

Tab 1	SB 130 by Bradley ; Identical to H 00059 Compensation of Victims of Wrongful Incarceration				
Tab 2	SB 138 by Wright ; Driving Under the Influence				
524716	D	S	RCS	CJ, Wright	Delete everything after 02/11 04:10 PM
Tab 3	SB 150 by Gaetz ; Identical to H 00079 Animal Cruelty During a Declared State of Emergency				
190218	D	S	RCS	CJ, Gaetz	Delete everything after 02/11 04:10 PM
Tab 4	SB 234 by Leek ; Similar to H 00175 Criminal Offenses Against Law Enforcement Officers and Other Personnel				

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Martin, Chair
Senator Smith, Vice Chair

MEETING DATE: Tuesday, February 11, 2025

TIME: 1:45—3:45 p.m.

PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Martin, Chair; Senator Smith, Vice Chair; Senators Bernard, Bradley, Garcia, Gruters, Pizzo, Simon, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 130 Bradley (Identical H 59)	Compensation of Victims of Wrongful Incarceration; Deleting the definition of the term "violent felony"; expanding the period during which a petition for compensation for wrongful incarceration may be filed; providing that a wrongfully incarcerated person is not eligible for compensation for any period of incarceration during which the person was concurrently serving a sentence for a conviction of another felony for which such person was lawfully incarcerated; revising provisions concerning the offset of civil judgments in favor of claimants against awards, etc. CJ 02/11/2025 Favorable ACJ FP	Favorable Yeas 8 Nays 0
2	SB 138 Wright	Driving Under the Influence; Prohibiting a person from driving or being in actual physical control of a vehicle while under the influence of any intoxicating substance; requiring that a person be told that his or her failure to submit to a lawful test of breath or urine is a second degree misdemeanor or a first degree misdemeanor under certain circumstances; classifying a person's refusal to submit to a chemical or physical test of breath or urine as a second degree misdemeanor or a first degree misdemeanor under certain circumstances; authorizing judicial circuits to create driving under the influence diversion programs, etc. CJ 02/11/2025 Fav/CS ACJ FP	Fav/CS Yeas 8 Nays 0
3	SB 150 Gaetz (Identical H 79)	Animal Cruelty During a Declared State of Emergency; Providing increased criminal penalties for animal cruelty offenses committed during a declared state of emergency, etc. CJ 02/11/2025 Fav/CS AG RC	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Tuesday, February 11, 2025, 1:45—3:45 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 234 Leek (Similar H 175)	Criminal Offenses Against Law Enforcement Officers and Other Personnel; Citing this act as the "Officer Jason Raynor Act"; revising a prohibition on the use or threatened use of force to resist arrest or detention; providing for enhanced punishment for manslaughter when committed against specified officers; revising provisions concerning assault or battery upon specified officers and other personnel, etc. CJ 02/11/2025 Favorable ACJ FP	Favorable Yeas 7 Nays 1
5	Cannabis and Criminal Justice - Presentations by: Jessica Spencer; and The Department of Highway Safety and Motor Vehicles		Presented
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 130

INTRODUCER: Senator Bradley

SUBJECT: Compensation of Victims of Wrongful Incarceration

DATE: February 10, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cella	Stokes	CJ	Favorable
2. _____	_____	ACJ	_____
3. _____	_____	FP	_____

I. Summary:

SB 130 amends the Victims of Wrongful Incarceration Compensation Act by amending s. 961.02, F.S., to remove an unnecessary definition.

The bill amends s. 961.03, F.S., to:

- Prospectively extend the filing deadline for a petition under the Act from 90 days to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed or the person is retried and acquitted, if the person's conviction and sentence is vacated on or after July 1, 2025.
- Retroactively authorize a person to file a petition for determination of status as a wrongfully incarcerated person and determination of eligibility for compensation by July 1, 2027, under specified circumstances.
- Provide that a deceased person's heirs, successors, or assigns do not have standing to file a petition on the deceased person's behalf.

Section 961.04, F.S., is amended to remove the bar to compensation for a petitioner who has been convicted of a violent felony or multiple nonviolent felonies before or during his or her wrongful conviction and incarceration. A person continues to be ineligible for compensation for any period of wrongful incarceration during which the person was serving a concurrent sentence for which he or she was not wrongfully incarcerated.

Section 961.06, F.S., is amended to prohibit the Chief Financial Officer (CFO) from drawing a warrant to purchase an annuity to pay a claimant for his or her wrongful incarceration if the claimant is currently incarcerated under specified circumstances. The bill also provides for reimbursement arrangements for the state under circumstances relating to the claimant and any successful civil litigation in which he or she may prevail.

Section 961.07, F.S., is amended to provide for funds to be appropriated.

While there are existing limitations on compensation (\$50,000 per year of wrongful incarceration up to a limit of \$2 million) for a qualified claimant, it is not possible to quantify the additional number of people who may be compensable. Therefore, any fiscal impact from the bill is unquantifiable.

The bill takes effect on July 1, 2025.

II. Present Situation:

Victims of Wrongful Incarceration Act

Since 2000, 23 people in Florida have been exonerated or released from incarceration as a result of post-conviction DNA testing, false or misleading forensic evidence, mistaken identity, perjury, or false accusations.¹ In 2008, the Legislature created The Victims of Wrongful Incarceration Compensation Act (Act).² The Act provides a process by which a person whose conviction and sentence is vacated based upon exonerating evidence may petition the court to seek and obtain compensation as a “wrongfully incarcerated person.”³

A “wrongfully incarcerated person” is a person whose felony conviction and sentence has been vacated by a court and for whom the original sentencing court has issued an order finding that the person neither committed the act nor the offense that served as the basis for the conviction and incarceration and that the person did not aid, abet, or act as an accomplice or accessory to the offense.⁴

As of February 2023, five people have qualified for and been awarded a total of \$6,276,900 compensation under the Act.⁵

Petition Process

To receive compensation under the Act, an exonerated person must file a petition with the original sentencing court seeking status as a “wrongfully incarcerated person.” Section 961.03(1)(a), F.S., requires a petitioner to state:

- That verifiable and substantial evidence of actual innocence exists;
- With particularity, the nature and significance of the evidence of actual innocence; and

¹ Frank Lee Smith, Jerry Townsend, Rudolph Holton, Wilton Dedge, Luis Diaz, Orlando Boquete, Alan Crotzer, Larry Bostic, Cody Davis, Chad Heins, William Dillon, James Bain, Anthony Caravella, Derrick Williams, Cheydrick Britt, Narcisse Antoine, Clemente Aguirre-Jarquín, Dean McKee, Ronald Stewart, and Robert Duboise have been released from prison or exonerated in Florida. The National Registry of Exonerations; *A Project of the University of California Irvine Newkirk Center for Science & Society, University of Michigan Law School & Michigan State University College of Law*, available at <https://www.law.umich.edu/special/exoneration/Pages/browse.aspx?View=%7bB8342AE7-6520-4A32-8A06-4B326208BAF8%7d&FilterField1=State&FilterValue1=Florida&FilterField2=DNA&FilterValue2=8%5FDNA> (last visited February 4, 2025).

² Chapter 2008–39, L.O.F.

³ To be eligible for compensation, a person must meet the definition of a “wrongfully incarcerated person” and not be otherwise disqualified from seeking compensation under the Act because of disqualifying criminal history. Section 961.02(4), F.S.

⁴ Section 961.02(7), F.S.

⁵ E-mail from the Department of Legal Affairs dated February 13, 2023, (on file with the Senate Criminal Justice Committee).

- That the person is not disqualified under s. 961.04, F.S., from seeking compensation because he or she has specified criminal history.

A person seeking compensation under the Act must file a petition with the court within 90 days after the order vacating a conviction and sentence becomes final, if the person's conviction and sentence is vacated on or after July 1, 2008.⁶

Although a petitioner must submit proof of actual innocence in his or her petition, in some cases, after a conviction is overturned, the state may choose to retry the person. In these cases, the 90 day filing deadline may require a petitioner to file a petition with proof of actual innocence while he or she is still in custody or facing retrial. According to the Innocence Project, six exonerees in Florida are barred from receiving compensation as a result of missing the 90 day filing deadline.⁷

Once the petition is filed, the prosecuting authority must respond to the petition within 30 days by:

- Certifying to the court that, based upon the petition and verifiable and substantial evidence of the petitioner's actual innocence, no further criminal proceedings can or will be initiated against the petitioner, that no questions of fact remain as to the petitioner's wrongful incarceration, and that the petitioner is not ineligible from seeking compensation under s. 961.04, F.S.; or
- Contesting the evidence of actual innocence, the facts related to the petitioner's alleged wrongful incarceration, or whether the petitioner is ineligible from seeking compensation under s. 961.04, F.S.⁸

If the prosecuting authority certifies the petitioner's innocence and that no further charges can or will be filed and that he or she is otherwise eligible for compensation, the original sentencing court⁹ must certify to the Department of Legal Affairs (DLA) that the petitioner qualifies as a wrongfully incarcerated person and is eligible for compensation under s. 961.04, F.S.¹⁰

If the prosecuting authority contests the petitioner's actual innocence or eligibility for compensation based on his or her prior criminal history:

- The original sentencing court must use the pleadings and supporting documents to determine whether, by a preponderance of the evidence, the petitioner is ineligible for compensation under s. 961.04, F.S., regardless of his or her claim of wrongful incarceration. If the court finds that the petitioner is ineligible under s. 961.04, F.S., it must dismiss the petition.¹¹

⁶ Or by July 1, 2010, if the person's conviction and sentence was vacated by an order that became final prior to July 1, 2008. Section 961.03(1)(b), F.S.

⁷ Jeffrey Gutman, *Compensation Under the Microscope*, George Washington University Law School, (2022), <https://www.law.umich.edu/special/exoneration/Documents/UTM%20Florida.pdf> (last visited February 6, 2025).

⁸ Section 961.03(2), F.S.

⁹ Based upon the evidence of actual innocence, the prosecuting authority's certification, and upon the court's finding that the petitioner has presented clear and convincing evidence that the petitioner committed neither the act nor the offense that served as the basis for the conviction and incarceration, and that the petitioner did not aid, abet, or act as an accomplice to a person who committed the act or offense. Section 961.03(3), F.S.

¹⁰ Section 961.03(3), F.S.

¹¹ Section 961.03(4)(a), F.S.

