; requiring that funding requests be made in writing and include a certification that the expenditure meets certain requirements; specifying that such requests are public records; deleting a provision relating to certain expenditure or donation of forfeiture proceeds; requiring certain proceeds to be deposited into the Crimes Compensation Trust Fund,

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rather than the General Revenue Fund; deleting provisions that exempt certain agencies of the state from depositing proceeds from seizures into the General Revenue Fund; making technical changes; amending ss. 16.56 and 905.34, F.S.; conforming cross-references; reenacting and amending s. 16.53, F.S., relating to the Legal Affairs Revolving Trust Fund, to incorporate the amendment made by the act to s. 895.05, F.S., in references thereto; conforming a cross-reference; reenacting ss. 27.345(1) and 92.142(3), F.S., relating to the State Attorney RICO Trust Fund and witness pay, respectively, to incorporate the amendment made by the act to s. 895.05, F.S., in references thereto; reenacting ss. 381.0081(5)(b), 895.09(2)(c), and 932.703(6)(b), F.S., relating to the allocations of proceeds from the sales of property in a migrant labor camp or residential migrant housing, the disposition of funds obtained through forfeiture proceedings, and the forfeiture of contraband articles, respectively, to incorporate the amendment made to s. 932.7055, F.S., in references thereto; providing an

By Senator Flores

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A bill to be entitled

An act relating to offenses concerning racketeering and illegal debts; amending s. 895.02, F.S.; reordering and conforming a cross-reference; amending s. 895.05, F.S.; authorizing an investigative agency to institute a civil proceeding for forfeiture of personal property in a circuit court; adding the diminution in value as a reason that the investigative agency may bring an action under certain circumstances; revising when the investigative agency may bring an action under certain circumstances; authorizing a court to order the forfeiture of other property of the defendant up to the value of the property subject to forfeiture in certain circumstances; authorizing the Department of Legal Affairs to bring an action for a certain violation to obtain specified relief, fees, and costs for certain purposes; providing civil penalties; requiring certain fees and costs recovered by the department for certain violations to be deposited into the Legal Affairs Revolving Trust Fund; authorizing a party to a specific civil action brought by the department to petition the court for entry of a consent decree or for approval of a settlement agreement, which must state specified information; conforming a provision to changes made by the act; amending s. 895.06, F.S.; providing that a subpoena must be confidential for a certain time; restricting to whom the subpoenaed person or entity may disclose the existence of the

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subpoena; requiring certain information to be included in the subpoena; authorizing the investigative agency to apply for an order extending the amount of time the subpoena remains confidential for an additional period of time, rather than having it extended for 90 days; providing that the investigative agency has the authority to stipulate to protective orders with respect to documents and information submitted in response to a subpoena; amending s. 895.09, F.S.; adding a specified way for certain funds to be expended; conforming a cross-reference; amending ss. 16.56 and 905.34, F.S.; conforming cross-references; reenacting ss. 16.53(4), (5)(a), and (6), 27.345(1), and 92.142(3), F.S., relating to the Legal Affairs Revolving Trust Fund, the State Attorney RICO Trust Fund, and payment to witnesses, respectively, to incorporate the amendment made to s. 895.05, F.S., in references thereto; providing an effective date.

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

Section 1. Section 895.02, Florida Statutes, is reordered and amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(8)~~(1)~~ "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime that is chargeable by petition, indictment, or information under the following provisions of the Florida

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

Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 316.1935, relating to fleeing or attempting to elude a law enforcement officer and aggravated fleeing or eluding.

3. Section 403.727(3)(b), relating to environmental control.

4. Section 409.920 or s. 409.9201, relating to Medicaid fraud.

5. Section 414.39, relating to public assistance fraud.

6. Section 440.105 or s. 440.106, relating to workers' compensation.

7. Section 443.071(4), relating to creation of a fictitious employer scheme to commit reemployment assistance fraud.

8. Section 465.0161, relating to distribution of medicinal drugs without a permit as an Internet pharmacy.

9. Section 499.0051, relating to crimes involving contraband and adulterated drugs.

10. Part IV of chapter 501, relating to telemarketing.

11. Chapter 517, relating to sale of securities and investor protection.

12. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.

13. Chapter 550, relating to jai alai frontons.

14. Section 551.109, relating to slot machine gaming.

15. Chapter 552, relating to the manufacture, distribution, and use of explosives.

16. Chapter 560, relating to money transmitters, if the

violation is punishable as a felony.

17. Chapter 562, relating to beverage law enforcement.

18. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.

19. Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.

20. Chapter 687, relating to interest and usurious practices.

21. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.

22. Section 775.13(5)(b), relating to registration of persons found to have committed any offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.

23. Section 777.03, relating to commission of crimes by accessories after the fact.

24. Chapter 782, relating to homicide.

25. Chapter 784, relating to assault and battery.

26. Chapter 787, relating to kidnapping or human trafficking.

27. Chapter 790, relating to weapons and firearms.

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 section 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 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.

(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 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 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 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. Present subsections (9) through (12) of section 895.05, Florida Statutes, are redesignated as subsections (10) through (13), respectively, subsection (2) and present subsection (10) of that section are amended, and a new subsection (9) is added to that section, 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 of personal property described in paragraph (a) in a circuit court in the judicial circuit where the personal property is located.

(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 the 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 and attorney ~~attorney's~~ fees incurred by the investigative agency in the action. In the alternative, the court may order the forfeiture of any other property of the 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)~~(c)~~ 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.

(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) Any 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 section must be deposited into the General Revenue Fund.

(b) Notwithstanding any other law, moneys recovered by the Department of Legal Affairs for attorney fees and costs under this section 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 agreement must set out 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.

(11)~~(10)~~ Notwithstanding any other provision of law, a criminal or civil action or proceeding under this act may be commenced at any time within 5 years after the conduct in violation of a provision of this 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 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.

Section 3. Subsection (3) of section 895.06, Florida Statutes, is amended, subsections (2) and (5) of that section are republished, and subsection (7) is added to that section, to read:

895.06 Civil investigative subpoenas.—

(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 act, the investigative agency may administer oaths or affirmations, subpoena witnesses or material, and collect evidence.

(3) A subpoena issued pursuant to this chapter is confidential for 120 days after the date of its issuance. The

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 other person or entity except 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

would result in a flight from prosecution.

(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.

(7) The investigative agency may stipulate to protective orders with respect to documents and information submitted in response to a subpoena issued under this section.

Section 4. Paragraph (b) of subsection (1) and subsection (2) of section 895.09, Florida Statutes, are amended, and subsections (3) and (5) of that section are republished, 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 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 the provisions of s. 895.05(2)(e) ~~s. 895.05(2)(c)~~, 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.

(2)(a) Following satisfaction of all valid claims under subsection (1), 25 percent of the remainder of the funds obtained in the forfeiture proceedings pursuant to s. 895.05 shall be deposited as provided in paragraph (b) into the appropriate trust fund of the Department of Legal Affairs or state attorney's office which filed the civil forfeiture action; 25 percent shall be deposited as provided in paragraph (c) into the applicable law enforcement trust fund of the investigating law enforcement agency conducting the investigation which resulted in or significantly contributed to the forfeiture of the property; 25 percent shall be deposited in the General Revenue Fund; and the remaining 25 percent shall be deposited in the Internal Improvement Trust Fund of the Department of Environmental Protection. If a forfeiture action is filed by the Department of Legal Affairs or a state attorney, the court entering the judgment of forfeiture shall, taking into account the overall effort and contribution to the investigation and forfeiture action by the agencies that filed the action, make a pro rata apportionment among such agencies of the funds available for distribution to the agencies filing the action as

provided in this section. If multiple investigating law enforcement agencies have contributed to the forfeiture of the property, the court which entered the judgment of forfeiture shall, taking into account the overall effort and contribution of the agencies to the investigation and forfeiture action, make a pro rata apportionment among such investigating law enforcement agencies of the funds available for distribution to the investigating agencies as provided in this section.