- And, the court determines that the petitioner is eligible under s. 961.04, F.S., but the prosecuting authority also contests the nature, significance or effect of the evidence of the petitioner's actual innocence, or the facts related to the petitioner's alleged wrongful incarceration, the court is required to set forth its findings on eligibility and transfer the petition to the Division of Administrative Hearings (DOAH).¹²

When a petition is transferred to the DOAH, a hearing before an administrative law judge (ALJ) must take place within 120 days after the transfer.¹³ At the hearing, the petitioner must establish, by clear and convincing evidence, any questions of fact, the nature, significance or effect of the evidence of actual innocence, and his or her eligibility for compensation under the Act.¹⁴ The prosecuting authority must appear at the hearing to contest any evidence of actual innocence presented by the petitioner.¹⁵ When the hearing concludes, the ALJ is required to file an order with the original sentencing court within 45 days setting forth his or her findings and recommendation as to whether the petitioner established by clear and convincing evidence that he or she qualifies as a wrongfully incarcerated person.¹⁶

Once the ALJ issues his or her findings and recommendation, the original sentencing court must, within 60 days, issue its own order adopting or declining to adopt the ALJ's findings and recommendation.¹⁷ If the original sentencing court concludes that the petitioner qualifies as a wrongfully incarcerated person who is eligible for compensation under the Act, the court must issue an order certifying its findings to the DLA.¹⁸

The "Clean Hands" Provision

When the Act was passed in 2008,¹⁹ a person was ineligible to receive compensation under s. 961.04, F.S., if he or she was previously convicted of any other felony. As such, s. 961.04, F.S., became commonly known as the "clean hands" requirement. The Act was amended in 2017,²⁰ to expand eligibility under the "clean hands" requirement, making a petitioner ineligible to receive compensation if he or she was:

- Convicted of any violent felony, or any crime committed in another jurisdiction the elements of which would constitute a violent felony in Florida, or a federal crime designated a violent felony, excluding any delinquency disposition, before or during his or her wrongful conviction and incarceration;
- Convicted of more than one nonviolent felony, or more than one crime committed in another jurisdiction the elements of which would constitute a felony in Florida, or more than one federal crime designated a felony, excluding any delinquency disposition, before or during his or her wrongful conviction and incarceration; or

¹² Section 961.03(4)(b), F.S.

¹³ Section 961.03(6)(a), F.S.

¹⁴ Section 961.03(5), F.S.

¹⁵ Section 961.03(6)(b), F.S.

¹⁶ Section 961.03(6)(c), F.S.

¹⁷ Section 961.03(6)(d), F.S.

¹⁸ The order must indicate that the ALJ's findings are correct and the petitioner has met his or her burden of proof to establish status as a wrongfully convicted person or if the ALJ findings indicate that the petitioner has not met his or her burden of proof, that the court is declining to adopt the findings of the ALJ. Section 961.03(7), F.S.

¹⁹ Chapter 2008-39, L.O.F.

²⁰ Chapter 2017-120, L.O.F.

- Serving a concurrent sentence for another felony for which he or she was not wrongfully convicted during the period of wrongful incarceration.²¹

Additionally, under s. 961.06(2), F.S., a wrongfully incarcerated person who is placed on parole or community supervision as a part of the sentence he or she is serving for his or her wrongful conviction and who commits:

- One violent felony or more than one nonviolent felony that results in revocation of the parole or community supervision is ineligible for any compensation under the Act.
- No more than one nonviolent felony which results in revocation of the parole or community supervision is eligible for compensation for the total number of years he or she was incarcerated.²²

For the purpose of determining a person's eligibility, s. 961.02(6), F.S., defines a violent felony as any felony listed in:

- Section 755.084(1)(c)1., F.S., which includes: arson; sexual battery; robbery; kidnapping; aggravated child abuse; aggravated abuse of an elderly person or disabled adult; aggravated assault with a deadly weapon; murder; manslaughter; aggravated manslaughter of an elderly person or disabled adult; aggravated manslaughter of a child; unlawful throwing, placing, or discharging of a destructive device or bomb; armed burglary; aggravated battery; aggravated stalking; home invasion robbery; carjacking; or an offense committed in another jurisdiction which has substantially similar elements to a listed crime; or
- Section 948.06(8)(c), F.S., which includes: kidnapping or attempted kidnapping, false imprisonment of a child under 13, or luring or enticing a child; murder or attempted murder, attempted felony murder, or manslaughter; aggravated battery or attempted aggravated battery; sexual battery or attempted sexual battery; lewd or lascivious battery or attempted lewd or lascivious battery; lewd or lascivious molestation, lewd or lascivious conduct, lewd or lascivious exhibition, or lewd or lascivious exhibition on a computer; robbery or attempted robbery, carjacking or attempted carjacking, or home invasion robbery or attempted home invasion robbery; lewd or lascivious offense upon or in the presence of an elderly or disabled person or attempted lewd or lascivious offense upon or in the presence of an elderly or disabled person; sexual performance by a child or attempted sexual performance by a child; computer pornography, transmission of child pornography, or selling or buying of minors; poisoning food or water; abuse of a dead human body; any burglary offense or attempted burglary offense that is a first or second degree felony; arson or attempted arson; aggravated assault; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; treason under s. 876.32, F.S.; or any offense committed in another jurisdiction which would be a listed offense if it were committed in Florida.²³

²¹ Section. 961.04, F.S.

²² Section 961.06(2), F.S.

²³ Section 961.02(6), F.S.

Currently, the Federal government, District of Columbia, and 38 states have a process to compensate wrongfully incarcerated individuals.²⁴

Florida's wrongful incarceration compensation law is the only one in the country that makes a person ineligible for compensation if he or she was previously convicted of certain unrelated crimes. At least 17 exonerees in Florida are currently ineligible to receive compensation under the Act because of the "clean hands" requirement.²⁵

The Application Process

After the original sentencing court enters an order finding that the claimant meets the definition of a wrongfully incarcerated person who is eligible for compensation, the claimant must submit an application to the DLA for compensation, if he or she is otherwise eligible to apply, within two years.²⁶ Section 961.06, F.S., prohibits a wrongfully incarcerated person from applying for compensation if he or she is the subject of a pending claim bill²⁷ which is based on his or her wrongful conviction and incarceration. Similarly, once a claimant files an application for compensation, he or she may not pursue recovery under a claim bill until the final disposition of his or her application,²⁸ and once the DLA notifies a claimant that his or her application meets the requirements of the Act, he or she is prohibited from seeking additional compensation under a claim bill.^{29, 30}

Only the claimant, not the claimant's estate or its personal representative, may apply for compensation.³¹ Section 961.05(3), F.S., requires, in part, that a claimant's application include:

- A certified copy of the order vacating the conviction and sentence;
- A certified copy of the original sentencing court's order finding the claimant to be a wrongfully incarcerated person who is eligible for compensation under the Act;
- Certified copies of the original judgment and sentence;
- Documentation demonstrating the length of the sentence served, including documentation from the Department of Corrections (DOC) regarding the person's admission into and release from the custody of the DOC;
- Proof of identification demonstrating that the person seeking compensation is the same individual who was wrongfully incarcerated;
- All supporting documentation of any fine, penalty, or court costs imposed and paid by the wrongfully incarcerated person; and

²⁴ The National Registry of Exonerations; Issues, Compensation, Charts; *Key Provisions in Wrongful Compensation Law*, available at <https://www.law.umich.edu/special/exoneration/Documents/IP%20-%20Key%20Provisions.pdf> (last visited February 6, 2025).

²⁵ Jeffrey Gutman, *Compensation Under the Microscope*, George Washington University Law School, (2022), <https://www.law.umich.edu/special/exoneration/Documents/UTM%20Florida.pdf> (last visited February 6, 2025)

²⁶ Section 961.05(1) and (2), F.S.

²⁷ A claim bill is not an action at law, but rather is a legislative measure that directs the CFO, or if appropriate, a unit of local government, to pay a specific sum of money to a claimant to satisfy an equitable or moral obligation. The amount awarded under a claim bill is based on the Legislature's concept of fair treatment of a person who has been injured or damaged but who is without a complete judicial remedy or who is not otherwise compensable. *Wagner v. Orange Cty.*, 960 So. 2d 785, 788 (Fla. 5th DCA 2007).

²⁸ Section 961.06(6)(c), F.S.

²⁹ Any amount awarded under the Act is intended to provide the sole compensation for any and all present and future claims arising out of the facts in connection with the claimant's wrongful conviction and incarceration. Section 961.06(6)(d), F.S.

³⁰ Since 2008, numerous claim bills have been filed on behalf of wrongfully incarcerated persons who were ineligible for compensation under the Act because of the "clean hands" requirement. At least three such persons have received compensation for wrongful incarceration through the claim bill process: Alan Crotzer (2008), William Dillon (2017), and Clifford Williams (2020).

³¹ Section 961.05(2), F.S.

- All supporting documentation of any reasonable attorney's fees and expenses.

The DLA is required to review the application, and within 30 days, notify the claimant of any errors or omissions and request any additional information relevant to the review of the application. The claimant has 15 days after notification of existing errors or omissions to supplement the application. The DLA must process and review each completed application within 90 days.³²

Before the DLA approves an application, the wrongfully incarcerated person must sign a release and waiver on behalf of himself or herself and his or her heirs, successors, and assigns, forever releasing the state or any agency, or any political subdivision thereof, from all present or future claims that may arise out of the facts in connection with the wrongful conviction for which compensation is being sought.³³ Once DLA determines whether a claim meets the Act's requirements, it must notify the claimant within five business days of its determination.³⁴ If DLA determines that a claimant meets the Act's requirements, the wrongfully incarcerated person becomes entitled to compensation.³⁵

Compensation

Under s. 961.06, F.S., a wrongfully incarcerated person is entitled to:

- Monetary compensation, at a rate of \$50,000 for each year of wrongful incarceration;
- A waiver of tuition and fees for up to 120 hours of instruction at a public career center, community college, or state university;
- A refund of fines, penalties, and court costs imposed and paid;
- Reasonable attorney's fees and expenses incurred and paid in connection with all criminal proceedings and appeals regarding the wrongful conviction; and
- Immediate administrative expunction of the person's criminal record resulting from the wrongful arrest, conviction, and incarceration.³⁶

Within 15 calendar days after the DLA issues notice to the claimant that his or her claim satisfies all of the requirements under the Act, the DLA must notify the CFO to draw a warrant from the General Revenue Fund or another source designated by the Legislature in law for the purchase of an annuity for the claimant based on the total amount determined by the DLA.³⁷ Section 961.07, F.S., currently provides for a continuing appropriation from the General Revenue Fund to the CFO for payments under the Act.³⁸

The total compensation awarded to a claimant may not exceed \$2 million.³⁹ The CFO is required to issue payment in the amount determined by the DLA to an insurance company or other financial institution admitted and authorized to issue annuity contracts to purchase an annuity or

³² Section 961.05(5), F.S.