(b) If a forfeiture action is filed by the Attorney General, any funds obtained by the Department of Legal Affairs by reason of paragraph (a) shall be deposited in the Legal Affairs Revolving Trust Fund as established by s. 16.53 and may be expended for the purposes and in the manner authorized in that section or to provide restitution to consumers, as appropriate. If a forfeiture action is filed by a state attorney, any funds obtained by the state attorney's office by reason of paragraph (a) shall be deposited in the State Attorney RICO Trust Fund as established by s. 27.345 and may be expended for the purposes and in the manner authorized in that section. In addition, any funds that are distributed pursuant to this section to an agency filing a forfeiture action may be used to pay the costs of investigations of violations of this chapter and the criminal prosecutions and civil actions related thereto. Such costs may include all taxable costs; costs of protecting, maintaining, and forfeiting the property; employees' base salaries and compensation for overtime; and such other costs as are directly attributable to the investigation, prosecution, or civil action.

(c) Any funds distributed to an investigating law

enforcement agency under paragraph (a) shall be deposited in the applicable law enforcement trust fund established for that agency pursuant to s. 932.7055 and expended for the purposes and in the manner authorized in that section. In addition, any funds distributed to an investigating law enforcement agency pursuant to this section may be used to pay the costs of investigations of violations of this chapter and the criminal prosecutions and civil actions related thereto, pursuant to s. 932.7055. Such costs may include all taxable costs; costs of protecting, maintaining, and forfeiting the property; employees' base salaries and compensation for overtime; and such other costs directly attributable to the investigation, prosecution, or civil action.

(d) On a quarterly basis, any excess funds from forfeited property receipts, including interest, over $1 million deposited in the Internal Improvement Trust Fund of the Department of Environmental Protection in accordance with paragraph (a) shall be deposited in the General Revenue Fund.

(3) Nothing in this section shall be construed to limit the authority of an entity that files a forfeiture action to compromise a claim for forfeiture; however, any proceeds arising from a compromise or from the sale of property obtained in a compromise shall be distributed in the manner provided in subsections (1) and (2).

(5) For purposes of this section, the term "cash or cash proceeds" includes, but is not limited to, damages or penalties or any other monetary payment, the monetary proceeds from property forfeited to the state pursuant to s. 895.05, or any payment made by any defendant by reason of any decree or

settlement in any action filed pursuant to s. 895.05.

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 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) ~~s. 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 provisions of the Florida Anti-Fencing Act;

5. Any violation of the provisions 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 the provisions of chapter 815;

9. Any criminal violation of part I of chapter 499;

10. Any violation of the provisions 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 Investor Protection Act; or

15. Any violation of the provisions of chapter 787, as well as any and all offenses related to a violation of the provisions 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. 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:

(1) Bribery, burglary, carjacking, home-invasion robbery, criminal usury, extortion, gambling, kidnapping, larceny, murder, prostitution, perjury, and robbery;

(2) Crimes involving narcotic or other dangerous drugs;

(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) ~~s. 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 provisions of the Florida Anti-Fencing Act;

(5) Any violation of the provisions of the Florida Antitrust Act of 1980, as amended;

(6) Any violation of the provisions of chapter 815;

(7) Any crime involving, or resulting in, fraud or deceit upon any person;

(8) Any violation of s. 847.0135, s. 847.0137, or s. 847.0138 relating to computer pornography and child exploitation prevention, or any offense related to a violation of s. 847.0135, s. 847.0137, or s. 847.0138 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;

(9) Any criminal violation of part I of chapter 499;

(10) Any criminal violation of s. 409.920 or s. 409.9201;

(11) Any criminal violation of the Florida Money Laundering Act;

(12) Any criminal violation of the Florida Securities and Investor Protection Act; or

(13) 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 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), paragraph (a) of subsection (5), and subsection (6) of section 16.53, Florida Statutes, are reenacted 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, 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)-(c), 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 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:

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, 2015.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/23/15
Meeting Date

SB 1514
Bill Number (if applicable)

Topic Civil RICO

Amendment Barcode (if applicable)

Name Andrew Fay

Job Title Special Counsel

Address PL 02
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850 245-0155

Email

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Department of Legal Affairs

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)

3/23/15
Meeting Date

1514
Bill Number (if applicable)

942788
Amendment Barcode (if applicable)

Topic Forfeiture

Name Don Eslinger

Job Title Sheriff, Seminole County Sheriff's Office

Address _____ Phone _____
Street

_____ Email _____
City *State* *Zip*

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Sheriffs 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

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: March 9, 2015

I respectfully request that **Senate Bill #1514**, relating to Offenses Concerning Racketeering and Illegal Debts, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 1536
INTRODUCER:	Criminal Justice Committee and Senator Flores
SUBJECT:	Public Records/Florida RICO Act Investigations
DATE:	March 31, 2015 REVISED:

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1536 makes confidential and exempt from public disclosure information held by an investigative agency pursuant to an investigation of a violation of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act. Because the bill creates a new public record exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

This confidential and exempt information may be disclosed by the investigative agency to a governmental entity in the performance of its official duties and to a court or tribunal.

The 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.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature. The bill also provides a statement of public necessity for the exemption.

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 activity or through the collection of an unlawful debt[2] 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;[3]
- 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.[4]

In addition to criminal penalties under s. 893.04, F.S., s. 895.05, F.S., imposes civil liability for violations of the Florida RICO Act, including forfeiture to the state of all property, including money, used in the course of, intended for use in the course of, derived from, or realized through conduct in violation of the act.[5]

Investigative Subpoenas

Under 895.06, F.S., an investigative agency[6] may, during the course of an investigation into civil violations of the act, subpoena witnesses and material if the agency has reason to believe that a person or other enterprise has engaged in conduct that violates the RICO Act. "The purpose of the subpoena power under section 895.06 is to allow an investigative agency to investigate,

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[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] 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.
[3] 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.
[4] Section 895.03, F.S. (prohibited activities).
[5] Section 895.05(2), F.S.
[6] 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.

collect evidence and determine if a RICO violation has occurred."[7] 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 for the attorney for the subpoenaed person or entity.[8] The 90-day time limit may be extended by the court for good cause shown by the investigative agency.[9]

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.[10] The records of the legislative, executive, and judicial branches are specifically included.[11]

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act[12] guarantees every person's right to inspect and copy any state or local government public record[13] at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.[14]

Only the Legislature may create an exemption to public records requirements.[15] This exemption must be created by general law and must specifically state the public necessity justifying the exemption.[16] Relevant to the bill, there is a difference between records the Legislature designates 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.[17] 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.[18] Further, the

[7] *Check 'N Go of Florida, Inc. v. State*, 790 So.2d 454, 457 (Fla. 5th DCA 2001).
[8] 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.
[9] Section 895.06(3), F.S.
[10] FLA. CONST., art. I, s. 24(a).
[11] *Id.*
[12] Chapter 119, F.S.
[13] 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 *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992).
[14] Section 119.07(1)(a), F.S.
[15] FLA. CONST., art. I, s. 24(c).
[16] *Id.*
[17] *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). *See also* Attorney General Opinion 85-62 (August 1, 1985).
[18] *See WFTV, Inc. v. The School Board of Seminole, supra*, and *Wait v. Florida Power and Light Co*., 372 So.2d 420 (Fla. 1979).

exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions[19] and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.[20]

The Open Government Sunset Review Act (OGSR) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.[21] 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.[22]

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than necessary.[23] An exemption serves an identifiable purpose if it meets one of the following purposes and cannot be accomplished without the exemption:

- Allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;[24]
- Protects information of a sensitive personal nature concerning individuals, the release of which would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals;[25] or
- Protects trade or business secrets.[26]

Additionally, the Legislature must find that the purpose of the exemption overrides Florida's public policy strongly favoring open government.[27] The OGSR also requires specified questions to be considered during the review process. In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption. The specified questions are:

- 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?

[19] However, the bill may contain multiple exemptions that relate to one subject.
[20] FLA. CONST., art. I, s. 24(c).
[21] Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it 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.
[22] Section 119.15(3), F.S.
[23] Section 119.15(6)(b), F.S.
[24] Section 119.15(6)(b)1., F.S.
[25] Section 119.15(6)(b)2., F.S. If this public purpose is cited as the basis of an exemption, only personal identifying information is exempt. *Id.*
[26] Section 119.15(6)(b)3., F.S.
[27] Section 119.15(6)(b), F.S.

- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?[28]

III. Effect of Proposed Changes:

The bill makes confidential and exempt from public disclosure information held by an investigative agency pursuant to an investigation of a violation of the Florida RICO Act. Because the bill creates a new public record exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

This confidential and exempt information may be disclosed by the investigative agency to a governmental entity in the performance of its official duties and to a court or tribunal.

The 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. An investigation is considered complete once the investigative agency either files an action or closes its investigation without filing an action.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature. The bill also provides a statement of public necessity for the exemption.

This bill is linked to SB 1514, which makes substantial changes to civil enforcement provisions of the Florida RICO Act. Relevant to SB 1536, SB 1514 amends s. 895.06, F.S., to make an investigative subpoena issued pursuant to the Florida RICO Act automatically confidential for 120 days after the date of its issuance, unless this period is extended by the court upon a showing of good cause by the investigating agency. SB 1514 also prohibits 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 period in which the subpoena is confidential.

The bill provides a statement of public necessity for the exemption, which includes the following findings:

- Because a Florida RICO Act investigation conducted by an investigative agency may lead to the filing of a civil action, the premature release of the information held by such investigative agency could frustrate or thwart the investigation and impair the ability of the investigative agency to effectively and efficiently administer its duties under the act;
- The exemption protects the reputation of the potential defendant in the event the investigation is closed without the filing of a civil action; and
- Without the exemption, a potential defendant under the Florida RICO Act may learn of the investigation and dissipate his or her assets and thwart any future enforcement action under the act.

The bill provides that "[t]his act shall take effect on the same date that SB 1514 or similar legislation relating to offenses concerning racketeering and illegal debts take effect, if such legislation is enacted in the same legislative session or an extension thereof and becomes law."

[28] Section 119.15(6)(a)1.-6., F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, Section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, Section 24(c) of the Florida Constitution requires a public necessity statement for a newly created public record exemption. The bill creates a public record exemption. The bill includes a public necessity statement.

Breadth of Exemption

Article I, Section 24(c) of the Florida Constitution requires a newly created public record exemption to be no broader than necessary to accomplish the stated purpose of the law.

The bill makes confidential and exempt from public disclosure information held by an investigative agency pursuant to an investigation of a violation of the Florida RICO Act. However, the information only remains confidential and exempt until all investigations to which the information pertains are completed, unless the information is otherwise protected by law. An investigation is considered complete once the investigative agency either files an action or closes its investigation without filing an action.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Like any other public records exemption, the bill may lead to a minimal fiscal impact on the affected portions of the government (the Department of Legal Affairs and law enforcement agencies). Staff responsible for complying with public record requests could require training related to expansion of the public record exemption, and court and clerk offices could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of the agencies.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 895.06 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 March 30, 2015:
Rewords and restructures the bill but does not make any substantive changes except for deleting a finding in the statement of public necessity and correcting a deficient effective date.

B. Amendments:

None.

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

601734

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/30/2015	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (7) is added to section 895.06, Florida Statutes, to read:

895.06 Civil investigative subpoenas; public records exemption.—

(7)(a) Information held by an investigative agency pursuant to an investigation of a violation of s. 895.03 is confidential

601734

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 2. The Legislature finds that it is a public necessity that the information held by an investigative agency pursuant to an investigation of a violation of s. 895.03, Florida Statutes, relating to an activity prohibited under the Florida RICO Act, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Because a Florida RICO Act investigation conducted by an investigative agency may lead to the filing of a civil action, the premature release of the information held by such investigative agency could frustrate or thwart the investigation and impair the ability of the investigative agency

601734

to effectively and efficiently administer its duties under the Florida RICO Act, ss. 895.01-895.09, Florida Statutes. This exemption also protects the reputation of the potential defendant in the event that the investigation is closed without the filing of a civil action. Further, without this exemption, a potential defendant under the Florida RICO Act may learn of the investigation and dissipate his or her assets and thwart any future enforcement action under the act. Therefore, the Legislature finds that it is a public necessity that the documents and information held by the investigative agency pursuant to an investigation of a violation of s. 895.03, Florida Statutes, relating to an activity prohibited under the Florida RICO Act, be made confidential and exempt from public records requirements.