³³ Section 961.06(5), F.S.

³⁴ Section 961.05(5), F.S.

³⁵ Section 961.05(6), F.S.

³⁶ Section 961.06(1), F.S.

³⁷ Section 961.06(3), F.S.

³⁸ Section 961.06(1), F.S.

³⁹ *Id.*

annuities, selected by the claimant, for a term not less than 10 years to distribute such compensation.⁴⁰

III. Effect of Proposed Changes:

The bill amends s. 961.02, F.S., to remove a definition of “violent felony” that has become unnecessary due to other parts of the bill.

The bill amends s. 961.03, F.S., to prospectively extend the filing deadline for a petition under the Act from 90 days to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed or the person is retried and acquitted, if the person’s conviction and sentence is vacated on or after July 1, 2025.

The bill also amends s. 961.03, F.S., to retroactively authorize a person to file a petition for determination of status as a wrongfully incarcerated person and determination of eligibility for compensation by July 1, 2027, if:

- The person’s conviction and sentence was vacated and the criminal charges against the person were dismissed, or the person was retried and acquitted, after January 1, 2006, but before July 1, 2025; and
- The person previously filed a petition that was dismissed or did not file a petition, because the:
 - Date when the criminal charges against the person were dismissed or the date the person was acquitted occurred more than 90 days after the date of the final order vacating his or her conviction and sentence; *or*
 - Person was convicted of an unrelated felony before or during his or her wrongful conviction and incarceration and was ineligible to receive compensation under s. 961.04, F.S., the “clean hands” requirement.

Additionally, the bill provides that a deceased person’s heirs, successors, or assigns do not have standing to file a petition on the deceased person’s behalf.

The bill amends s. 961.04, F.S., to remove the bar to compensation for a petitioner who has been convicted of a violent felony or multiple nonviolent felonies before or during his or her wrongful conviction and incarceration, thereby making such a person eligible to seek compensation under the Act. A person continues to be ineligible for compensation for any period of wrongful incarceration during which the person was serving a concurrent sentence for a felony offense for which he or she was not wrongfully incarcerated.

The bill amends s. 961.06, F.S., to remove the provision stating that a person who is on parole or community supervision from the wrongful incarceration and commits a violent felony or more than one felony that results in the revocation of parole or community supervision is ineligible for any compensation.

⁴⁰ Section 961.06(4), F.S.

The bill amends s. 961.06, F.S., to prohibit the CFO from drawing a warrant to purchase an annuity to pay a claimant for his or her wrongful incarceration if the claimant is currently incarcerated:

- For a felony conviction other than the crime for which the compensation is owed; or
- Due to the revocation of parole or probation for a felony conviction other than a crime for which the compensation is owed.

The CFO must commence with the drawing of a warrant after the term of imprisonment for the wrongful conviction has concluded unless the claimant is incarcerated on a felony, a parole revocation, or a felony probation violation unrelated to the wrongful incarceration. When the claimant's incarceration is concluded, the CFO will commence drawing the warrant.

The bill clarifies that when monetary compensation for the claimant is determined, and if the claimant has previously prevailed in a civil case against the state or another party related to the wrongful incarceration, the amount of the damages will be deducted from the monetary compensation and reimbursed to the state or other party related to the wrongful incarceration. The bill also provides for additional reimbursement arrangements by the claimant determined by the timing of the claimant's civil judgments.

Likewise, the bill addresses the claimant's application for wrongful incarceration compensation as it relates to a claim bill. The claimant may not apply for compensation if he or she is the subject of a pending claim bill. If the application has been filed, the wrongfully incarcerated person may not pursue a claim bill until the final disposition of the compensation application. Upon the award of claim bill compensation to the wrongfully incarcerated person, he or she may not receive compensation under this act.

The bill also amends s. 961.07, F.S., to provide that beginning in fiscal year 2025-2026, and continuing each fiscal year thereafter, a sum sufficient to pay the approved payments under s. 961.03(1)(b)(1), F.S.,⁴¹ is appropriated from the General Revenue Fund to the Chief Financial Officer, which sum is further appropriated for expenditure pursuant to the Victims of Wrongful Incarceration Act. Petitions filed pursuant to s. 961.03(1)(b)2., F.S.,⁴² are subject to specific appropriation.

The bill takes effect on July 1, 2025.

⁴¹ Subparagraph 961.03(1)(b)1., F.S., extends the time for filing a petition to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed or the person is retried and acquitted, if the person's conviction and sentence is vacated on or after July 1, 2025.

⁴² Subparagraph s. 961.03(1)(b)2., F.S., extends the time for filing a petition to July 1, 2025, if the:

- Person's conviction and sentence was vacated and the criminal charges against the person were dismissed, or the person was retried and acquitted, after January 1, 2006, but before July 1, 2025; *and*
- Person previously filed a petition that was dismissed or did not file a petition, because the:
 - Date when the criminal charges against the person were dismissed or the date the person was acquitted occurred more than 90 days after the date of the final order vacating his or her conviction and sentence; *or*
 - Person was convicted of an unrelated felony before or during his or her wrongful conviction and incarceration and was ineligible to receive compensation under s. 961.04, F.S., the "clean hands" requirement (emphasis added).

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

It is possible that there will be an increase in the number of persons who qualify for compensation from the state due to the extended timelines and parameters for seeking compensation based on a wrongful incarceration claim. While there are existing limitations on compensation (\$50,000 per year of wrongful incarceration up to a limit of \$2 million) for a person, it is not possible to quantify the additional number of people who may be compensable.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 961.03, 961.04, 961.06, and 961.07.

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 Bradley

6-00356A-25

2025130__

A bill to be entitled

An act relating to compensation of victims of wrongful incarceration; amending s. 961.02, F.S.; deleting the definition of the term "violent felony"; amending s. 961.03, F.S.; expanding the period during which a petition for compensation for wrongful incarceration may be filed; providing that certain persons who had petitions dismissed or who had not previously filed such petitions may file such petitions; amending s. 961.04, F.S.; providing that a wrongfully incarcerated person is not eligible for compensation for any period of incarceration during which the person was concurrently serving a sentence for a conviction of another felony for which such person was lawfully incarcerated; deleting provisions excluding persons convicted of violent felonies from compensation; deleting other exclusions; amending s. 961.06, F.S.; revising provisions concerning the offset of civil judgments in favor of claimants against awards; providing that the Chief Financial Officer may not draw a warrant to purchase an annuity for a claimant in certain circumstances; requiring the Chief Financial Officer to draw a warrant after a certain term has concluded; amending s. 961.07, F.S.; revising provisions concerning a continuing appropriation for certain payments; providing that certain payments are subject to specific appropriation; providing an effective date.

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

6-00356A-25

2025130__

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

Section 1. Subsection (6) of section 961.02, Florida Statutes, is amended to read:

961.02 Definitions.—As used in ss. 961.01-961.07, the term: ~~(6) "Violent felony" means a felony listed in s. 775.084(1)(c)1. or s. 948.06(8)(c).~~

Section 2. Paragraph (b) of subsection (1) of section 961.03, Florida Statutes, is amended, and paragraph (c) is added to that subsection, to read:

961.03 Determination of status as a wrongfully incarcerated person; determination of eligibility for compensation.—

(1)

(b) The person must file the petition with the court:

1. Within 2 years ~~90 days~~ after the order vacating a conviction and sentence becomes final and the criminal charges against the person are dismissed or the person is retried and acquitted if the person's conviction and sentence is vacated on or after July 1, 2025 ~~2008~~.

2. By July 1, 2027 ~~2010~~, if the person's conviction and sentence was vacated and the criminal charges against the person were dismissed or the person was retried and acquitted on or after January 1, 2006, but before July 1, 2025, and he or she previously filed a petition under this section that was dismissed or no petition was filed under this section because:

a. The date on which the criminal charges against the person were dismissed or the date on which the person was acquitted upon retrial occurred more than 90 days after the date of the final order vacating the conviction and sentence; or

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

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b. The person was convicted of an unrelated felony before or during his or her wrongful conviction and incarceration and was ineligible for compensation under s. 961.04 as it existed before July 1, 2025.

(c) A deceased person's heirs, successors, or assigns do not have standing to file a petition on the deceased person's behalf under this section ~~by an order that became final prior to July 1, 2008.~~

Section 3. Section 961.04, Florida Statutes, is amended to read:

961.04 Eligibility for compensation for wrongful incarceration.—A wrongfully incarcerated person is not eligible for compensation under the act for any period of incarceration during which the person was concurrently serving a sentence for a conviction of another felony for which such person was lawfully incarcerated. if:

~~(1) Before the person's wrongful conviction and incarceration, the person was convicted of, or pled guilty or nolo contendere to, regardless of adjudication, any violent felony, or a crime committed in another jurisdiction the elements of which would constitute a violent felony in this state, or a crime committed against the United States which is designated a violent felony, excluding any delinquency disposition;~~

~~(2) Before the person's wrongful conviction and incarceration, the person was convicted of, or pled guilty or nolo contendere to, regardless of adjudication, more than one felony that is not a violent felony, or more than one crime committed in another jurisdiction, the elements of which would~~

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~~constitute a felony in this state, or more than one crime committed against the United States which is designated a felony, excluding any delinquency disposition;~~

~~(3) During the person's wrongful incarceration, the person was convicted of, or pled guilty or nolo contendere to, regardless of adjudication, any violent felony;~~

~~(4) During the person's wrongful incarceration, the person was convicted of, or pled guilty or nolo contendere to, regardless of adjudication, more than one felony that is not a violent felony; or~~

~~(5) During the person's wrongful incarceration, the person was also serving a concurrent sentence for another felony for which the person was not wrongfully convicted.~~

Section 4. 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 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 all of the following:

(a) Monetary compensation for wrongful incarceration, which shall be calculated at a rate of \$50,000 for each year of wrongful incarceration, prorated as necessary to account for a portion of a year. For persons found to be wrongfully incarcerated after December 31, 2005 ~~2008~~, the Chief Financial Officer may adjust the annual rate of compensation for inflation using the change in the December-to-December "Consumer Price Index for All Urban Consumers" of the Bureau of Labor Statistics of the Department of Labor.

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(b) A waiver of tuition and fees for up to 120 hours of instruction at any career center established under s. 1001.44, any Florida College System institution as defined in s. 1000.21(5), or any state university as defined in s. 1000.21(9), if the wrongfully incarcerated person meets and maintains the regular admission requirements of such career center, Florida College System institution, or state university; remains registered at such educational institution; and makes satisfactory academic progress as defined by the educational institution in which the claimant is enrolled.

(c) The amount of any fine, penalty, or court costs imposed and paid by the wrongfully incarcerated person.