Section 3. This act shall take effect on the same date that SB 1514 or similar legislation relating to offenses concerning racketeering and illegal debts takes effect, if such legislation is enacted in the same legislative session or an extension thereof and becomes law.

========== 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 public records; amending s. 895.06, F.S.; providing an exemption from public records requirements for certain documents and information held by an investigative agency pursuant to an investigation relating to an activity prohibited under

601734

the Florida RICO Act; authorizing disclosure of such documents and information under certain conditions; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

By Senator Flores

37-01491-15 20151536__

A bill to be entitled

An act relating to public records; amending s. 895.06, F.S.; providing that certain documents and information held by an investigative agency pursuant to an investigation relating to an activity prohibited under the Florida RICO Act are confidential and exempt; providing for legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing exceptions to the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Subsection (8) is added to section 895.06, Florida Statutes, to read:

895.06 Civil investigative subpoenas.—

(8)(a) Except as otherwise provided in this subsection, the documents and information held by the investigative agency pursuant to an investigation of a violation of s. 895.03 are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on July 1, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

(b) Information made confidential and exempt under paragraph (a) may be disclosed by the investigative agency to a law enforcement agency or another administrative agency in the performance of its official duties and responsibilities.

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

37-01491-15 20151536__

(c) Information made confidential and exempt under paragraph (a) may be disclosed by the investigative agency to a court or tribunal.

(d) 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.

(e) 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.

Section 2. The Legislature finds that it is a public necessity that the documents and other information held by an investigative agency pursuant to an investigation of a violation of s. 895.03, Florida Statutes, relating to an activity prohibited under the Florida RICO Act, be held confidential and exempt from public records requirements. Because a Florida RICO Act investigation conducted by an investigative agency may lead to the filing of a civil action, the premature release of the documents or information held by such investigative agency could frustrate or thwart the investigation and impair the ability of the investigative agency to effectively and efficiently administer its duties under the Florida RICO Act, ss. 895.01-895.09, Florida Statutes. This exemption also protects the reputation of the potential defendant in the event the investigation is closed without the filing of a civil action. Further, without this exemption, a potential defendant under the Florida RICO Act may learn of the investigation and dissipate his or her assets and thwart any future enforcement action under the act. Additionally, this exemption substantially mirrors the

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

existing statutory exemption in ss. 68.083(8) and 68.0831(10), Florida Statutes, for information obtained during investigations of violations of the Florida False Claims Act, ss. 68.081-68.092, Florida Statutes. Therefore, the Legislature finds that it is a public necessity that the documents and information held by the investigative agency pursuant to an investigation of a violation of s. 895.03, Florida Statutes, relating to an activity prohibited under the Florida RICO Act, be held confidential and exempt from public records requirements.

Section 3. This act shall take effect on the same date that SB ____ or similar legislation takes effect, if such legislation is enacted in the same legislative session or an extension thereof and becomes law.

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: March 9, 2015

I respectfully request that **Senate Bill #1536**, relating to Public Records/Florida RICO Act Investigations, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

File signed original with committee office

S-020 (03/2004)

CourtSmart Tag Report

Room: LL 37 **Case:** **Type:**
Caption: Senate Criminal Justice Committee **Judge:**