(d) The amount of any reasonable attorney ~~attorney's~~ fees and expenses incurred and paid by the wrongfully incarcerated person in connection with all criminal proceedings and appeals regarding the wrongful conviction, to be calculated by the department based upon the supporting documentation submitted as specified in s. 961.05, ~~and~~

(e) Notwithstanding any provision to the contrary in s. 943.0583 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.

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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.

~~(2) In calculating monetary compensation under paragraph (1)(a), a wrongfully incarcerated person who is placed on parole or community supervision while serving the sentence resulting from the wrongful conviction and who commits no more than one felony that is not a violent felony which results in revocation of the parole or community supervision is eligible for compensation for the total number of years incarcerated. A wrongfully incarcerated person who commits one violent felony or more than one felony that is not a violent felony that results in revocation of the parole or community supervision is ineligible for any compensation under subsection (1).~~

(2)(3) Except as provided in subsection (9), within 15 calendar days after issuing notice to the claimant that his or her claim satisfies all of the requirements under this act, the department shall notify the Chief Financial Officer to draw a warrant from the General Revenue Fund or another source designated by the Legislature in law for the purchase of an annuity for the claimant based on the total amount determined by the department under this act.

(3)(4) The Chief Financial Officer shall issue payment in the amount determined by the department to an insurance company or other financial institution admitted and authorized to issue annuity contracts in this state to purchase an annuity or annuities, selected by the wrongfully incarcerated person, for a

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term of not less than 10 years. The Chief Financial Officer is directed to execute all necessary agreements to implement this act and to maximize the benefit to the wrongfully incarcerated person. The terms of the annuity or annuities shall:

(a) Provide that the annuity or annuities may not be sold, discounted, or used as security for a loan or mortgage by the wrongfully incarcerated person.

(b) Contain beneficiary provisions for the continued disbursement of the annuity or annuities in the event of the death of the wrongfully incarcerated person.

(4) If, when monetary compensation is determined under paragraph (1)(a), a court has previously entered a monetary judgment in favor of the claimant in a civil action related to the claimant's wrongful incarceration, or the claimant has entered into a settlement agreement with the state or any political subdivision thereof related to the claimant's wrongful incarceration, the amount of the damages in the civil action or settlement agreement, less any sums paid for attorney fees or costs incurred in litigating the civil action or obtaining the settlement agreement, shall be deducted from the total monetary compensation to which the claimant is entitled under this section.

(5)(a) If subsection (4) does not apply and if, after monetary compensation is determined under paragraph (1)(a):

1. The court enters a monetary judgment in favor of the claimant in a civil action related to the claimant's wrongful incarceration; or

2. The claimant enters into a settlement agreement with the state or any political subdivision thereof related to the

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claimant's wrongful incarceration,

the claimant shall reimburse the state for the monetary compensation paid under paragraph (1)(a), less any sums paid for attorney fees or costs incurred in litigating the civil action or obtaining the settlement agreement.

(b) A reimbursement required under this subsection may not exceed the amount of the monetary award the claimant received for damages in a civil action or settlement agreement.

(c) In the order of judgment, the court shall award to the state any amount required to be deducted under this subsection.

(6)(a) The claimant shall notify the department upon filing a civil action against the state or any political subdivision thereof in which the claimant is seeking monetary damages related to the claimant's wrongful incarceration for which he or she previously received or is applying to receive compensation under paragraph (1)(a).

(b) Upon notice of the claimant's civil action, the department shall file in the case a notice of payment of monetary compensation to the claimant under paragraph (1)(a). The notice shall constitute a lien upon any monetary judgment or settlement recovered under the civil action which is equal to the sum of monetary compensation paid to the claimant under paragraph (1)(a), less any attorney fees and costs incurred in litigating the civil action or obtaining the settlement agreement

~~(5) Before the department approves the application for compensation, the wrongfully incarcerated person must sign a release and waiver on behalf of the wrongfully incarcerated~~

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233 ~~person and his or her heirs, successors, and assigns, forever~~
 234 ~~releasing the state or any agency, instrumentality, or any~~
 235 ~~political subdivision thereof, or any other entity subject to s.~~
 236 ~~768.28, from all present or future claims that the wrongfully~~
 237 ~~incarcerated person or his or her heirs, successors, or assigns~~
 238 ~~may have against such entities arising out of the facts in~~
 239 ~~connection with the wrongful conviction for which compensation~~
 240 ~~is being sought under the act.~~

241 ~~(6)(a) A wrongfully incarcerated person may not submit an~~
 242 ~~application for compensation under this act if the person has a~~
 243 ~~lawsuit pending against the state or any agency,~~
 244 ~~instrumentality, or any political subdivision thereof, or any~~
 245 ~~other entity subject to the provisions of s. 768.28, in state or~~
 246 ~~federal court requesting compensation arising out of the facts~~
 247 ~~in connection with the claimant's conviction and incarceration.~~

248 ~~(7)(a)(b) A wrongfully incarcerated person may not submit~~
 249 ~~an application for compensation under this act if the person is~~
 250 ~~the subject of a claim bill pending for claims arising out of~~
 251 ~~the facts in connection with the claimant's conviction and~~
 252 ~~incarceration.~~

253 ~~(b)(e) Once an application is filed under this act, a~~
 254 ~~wrongfully incarcerated person may not pursue recovery under a~~
 255 ~~claim bill until the final disposition of the application.~~

256 ~~(c)(d) Any amount awarded under this act is intended to~~
 257 ~~provide the sole compensation for any and all present and future~~
 258 ~~claims arising out of the facts in connection with the~~
 259 ~~claimant's conviction and incarceration. Upon notification by~~
 260 ~~the department that an application meets the requirements of~~
 261 ~~this act, a wrongfully incarcerated person may not recover under~~

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262 a claim bill.

263 ~~(d)(e)~~ Any compensation awarded under a claim bill shall be
 264 the sole redress for claims arising out of the facts in
 265 connection with the claimant's conviction and incarceration and,
 266 upon any award of compensation to a wrongfully incarcerated
 267 person under a claim bill, the person may not receive
 268 compensation under this act.

269 ~~(8)(7)~~ Any payment made under this act does not constitute
 270 a waiver of any defense of sovereign immunity or an increase in
 271 the limits of liability on behalf of the state or any person
 272 subject to ~~the provisions of~~ s. 768.28 or any other law.

273 (9)(a) The Chief Financial Officer may not draw a warrant
 274 to purchase an annuity for a claimant who is currently
 275 incarcerated:

276 1. In a county, city, or federal jail or other correctional
 277 facility or an institution operated by the Department of
 278 Corrections for a felony conviction other than a crime for which
 279 the claimant was wrongfully convicted; or

280 2. Due to the revocation of parole or probation for a
 281 felony conviction other than a crime for which the claimant was
 282 wrongfully convicted.

283 (b) After a term of incarceration described in subparagraph
 284 (a)1. or subparagraph (a)2. has concluded, the Chief Financial
 285 Officer shall commence with the drawing of a warrant as
 286 described in this section.

287 Section 5. Section 961.07, Florida Statutes, is amended to
 288 read:

289 961.07 Continuing appropriation.—

290 (1) Beginning in the 2025-2026 ~~2008-2009~~ fiscal year and

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291 continuing each fiscal year thereafter, a sum sufficient to pay
292 the approved payments under s. 961.03(1)(b)1. ~~this act~~ is
293 appropriated from the General Revenue Fund to the Chief
294 Financial Officer, which sum is further appropriated for
295 expenditure pursuant to ~~the provisions of~~ this act.

296 (2) Payments for petitions filed pursuant to s.
297 961.03(1)(b)2. are subject to specific appropriation.

298 Section 6. This act shall take effect July 1, 2025.

Wrongful Incarceration Claims (961.03, F.S.)

Successful Claims

- (1) **Leroy McGee** (2010) (\$179,166.66)
- (2) **James Bain** (2011) (\$1,754,794.51)
- (3) **Luis Diaz** (2012) (\$1,297,569.28)
- (4) **James Richardson** (2015) (\$1,045,370.69)
- (5) **Hubert Nathan Myers** (2020) (\$2,000,000.00)

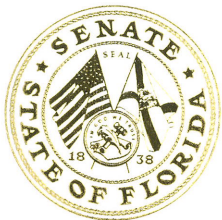
Denied Claims

- (1) **Jarvis McBride** (2010) (manslaughter conviction vacated; no order indicating the conviction was wrongful.)
- (2) **Joseph McGowan** (2015) (Court reconsidered and determined applicant ineligible. Order issued 1/11/2016.)

Ineligible/Incomplete Applications

- (1) **Robert Lewis** (incomplete) (2011)
- (2) **Edwin Lampkin** (incomplete) (2012)
- (3) **Ricardo Johnson** (ineligible/incarcerated) (2013)
- (4) **Robert Glenn Mosley** (incomplete) (2014)
- (5) **Jessie Brinson** (ineligible/no court order indicating that Brinson did not commit the crime, did not aid, abet and was not an accomplice or accessory to the person who committed the offense.) (2016)
- (6) **Joseph Q. O'Neal** (ineligible/the conviction was not reversed and O'Neal was not exonerated . The appeals court reversed because the trial court committed structural error in not permitting O'Neal to represent himself at trial.) (2016)
- (7) **Raymond L. Hicks** (ineligible/no criminal charges resulted in a conviction and sentence. Did not serve a sentence based on a wrongful conviction.) (2020)

Updated 6/15/2022



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Regulated Industries, *Chair*
Appropriations Committee on Higher
Education, *Vice Chair*
Appropriations Committee on Pre-K - 12 Education
Criminal Justice
Ethics and Elections
Fiscal Policy
Rules

JOINT COMMITTEES:

Joint Committee on Public Counsel Oversight,
Alternating Chair

SENATOR JENNIFER BRADLEY

6th District

January 15, 2025

Senator Jonathan Martin, Chairman
Senate Committee on Criminal Justice
315 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Martin:

I respectfully request that SB 130 be placed on the committee's agenda at your earliest convenience. This bill relates to the compensation of victims of wrongful incarceration.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Jennifer Bradley". The signature is fluid and cursive, with the first name "Jennifer" being more prominent than the last name "Bradley".