Started: 3/23/2015 4:04:12 PM
Ends: 3/23/2015 6:00:22 PM Length: 01:56:11

4:04:14 PM Meeting called to order. Roll call
4:05:34 PM Senator Gibson makes some announcements.
4:06:21 PM Tab 8-SB 534 by Senator Latvala—Human Trafficking
4:07:30 PM Amendment Barcode 908272 Senator Bradley
4:08:10 PM Amendment Barcode 444482 senator Bradley
4:09:43 PM Dr. Linda Geller-Schwartz, Nat'l Council of Jewish Women
4:10:41 PM Linda Kearschner, Florida PTA Assoc
4:13:47 PM Senator Latvala closes on SB 534
4:14:11 PM Roll call on SB 534
4:15:04 PM Tab 6-SB 372 by Senator Dean—Confidential Informants
4:17:10 PM Amendment Barcode 526792, Senator Bradley
4:18:14 PM Justin Karpf, Law Student at FSU
4:20:51 PM Senator Gibson asks a question. Justin Karpt responds.
4:22:16 PM Electra Bustle, Florida Sheriff's Association
4:24:25 PM Senator Bradley asks a question
4:31:21 PM Laila Abdeloziz, CAIR Florida
4:34:19 PM Mr. Irv Hoffman speaks on Rachel's Law
4:36:45 PM Senator Gibson asks a question.
4:38:33 PM Senator Dean speaks on the bill
4:41:26 PM Senator Dean closes on SB 372.
4:45:10 PM Roll Call for SB 372
4:46:10 PM Richard L. Swearingen, Executive Director of Dept. of Law Enforcement sworn in, gave testimony
4:46:58 PM Senator Bradley asks a question.
4:49:01 PM Senator Clemens asks a question.
4:50:47 PM Senator Gibson asks a question.
5:01:39 PM Roll Call for confirmation of Richard L. Swearingen
5:02:17 PM Tab 5-SB 180 by Senator Evers—School Safety
5:03:41 PM Dr. Barbara Holley, Former Elementary Principal and Harriett Holiday
5:06:31 PM Dr. Barbara Kirby-Bentley, Sanford Alumnae, Chapter of Delta Sigma Theta Sorority, Inc.
5:10:30 PM Senator Gibson asked a question.
5:13:15 PM Senator Clemens makes some comments.
5:14:15 PM Senator Gibson makes a statement.
5:16:24 PM Roll Call for SB 180
5:17:01 PM Tab 7-SB 488 by Senator Detert—Expunction of Criminal Records
5:17:14 PM Amendment Barcode 269734, Senator Bradley-Senator Detert explains.
5:19:02 PM Senator Gibson asks a question. Senator Detert responds.
5:22:13 PM Roll Call for CS SB 488
5:24:38 PM Tab 18-SB 1270 by Senator Soto — Sexual Offenses
5:26:37 PM Roll Call for SB 1270
5:27:04 PM Tab 13-SB 1098 by Senator Bradley—Controlled Substances
5:28:02 PM Amendment Barcode 240386 Senator Bradley
5:28:20 PM Amendment Barcode 207936 Senator Bradley
5:30:05 PM Roll Call for SB 1098
5:30:45 PM Tab 14-SB 1106 by Senator Flores — Human Trafficking
5:33:16 PM Greg Pound, Florida Families, Largo, FL
5:36:45 PM Roll Call for SB 1106
5:37:13 PM Tab 15-SB 1108 by Senator Flores — Public Records/Identity of a Victim/Human Trafficking Offenses
5:38:54 PM Roll Call for SB 1108
5:39:21 PM Tab 16-SB 1110 by Senator Flores — Public Records/Residential Facilities Serving Victims of Sexual Exploitation and Human Trafficking
5:40:38 PM Roll Call for SB 1110
5:41:09 PM Tab 11-SB 1016 by Senator Abruzzo — Care for Retired Law Enforcement Dogs

5:41:55 PM Senator Bradley asks a question.
5:43:51 PM Roll Call for SB 1016
5:45:20 PM Secretary of Juvenile Justice - Christina K.Daly, (Tallahassee) sworn in.
5:47:19 PM Senator Bradley made motion
5:47:33 PM Roll Call on Confirmation of Christina K. Daly
5:48:21 PM Tab 12-SB 1082 by Senator Altman — Juvenile Justice
5:48:54 PM Late file amendment
5:51:23 PM Greg Pound, Largo, FL
5:54:03 PM Buddy Jacobs General Counsel, State Attorneys of Florida
5:57:07 PM Roll Call for SB 1082
5:57:45 PM Tab 20-SB 1514 by Senator Flores — Offenses Concerning Racketeering and Illegal Debts
5:57:57 PM Amendment Barcode 120332 Senator Bradley
5:59:47 PM Roll Call for SB 1514
6:00:01 PM Meeting Adjourned