Jennifer Bradley

cc: Amanda Stokes, Staff Director
Tori Denson Administrative Assistant

REPLY TO:

- ☐ 1845 East West Parkway, Suite 5, Fleming Island, Florida 32003 (904) 278-2085
- ☐ 184 North Marion Avenue, Lake City, Florida 32055 (904) 278-2085
- ☐ 406 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: www.flsenate.gov

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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130

Bill Number or Topic

Amendment Barcode (if applicable)

2/11/25

Meeting Date

Criminal Justice

Committee

Name

Seth Miller

Phone

202-341-2127

Address

Innovative Project of Florida
124 Merritt Drive Suite 104

Email

smiller@floridainnovative.org

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

2/11/25

Meeting Date

Criminal Justice

Committee

Name **Kara Gross**

Address **4343 W. Flagler Rd**
Street

Miami

City

FL

State

33134

Zip

The Florida Senate
APPEARANCE RECORD

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SB 130

Bill Number or Topic

Amendment Barcode (if applicable)

Phone **786-363-4436**

Email **kgross@aclufl.org**

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

**American Civil Liberties Union of
Florida**

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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2/11/25

Meeting Date

CJ

Committee

130

Bill Number or Topic

Amendment Barcode (if applicable)

Name

AARON

WAYT

FL ASSN OF
CRIM DEF LAWYERS

Phone

(407) 435-3194

Address

Street

Email

AARON@DONPUMPHREY.COM

City

State

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 138

INTRODUCER: Criminal Justice Committee and Senator Wright

SUBJECT: Driving Under the Influence

DATE: February 10, 2025

REVISED: 2/11/25

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Parker	Stokes	CJ	Fav/CS
2.		ACJ	
3.		FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 138 makes multiple changes to strengthen and enhance crimes related to driving and boating offenses.

The bill amends ss. 316.193, and 327.35, F.S., to prohibit a person from driving, operating or being in actual physical control of a vehicle or vessel while under the influence of alcoholic beverages, any chemical substances set forth in s. 877.111, F.S., any substances controlled under ch. 893, F.S., or *any intoxicating substance* when affected to the extent that the person's normal faculties are impaired.

The bill provides enhanced criminal penalties for a violation of driving under the influence (DUI) with death, if the person has a prior conviction for a violation of specified provisions.

The bill amends 782.071, F.S., to provide enhanced criminal penalties for a violation of vehicular homicide if the person has a prior conviction for a violation of specified provisions.

Currently, a first time conviction for DUI with death¹ or vehicular homicide² is a felony in the second degree.³

¹ Section 316.193(3)(c)3., F.S.

² Section 782.071, F.S.

³ A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine up to \$10,000, as provided in ss. 775.082, 775.083, or 775.084, F.S.

The bill amends s. 316.1939, F.S., to provide that a person's first refusal to submit to a chemical or physical test of breath or urine is a second degree misdemeanor or a first degree misdemeanor under certain circumstances. Current law provides that a first refusal is not a crime.

Additionally, s. 316.1932, F.S., is amended to require that a person be told that his or her first failure to submit to a lawful test of breath or urine is a second degree misdemeanor⁴ or a first degree misdemeanor⁵ under certain circumstances.

The bill creates s. 316.19395, F.S., to authorize judicial circuits to create DUI diversion programs.

Section 316.656, F.S., is amended to prohibit the court from suspending, deferring, or withholding adjudication of guilt or imposition of sentence for such a refusal to submit to testing.

Current law provides that a person commits the third degree felony offense of driving on license suspended upon a third or subsequent violation, if the suspension was related to DUI or refusal to submit to testing.

Section 322.34, F.S., is amended to provide mandatory minimum penalties for this crime.

The bill amends s. 933.02, F.S., to permit the issuance of a search warrant when a sample of blood of a person constitutes evidence relevant to proving specified crimes.

The bill has an indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill takes effect on October 1, 2025.

II. Present Situation:

Driving Under the Influence

A person is guilty of DUI if a person drives or is in actual physical control of a vehicle and the person:

- Is under the influence of alcoholic beverages, any controlled substance set forth in s. 877.111, F.S., or any substance controlled under ch. 893, F.S., to the extent that the person's normal faculties are impaired;⁶
- Has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood;⁷ or

⁴ A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days, as provided in ss. 775.082 or 775.083, F.S.

⁵ A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year and a \$1,000 fine, as provided in ss. 775.082 or 775.083, F.S.

⁶ Section 316.193(1)(a), F.S.

⁷ Section 316.193(1)(b), F.S.

- Has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.⁸

The criminal penalties for DUI vary depending on numerous factors such as the number of prior convictions, the length of time between convictions, and the defendant's blood alcohol level.⁹

The penalties for a first time DUI offense are punishable by:

- A period of probation not exceeding one year;¹⁰
- A fine of not less than \$500 or more than \$1,000;
- Imprisonment for not more than 6 months;
- A mandatory 50 hours of community service;¹¹ and
- A mandatory ten-day vehicle impoundment.¹²

Boating Under the Influence

A person is guilty of boating under the influence if the person is operating a vessel under the influence of an alcoholic beverage, any chemical substance set forth in s. 877.111, F.S., or any substance controlled under ch. 893, F.S., when affected to the extent that the person's normal faculties are impaired.¹³

The criminal penalties for boating under the influence varies depending on numerous factors such as the number of prior convictions, the length of time between convictions, and the defendant's blood alcohol level.¹⁴ The penalties for a first time boating under the influence offense are punishable by:

- A fine of not less than \$500 or more than \$1,000 for a first conviction.¹⁵
- Imprisonment for not more than 6 months;¹⁶
- A period of probation not exceeding one year;¹⁷
- A mandatory 50 hours of community service;¹⁸ and a mandatory 10-day vessel impoundment or immobilization.¹⁹

Implied Consent-Refusal

Section 316.1932, F.S., sets forth what is commonly known as the implied consent law. Specifically, s. 316.1932(1)(a)1., F.S., provides that anyone who operates a motor vehicle or vessel in the state is, by operating such a vehicle or vessel, deemed to have given his or her consent to submit to an approved chemical or physical test of his or her breath to determine the

⁸ Section 316.193(1)(c), F.S.

⁹ Section 316.193, F.S.

¹⁰ Section 316.193(6)(a), F.S.

¹¹ *Id.*

¹² *Id.*

¹³ Section 327.35(1)(a), F.S.

¹⁴ Section 327.35, F.S.

¹⁵ Section 327.35(2)(a), F.S.

¹⁶ *Id.*

¹⁷ Section 327.35(6)(a), F.S.

¹⁸ *Id.*

¹⁹ *Id.*

alcoholic content of his or her blood or breath or a urine test to detect the presence of chemical substances or controlled substances.²⁰

The chemical or physical breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The administration of a breath test does not preclude the administration of another type of test.²¹

The person must be told that his or her failure to submit to any lawful test of his or her breath will result in the suspension of the person's privilege to operate a motor vehicle for a period of one year for a first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215, F.S.²² Additionally, a person operating a vessel must be told that his or her failure to submit to a lawful test of his or her breath will result in a civil penalty of \$500.²³

As a result of a refusal to submit to a test or tests required under ch. 316 or ch. 327, F.S., the person shall also be told that if he or she refuses to submit to a lawful test of his or her breath and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215, F.S., for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under ch. 327, F.S., he or she commits a first degree misdemeanor.²⁴

These tests may be performed if the person is lawfully arrested for any offense allegedly committed while the person was driving or in actual physical control of a motor vehicle, or operating a vessel, while under the influence of any alcoholic beverage or chemical substance, or any other controlled substances.²⁵

Vehicular Homicide

Vehicular homicide is the killing of a human being, or the killing of an unborn child by any injury to the mother, caused by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to another.²⁶ Vehicular homicide is a second degree felony.²⁷

²⁰ Sections 316.1932 (1)(a)1.a., and 327.352(1)(a)1., F.S.

²¹ *Id.*

²² Section 327.35215(2), F.S., provides when a person refuses to submit to a blood test, breath test, or urine test pursuant to s. 327.352, F.S., (Implied consent), a law enforcement officer authorized to make arrests for violations of this ch. 327, F.S., shall file with the clerk of the court, on a form provided by the commission, a certified statement that probable cause existed to arrest the person for a violation of s. 327.35, F.S., (Boating under the influence), and that the person refused to submit to a test as required by s. 327.352, F.S. Along with the statement, the officer shall also submit a sworn statement on a form provided by the commission that the person has been advised of both the penalties for failure to submit to the blood, breath, or urine test and the procedure for requesting a hearing.

²³ Section 327.352, F.S.

²⁴ A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year and a \$1,000 fine, as provided in ss. 775.082 and 775.083, F.S.

²⁵ Section 316.1932(1)(a)b., F.S.

²⁶ Section 782.071, F.S.

²⁷ Section 782.071 (1)(a), F.S.

The degree of culpability required for vehicular homicide is less than that necessary to prove manslaughter, but it is more than a mere failure to use ordinary care.²⁸

To prove the offense, the State necessarily must also prove the elements of reckless driving, which itself “requires proof of a ‘willful or wanton disregard for the safety of persons or property.’”²⁹

“Willful’ means ‘intentional, knowing, and purposeful,’ and ‘wanton’ means with a ‘conscious and intentional indifference to consequences and with knowledge that damage is likely to be done to persons or property.’”³⁰

“In determining whether a defendant was driving recklessly, the essential inquiry is whether the defendant knowingly drove the vehicle in such a manner and under such conditions as was likely to cause death or great bodily harm”.³¹

Search Warrant Statute

Upon proper affidavits being made, a search warrant may be issued under the following grounds:

- When property has been stolen or embezzled in violation of law;³²
- When any property has been used:
 - As a means to commit any crime;³³
 - In connection with gambling, gambling implements and appliances;³⁴ or
 - In violation of s. 847.11, F.S., or other laws in reference to obscene prints and literature;³⁵
- When any property constitutes evidence relevant to proving that a felony has been committed;³⁶
- When property is being held or possessed:
 - In violation of any laws prohibiting the manufacture, sale, and transportation of intoxicating liquors;³⁷
 - In violation of the fish and game laws;³⁸
 - In violation of the laws relative to food and drug;³⁹ or
 - In violation of the laws relative to citrus disease pursuant to s. 581.184, F.S.,⁴⁰ or

²⁸ *McCreary v. State*, 371 So.2d 1024, 1026 (Fla.1979)

²⁹ *Santisteban v. State*, 72 So.3d 187, 195 (Fla. 4th DCA 2011); *Berube v. State*, 6 So.3d 624, 625 (Fla. 5th DCA 2008); see also § 316.192(1), Fla. Stat. (2010).

³⁰ *Lewek v. State*, 702 So.2d 527, 530–31 (Fla. 4th DCA 1997) (quoting Fla. Std. Jury. Instr. (Misd.) (**reckless** driving)).

³¹ *Santisteban*, 72 So.3d at 195 (citing *D.E. v. State*, 904 So.2d 558, 562 (Fla. 5th DCA 2005)).

³² Section 933.02(1), F.S.

³³ Section 933.02(2)(a), F.S.

³⁴ Section 933.02(2)(b), F.S.

³⁵ Section 933.02(2)(c), F.S.

³⁶ Section 933.02(3), F.S.

³⁷ Section 933.02(4)(a), F.S.

³⁸ Section 933.02(4)(b), F.S.

³⁹ Section 933.02(4)(c), F.S.

⁴⁰ Section 933.02(4)(d), F.S.

- When the laws in relation to cruelty to animals, as provided in ch.828, F.S., have been or are violated in any particular building or place.⁴¹

Existing language in s. 933.02, F.S., allows the state to secure a warrant to seize property used as *a means to commit* a felony or misdemeanor.⁴² Under the existing language, property *constituting relevant evidence* may be seized only if the suspected crime is a *felony*.^{43 44}

III. Effect of Proposed Changes:

The bill names the Act “Trenton’s Law.”

The bill amends ss. 316.193, and 327.35, F.S., to prohibit a person from driving, operating or being in actual physical control of a vehicle or vessel while under the influence of alcoholic beverages, any chemical substances set forth in s. 877.111, F.S., any substances controlled under ch. 893, F.S., or *any intoxicating substance* when affected to the extent that the person’s normal faculties are impaired.

The bill amends s. 319.193(3)(c)3., F.S., to provide an enhanced criminal penalty of a first degree felony for a violation of DUI with death if the person has a prior conviction for a violation of DUI with death or a prior conviction for vehicular homicide.

The bill amends s. 782.071, F.S., to provide an enhanced criminal penalty of a first degree felony for a violation of vehicular homicide if the person has a prior conviction for DUI causing death or a prior conviction for vehicular homicide.

Currently, a first time conviction for DUI with death⁴⁵ or vehicular homicide is a felony in the second degree.

The bill amends s. 316.1939, F.S., to provide a person’s first refusal to submit to a chemical or physical test of breath or urine as a second degree misdemeanor or a first degree misdemeanor if the person after having been informed as required still refuses to submit to a lawful test of his or her breath or urine.

Additionally, s. 316.1932, F.S., is amended to require that a person be told that his or her first failure to submit to a lawful test of breath or urine is a second degree misdemeanor⁴⁶ or a first degree misdemeanor⁴⁷ if his or her driving privilege has been previously suspended or if he or

⁴¹ Section 933.02(5), F.S.

⁴² Section 933.02(2)(a), F.S.

⁴³ Section 933.02(3), F.S.

⁴⁴ *Bordo v. State*, 627 So.2d 561 (Fla. 4th DCA 1993) (“Property used to commit a any crime whether felony or misdemeanor may be sized under a warrant; while property merely constituting relevant evidence of a crime may be seized only if the suspected crime is a felony.”); *See also*, *State v. Geiss*, 70 So.3d 642 (Fla. 5th DCA 2011).

⁴⁵ Section 316.193(3)(c)3., F.S.

⁴⁶ A second-degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days, as provided in ss. 775.082 or 775.083, F.S.

⁴⁷ A first-degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year and a \$1,000 fine, as provided in ss. 775.082 or 775.083, F.S.

she has previously been fined under s. 327.35215, F.S., for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter.

Section 316.656, F.S., is amended to prohibit the court from suspending, deferring, or withholding adjudication of guilt or imposition of sentence for such a refusal to submit to testing.

Current law provides that a person commits the third degree felony offense of driving on license suspended upon a third or subsequent violation, if the suspension was related to DUI or refusal to submit to testing. Section 322.34, F.S., is amended to provide mandatory minimum penalties for this crime. The mandatory minimum penalties include:

- A minimum of 30 days in jail for a first conviction;
- A minimum of 60 days in jail upon a second conviction; and
- A minimum of 90 days in jail upon a third or subsequent conviction.

The bill creates s. 316.19395, F.S., to authorize judicial circuits to a DUI diversion program. A judicial circuit that creates such a diversion program must publish the terms and conditions of the program on the website of the office of the state attorney for that circuit.

Each judicial circuit that offers a diversion program under this section must notify the Department of Law Enforcement (FDLE) of each person who successfully completes the program. The FDLE must notate the successful completion of the diversion program on the driving record of each such person. A person who successfully completes a diversion program offered under this section is ineligible for future participation in such a program.

The bill amends s. 933.02, F.S., to permit the issuance of a search warrant when a sample of blood of a person constitutes evidence relevant to proving that a violation of ss. 316.193 (DUI) or 327.35, F.S., (boating under the influence) has been committed.

The bill takes effect on October 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a positive indeterminate fiscal impact. The bill amends and creates multiple statutes. Per the Department of Corrections, in FY 23-24, there were 516 new commitments to prison for felonies under the amended statutes. While this bill expands the definition for what under the influence means, the number of potential offenders under this new language is not known. Therefore, the magnitude of the impact on the prison population cannot be determined.⁴⁸

The bill may have an indeterminate impact on the anticipated judicial or court workload. Provisions prohibiting suspension of guilt or sentencing for refusal to submit to testing as well as reporting requirements for DUI diversion programs are not likely to have a significant impact on judicial workload; however, the bill may encourage judicial circuits to implement a DUI Court which could reduce workload.⁴⁹ The effect on workload from establishing a new misdemeanor offense for first refusals to submit to testing, and authorizing search warrants to obtain a blood sample as evidence of DUI or BUI, is too speculative to quantify. To the extent arrests for first refusals and warrant requests increase, judicial workload may also increase.

The bill may require the creation/amendment of standard jury instructions relating to DUI, BUI, and refusal to submit to testing.

The fiscal impact of this legislation cannot be accurately determined due to the unavailability of data needed to establish the increase in judicial workload resulting from the creation of a new misdemeanor offense related to first refusal, etc.

Trial court judicial workload is measured using a case weighting system that calculates the amount of time it takes for a judge to dispose of a case. The number of case filings using the case weighting system is used to determine the need for additional judicial resources each year. Any judicial workload increases in the future as a result of

⁴⁸ Office of Economic and Demographic Research, *SB 138 Preliminary Estimate*, (on file with the Senate Committee on Criminal Justice).

⁴⁹ Office of the State Courts Administrator, *2025 Judicial Impact Statement* on SB 138, pg. 2 (on file with the Senate Committee on Criminal Justice). Currently there are four DUI courts operating statewide.

legislation that passes this session will be reflected in the Supreme Court's annual opinion, *In re: Certification of Need for Additional Judges*. Please note that the workload impact from each bill may be nominal but the cumulative effect to the State Courts System from all bills could be substantial.⁵⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.193, 316.1932, 316.1939, 316.656, 322.34, 327.35, 782.071, and 933.02.

This bill creates section 316.19395 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial:

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

CS by Criminal Justice on February 11, 2025:

The committee substitute:

- Provides that it is a first degree felony if a person commits a DUI with death and has a prior conviction for DUI with death or a prior conviction for vehicular homicide.
- Provides that this Act shall be designated as “Trenton’s Law”.
- Provides that it is a first degree felony if a person commits vehicular homicide and has a prior conviction for DUI with death or a prior conviction for vehicular homicide.

B. Amendments:

None.

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

⁵⁰ Office of the State Courts Administrator, *2025 Judicial Impact Statement* on SB 138, pg. 3 (on file with the Senate Committee on Criminal Justice).



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/11/2025	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

Section 2. Subsections (1), (2), and (3) of section
316.193, Florida Statutes, are amended to read:

316.193 Driving under the influence; penalties.—

(1) A person commits ~~is guilty of~~ the offense of driving
under the influence and is subject to punishment as provided in



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subsection (2) if the person is driving or in actual physical control of a vehicle within this state and:

(a) The person is under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, ~~or~~ any substance controlled under chapter 893, or any intoxicating substance, when affected to the extent that the person's normal faculties are impaired;

(b) The person has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or

(c) The person has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.

(2)(a) Except as provided in paragraph (b), subsection (3), or subsection (4), any person who is convicted of a violation of subsection (1) shall be punished:

1. By a fine of:

a. Not less than \$500 or more than \$1,000 for a first conviction.

b. Not less than \$1,000 or more than \$2,000 for a second conviction; and

2. By imprisonment for:

a. Not more than 6 months for a first conviction.

b. Not more than 9 months for a second conviction.

3. For a second conviction, by mandatory placement for a period of at least 1 year, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license.



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The portion of a fine imposed in excess of \$500 pursuant to sub-subparagraph 1.a. and the portion of a fine imposed in excess of \$1,000 pursuant to sub-subparagraph 1.b., shall be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund.

(b)1. Any person who is convicted of a third violation of this section for an offense that occurs within 10 years after a prior conviction for a violation of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the court shall order the mandatory placement for a period of not less than 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license.

2. Any person who is convicted of a third violation of this section for an offense that occurs more than 10 years after the date of a prior conviction for a violation of this section shall be punished by a fine of not less than \$2,000 or more than \$5,000 and by imprisonment for not more than 12 months. The portion of a fine imposed in excess of \$2,500 pursuant to this subparagraph shall be remitted by the clerk to the Department of Revenue for deposit into the General Revenue Fund. In addition, the court shall order the mandatory placement for a period of at least 2 years, at the convicted person's sole expense, of an ignition interlock device approved by the department in



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69 accordance with s. 316.1938 upon all vehicles that are
70 individually or jointly leased or owned and routinely operated
71 by the convicted person, when the convicted person qualifies for
72 a permanent or restricted license.

73 3. Any person who is convicted of a fourth or subsequent
74 violation of this section, regardless of when any prior
75 conviction for a violation of this section occurred, commits a
76 felony of the third degree, punishable as provided in s.
77 775.082, s. 775.083, or s. 775.084. However, the fine imposed
78 for such fourth or subsequent violation may be not less than
79 \$2,000. The portion of a fine imposed in excess of \$1,000
80 pursuant to this subparagraph shall be remitted by the clerk to
81 the Department of Revenue for deposit into the General Revenue
82 Fund.

83 (c) In addition to the penalties in paragraph (a), the
84 court may order placement, at the convicted person's sole
85 expense, of an ignition interlock device approved by the
86 department in accordance with s. 316.1938 for at least 6
87 continuous months upon all vehicles that are individually or
88 jointly leased or owned and routinely operated by the convicted
89 person if, at the time of the offense, the person had a blood-
90 alcohol level or breath-alcohol level of .08 or higher.

91 (3) Any person:

92 (a) Who is in violation of subsection (1);

93 (b) Who operates a vehicle; and

94 (c) Who, by reason of such operation, causes or contributes
95 to causing:

96 1. Damage to the property or person of another commits a
97 misdemeanor of the first degree, punishable as provided in s.



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775.082 or s. 775.083.

2. Serious bodily injury to another, as defined in s. 316.1933, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The death of any human being or unborn child commits DUI manslaughter, and commits:

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

b. A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

(I) At the time of the crash, the person knew, or should have known, that the crash occurred; and

(II) The person failed to give information and render aid as required by s. 316.062.

c. A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the person has a prior conviction for a violation of this subparagraph or s. 782.071.

For purposes of this subsection, the term "unborn child" has the same meaning as provided in s. 775.021(5). A person who is convicted of DUI manslaughter shall be sentenced to a mandatory minimum term of imprisonment of 4 years.

Section 3. Paragraph (a) of subsection (1) of section 316.1932, Florida Statutes, is amended to read:

316.1932 Tests for alcohol, chemical substances, or controlled substances; implied consent; refusal.—

(1)(a)1.a. A person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by operating such vehicle, deemed to have given his or



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her consent to submit to an approved chemical test or physical test including, but not limited to, an infrared light test of his or her breath for the purpose of determining the alcoholic content of his or her blood or breath if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic beverages. The chemical or physical breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The administration of a breath test does not preclude the administration of another type of test. The person must ~~shall~~ be told that his or her failure to submit to any lawful test of his or her breath will result in the suspension of his or her ~~the person's~~ privilege to operate a motor vehicle as provided in s. 322.2615(1) (a) for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to a test or tests required under this chapter or chapter 327, and must ~~shall~~ also be told that if he or she refuses to submit to a lawful test of his or her breath ~~and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327,~~ he or she commits a misdemeanor of the second ~~first~~ degree, punishable



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as provided in s. 775.082 or s. 775.083, or a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, in addition to any other penalties provided by law.

The refusal to submit to a chemical or physical breath test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

b. A person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by operating such vehicle, deemed to have given his or her consent to submit to a urine test for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 or controlled substances if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of chemical substances or controlled substances.

The urine test must be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of a motor vehicle within this state while under the influence of chemical substances or controlled substances. The urine test must ~~shall~~ be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such test in a reasonable manner



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that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of a urine test does not preclude the administration of another type of test. The person must ~~shall~~ be told that his or her failure to submit to any lawful test of his or her urine will result in the suspension of his or her ~~the person's~~ privilege to operate a motor vehicle for a period of 1 year for the first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to a test or tests required under this chapter or chapter 327, and must ~~shall~~ also be told that if he or she refuses to submit to a lawful test of his or her urine ~~and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327,~~ he or she commits a misdemeanor of the second ~~first~~ degree, punishable as provided in s. 775.082 or s. 775.083, or a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, in addition to any other penalties provided by law. The refusal to submit to a urine test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

2. The Alcohol Testing Program within the Department of Law



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Enforcement is responsible for the regulation of the operation, inspection, and registration of breath test instruments utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program is responsible for the regulation of the individuals who operate, inspect, and instruct on the breath test instruments utilized in the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program is further responsible for the regulation of blood analysts who conduct blood testing to be utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program shall:

a. Establish uniform criteria for the issuance of permits to breath test operators, agency inspectors, instructors, blood analysts, and instruments.

b. Have the authority to permit breath test operators, agency inspectors, instructors, blood analysts, and instruments.

c. Have the authority to discipline and suspend, revoke, or renew the permits of breath test operators, agency inspectors, instructors, blood analysts, and instruments.

d. Establish uniform requirements for instruction and curricula for the operation and inspection of approved instruments.

e. Have the authority to specify one approved curriculum for the operation and inspection of approved instruments.

f. Establish a procedure for the approval of breath test operator and agency inspector classes.

g. Have the authority to approve or disapprove breath test



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instruments and accompanying paraphernalia for use pursuant to the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.

h. With the approval of the executive director of the Department of Law Enforcement, make and enter into contracts and agreements with other agencies, organizations, associations, corporations, individuals, or federal agencies as are necessary, expedient, or incidental to the performance of duties.

i. Issue final orders which include findings of fact and conclusions of law and which constitute final agency action for the purpose of chapter 120.

j. Enforce compliance with this section through civil or administrative proceedings.

k. Make recommendations concerning any matter within the purview of this section, this chapter, chapter 322, or chapter 327.

l. ~~Adopt~~ Promulgate rules for the administration and implementation of this section, including definitions of terms.

m. Consult and cooperate with other entities for the purpose of implementing the mandates of this section.

n. Have the authority to approve the type of blood test utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.

o. Have the authority to specify techniques and methods for breath alcohol testing and blood testing utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.



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p. Have the authority to approve repair facilities for the approved breath test instruments, including the authority to set criteria for approval.

Nothing in this section shall be construed to supersede provisions in this chapter and chapters 322 and 327. The specifications in this section are derived from the power and authority previously and currently possessed by the Department of Law Enforcement and are enumerated to conform with the mandates of chapter 99-379, Laws of Florida.

Section 4. Section 316.1939, Florida Statutes, is amended to read:

316.1939 Refusal to submit to testing; penalties.—

(1) A person who has refused to submit to a chemical or physical test of his or her breath or urine, as described in s. 316.1932, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law, and such person whose driving privilege was previously suspended or who was previously fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood required under this chapter or chapter 327 commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law if all of the following apply, and:

(a) ~~Who~~ The arresting law enforcement officer had probable cause to believe that the person was driving or in actual physical control of a motor vehicle in this state while under the influence of alcoholic beverages, chemical substances, or



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controlled substances.~~†~~

(b) The person ~~who~~ was placed under lawful arrest for a violation of s. 316.193, unless such test was requested pursuant to s. 316.1932(1)(c).~~†~~

(c) The person ~~who~~ was informed that, if he or she refused to submit to such test, his or her privilege to operate a motor vehicle would be suspended for a period of 1 year or, in the case of a second or subsequent refusal, for a period of 18 months.~~†~~

(d) The person, after having been informed as required in paragraph (c), still refuses ~~who was informed that a refusal to submit to a lawful test of his or her breath or urine as described in s. 316.1932, if his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law; and~~

~~(e) Who, after having been so informed, refused to submit to any such test when requested to do so by a law enforcement officer or correctional officer~~

~~commits a misdemeanor of the first degree and is subject to punishment as provided in s. 775.082 or s. 775.083.~~

(2) The disposition of any administrative proceeding that relates to the suspension of a person's driving privilege does not affect a criminal action under this section.

(3) The disposition of a criminal action under this section does



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not affect any administrative proceeding that relates to the suspension of a person's driving privilege. The department's records showing that a person's license has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood are ~~shall be~~ admissible and create ~~shall create~~ a rebuttable presumption of such suspension.

Section 5. Section 316.19395, Florida Statutes, is created to read:

316.19395 Driving under the influence diversion programs.—

(1) Any judicial circuit may create a driving under the influence diversion program. A judicial circuit that creates such a diversion program shall publish the terms and conditions of the program on the website of the office of the state attorney for that circuit.

(2) Each judicial circuit that offers a diversion program under this section shall notify the department of each person who successfully completes the program. The department shall notate the successful completion of the diversion program on the driving record of each such person.

(3) A person who successfully completes a diversion program offered under this section is ineligible for future participation in such a program.

Section 6. Subsection (1) of section 316.656, Florida Statutes, is amended to read:

316.656 Mandatory adjudication; prohibition against accepting plea to lesser included offense.—

(1) Notwithstanding the provisions of s. 948.01, a court may not
~~no court may~~ suspend, defer, or withhold adjudication of guilt or imposition of sentence for any violation of s. 316.193 or s.



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316.1939, for manslaughter resulting from the operation of a motor vehicle, or for vehicular homicide.

Section 7. Subsection (2) of section 322.34, Florida Statutes, is amended to read:

322.34 Driving while license suspended, revoked, canceled, or disqualified.—

(2) Any person whose driver license or driving privilege has been canceled, suspended, or revoked as provided by law, or who does not have a driver license or driving privilege but is under suspension or revocation equivalent status as defined in s. 322.01(43), except persons defined in s. 322.264, who, knowing of such cancellation, suspension, revocation, or suspension or revocation equivalent status, drives any motor vehicle upon the highways of this state while such license or privilege is canceled, suspended, or revoked, or while under suspension or revocation equivalent status, commits:

(a) A misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b)~~1~~. A misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, upon a second or subsequent conviction, except as provided in paragraph (c).

~~2~~. A person convicted of a third or subsequent conviction, except as provided in paragraph (c), must serve a minimum of 10 days in jail.

(c) A felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, upon a third or subsequent conviction if the current violation of this section or the most recent prior violation of the section is related to driving while license canceled, suspended, revoked, or



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suspension or revocation equivalent status resulting from a violation of:

1. Driving under the influence. A person to whom this subparagraph applies must serve a minimum of 30 days in jail upon a first conviction, a minimum of 60 days in jail upon a second conviction, and a minimum of 90 days in jail upon a third or subsequent conviction;

2. Refusal to submit to a urine, breath-alcohol, or blood alcohol test. A person to whom this subparagraph applies must serve a minimum of 30 days in jail upon a first conviction, a minimum of 60 days in jail upon a second conviction, and a minimum of 90 days in jail upon a third or subsequent conviction;

3. A traffic offense causing death or serious bodily injury; or

4. Fleeing or eluding.

The element of knowledge is satisfied if the person has been previously cited as provided in subsection (1); or the person admits to knowledge of the cancellation, suspension, or revocation, or suspension or revocation equivalent status; or the person received notice as provided in subsection (4). There ~~is shall be~~ a rebuttable presumption that the knowledge requirement is satisfied if a judgment or an order as provided in subsection (4) appears in the department's records for any case except for one involving a suspension by the department for failure to pay a traffic fine or for a financial responsibility violation.

Section 8. Subsection (1) of section 327.35, Florida



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Statutes, is amended to read:

327.35 Boating under the influence; penalties; "designated drivers."—

(1) A person commits ~~is guilty of~~ the offense of boating under the influence and is subject to punishment as provided in subsection (2) if the person is operating a vessel within this state and:

(a) The person is under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, ~~or~~ any substance controlled under chapter 893, or any intoxicating substance when affected to the extent that the person's normal faculties are impaired;

(b) The person has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or

(c) The person has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.

Section 9. Section 933.02, Florida Statutes, is amended to read:

933.02 Grounds for issuance of search warrant.—Upon proper affidavits being made, a search warrant may be issued under ~~the provisions of~~ this chapter upon any of the following grounds:

(1) When the property shall have been stolen or embezzled in violation of law;

(2) When any property shall have been used:

(a) As a means to commit any crime;

(b) In connection with gambling, gambling implements and appliances; or

(c) In violation of s. 847.011 or other laws in reference to obscene prints and literature;



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(3) When any property constitutes evidence relevant to proving that a felony has been committed;

(4) When any property is being held or possessed:

(a) In violation of any of the laws prohibiting the manufacture, sale, and transportation of intoxicating liquors;

(b) In violation of the fish and game laws;

(c) In violation of the laws relative to food and drug; or

(d) In violation of the laws relative to citrus disease pursuant to s. 581.184; ~~or~~

(5) When the laws in relation to cruelty to animals, as provided in chapter 828, have been or are violated in any particular building or place; or-

(6) When a sample of the blood of a person constitutes evidence relevant to proving that a violation of s. 316.193 or s. 327.35 has been committed.

This section also applies to any papers or documents used as a means of or in aid of the commission of any offense against the laws of the state.

Section 10. Section 782.071, Florida Statutes, is amended to read:

782.071 Vehicular homicide.—“Vehicular homicide” is the killing of a human being, or the killing of an unborn child by any injury to the mother, caused by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to, another.

(1) Vehicular homicide is:

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



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(b) A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if:

1. At the time of the accident, the person knew, or should have known, that the accident occurred; and

2. The person failed to give information and render aid as required by s. 316.062.

This paragraph does not require that the person knew that the accident resulted in injury or death.

(c) A felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the person has a prior conviction for a violation of this section or 316.193(3)(c)3.

Section 11. This act shall take effect October 1, 2025.

===== 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 driving and boating offenses;
providing a short title; amending s. 316.193, F.S.;
prohibiting a person from driving or being in actual
physical control of a vehicle while under the
influence of any intoxicating substance; providing
enhanced criminal penalties for violation of driving
under the influence if the person has a prior
conviction for a violation of specified provisions;
amending s. 316.1932, F.S.; requiring that a person be
told that his or her failure to submit to a lawful



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test of breath or urine is a second degree misdemeanor or a first degree misdemeanor under certain circumstances; amending s. 316.1939, F.S.; classifying a person's refusal to submit to a chemical or physical test of breath or urine as a second degree misdemeanor or a first degree misdemeanor under certain circumstances; creating s. 316.19395, F.S.; authorizing judicial circuits to create driving under the influence diversion programs; providing requirements for such diversion programs; providing that a person who successfully completes a diversion program is ineligible for participation in such a program in the future; amending s. 316.656, F.S.; prohibiting a court from suspending, deferring, or withholding adjudication of guilt or imposition of sentence for a specified violation; amending s. 322.34, F.S.; providing penalties for specified violations of driving while a license or driving privilege is canceled, suspended, or revoked or under suspension or revocation equivalent status; amending s. 327.35, F.S.; prohibiting a person from operating a vessel while under the influence of any intoxicating substance; amending s. 933.02, F.S.; permitting the issuance of a search warrant when a sample of blood of a person constitutes evidence relevant to proving specified crimes; amending s. 782.071, F.S.; providing enhanced criminal penalties for a violation of vehicular homicide if the person has a prior conviction for a violation of specified provisions;



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533

providing an effective date.

By Senator Wright

8-00579-25

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1 A bill to be entitled
 2 An act relating to driving under the influence;
 3 amending s. 316.193, F.S.; prohibiting a person from
 4 driving or being in actual physical control of a
 5 vehicle while under the influence of any intoxicating
 6 substance; amending s. 316.1932, F.S.; requiring that
 7 a person be told that his or her failure to submit to
 8 a lawful test of breath or urine is a second degree
 9 misdemeanor or a first degree misdemeanor under
 10 certain circumstances; amending s. 316.1939, F.S.;
 11 classifying a person's refusal to submit to a chemical
 12 or physical test of breath or urine as a second degree
 13 misdemeanor or a first degree misdemeanor under
 14 certain circumstances; creating s. 316.19395, F.S.;
 15 authorizing judicial circuits to create driving under
 16 the influence diversion programs; providing
 17 requirements for such diversion programs; providing
 18 that a person who successfully completes a diversion
 19 program is ineligible for participation in such a
 20 program in the future; amending s. 316.656, F.S.;
 21 prohibiting a court from suspending, deferring, or
 22 withholding adjudication of guilt or imposition of
 23 sentence for a specified violation; amending s.
 24 322.34, F.S.; providing penalties for specified
 25 violations of driving while a license or driving
 26 privilege is canceled, suspended, or revoked or under
 27 suspension or revocation equivalent status; amending
 28 s. 327.35, F.S.; prohibiting a person from operating a
 29 vessel while under the influence of any intoxicating

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30 substance; amending s. 933.02, F.S.; permitting the
 31 issuance of a search warrant when a sample of blood of
 32 a person constitutes evidence relevant to proving
 33 specified crimes; providing an effective date.
 34

35 Be It Enacted by the Legislature of the State of Florida:
 36

37 Section 1. Subsection (1) of section 316.193, Florida
 38 Statutes, is amended to read:

39 316.193 Driving under the influence; penalties.—

40 (1) A person commits ~~is guilty of~~ the offense of driving
 41 under the influence and is subject to punishment as provided in
 42 subsection (2) if the person is driving or in actual physical
 43 control of a vehicle within this state and:

44 (a) The person is under the influence of alcoholic
 45 beverages, any chemical substance set forth in s. 877.111, ~~or~~
 46 any substance controlled under chapter 893, or any intoxicating
 47 substance, when affected to the extent that the person's normal
 48 faculties are impaired;

49 (b) The person has a blood-alcohol level of 0.08 or more
 50 grams of alcohol per 100 milliliters of blood; or

51 (c) The person has a breath-alcohol level of 0.08 or more
 52 grams of alcohol per 210 liters of breath.

53 Section 2. Paragraph (a) of subsection (1) of section
 54 316.1932, Florida Statutes, is amended to read:

55 316.1932 Tests for alcohol, chemical substances, or
 56 controlled substances; implied consent; refusal.—

57 (1)(a)1.a. A person who accepts the privilege extended by
 58 the laws of this state of operating a motor vehicle within this

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state is, by operating such vehicle, deemed to have given his or her consent to submit to an approved chemical test or physical test including, but not limited to, an infrared light test of his or her breath for the purpose of determining the alcoholic content of his or her blood or breath if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic beverages. The chemical or physical breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The administration of a breath test does not preclude the administration of another type of test. The person must ~~shall~~ be told that his or her failure to submit to any lawful test of his or her breath will result in the suspension of his or her the ~~person's~~ privilege to operate a motor vehicle as provided in s. 322.2615(1) (a) for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to a test or tests required under this chapter or chapter 327, and must ~~shall~~ also be told that if he or she refuses to submit to a lawful test of his or her breath ~~and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, he or~~

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she commits a misdemeanor of the ~~second first~~ degree, punishable as provided in s. 775.082 or s. 775.083, or a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, in addition to any other penalties provided by law. The refusal to submit to a chemical or physical breath test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

b. A person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by operating such vehicle, deemed to have given his or her consent to submit to a urine test for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 or controlled substances if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of chemical substances or controlled substances. The urine test must be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of a motor vehicle within this state while under the influence of chemical substances or controlled substances. The urine test must ~~shall~~ be administered at a detention facility or any other facility, mobile or otherwise,

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117 which is equipped to administer such test in a reasonable manner
 118 that will ensure the accuracy of the specimen and maintain the
 119 privacy of the individual involved. The administration of a
 120 urine test does not preclude the administration of another type
 121 of test. The person ~~must~~ shall be told that his or her failure
 122 to submit to any lawful test of his or her urine will result in
 123 the suspension of his or her ~~the person's~~ privilege to operate a
 124 motor vehicle for a period of 1 year for the first refusal, or
 125 for a period of 18 months if the driving privilege of such
 126 person has been previously suspended or if he or she has
 127 previously been fined under s. 327.35215 as a result of a
 128 refusal to submit to a test or tests required under this chapter
 129 or chapter 327, and ~~must~~ shall also be told that if he or she
 130 refuses to submit to a lawful test of his or her urine ~~and his~~
 131 ~~or her driving privilege has been previously suspended or if he~~
 132 ~~or she has previously been fined under s. 327.35215 for a prior~~
 133 ~~refusal to submit to a lawful test of his or her breath, urine,~~
 134 ~~or blood as required under this chapter or chapter 327,~~ he or
 135 she commits a misdemeanor of the ~~second~~ first degree, punishable
 136 as provided in s. 775.082 or s. 775.083, or a misdemeanor of the
 137 first degree, punishable as provided in s. 775.082 or s.
 138 775.083, if his or her driving privilege has been previously
 139 suspended or if he or she has previously been fined under s.
 140 327.35215 for a prior refusal to submit to a lawful test of his
 141 or her breath, urine, or blood as required under this chapter or
 142 chapter 327, in addition to any other penalties provided by law.
 143 The refusal to submit to a urine test upon the request of a law
 144 enforcement officer as provided in this section is admissible
 145 into evidence in any criminal proceeding.

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146 2. The Alcohol Testing Program within the Department of Law
 147 Enforcement is responsible for the regulation of the operation,
 148 inspection, and registration of breath test instruments utilized
 149 under the driving and boating under the influence provisions and
 150 related provisions located in this chapter and chapters 322 and
 151 327. The program is responsible for the regulation of the
 152 individuals who operate, inspect, and instruct on the breath
 153 test instruments utilized in the driving and boating under the
 154 influence provisions and related provisions located in this
 155 chapter and chapters 322 and 327. The program is further
 156 responsible for the regulation of blood analysts who conduct
 157 blood testing to be utilized under the driving and boating under
 158 the influence provisions and related provisions located in this
 159 chapter and chapters 322 and 327. The program shall:
 160 a. Establish uniform criteria for the issuance of permits
 161 to breath test operators, agency inspectors, instructors, blood
 162 analysts, and instruments.
 163 b. Have the authority to permit breath test operators,
 164 agency inspectors, instructors, blood analysts, and instruments.
 165 c. Have the authority to discipline and suspend, revoke, or
 166 renew the permits of breath test operators, agency inspectors,
 167 instructors, blood analysts, and instruments.
 168 d. Establish uniform requirements for instruction and
 169 curricula for the operation and inspection of approved
 170 instruments.
 171 e. Have the authority to specify one approved curriculum
 172 for the operation and inspection of approved instruments.
 173 f. Establish a procedure for the approval of breath test
 174 operator and agency inspector classes.

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g. Have the authority to approve or disapprove breath test instruments and accompanying paraphernalia for use pursuant to the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.

h. With the approval of the executive director of the Department of Law Enforcement, make and enter into contracts and agreements with other agencies, organizations, associations, corporations, individuals, or federal agencies as are necessary, expedient, or incidental to the performance of duties.

i. Issue final orders which include findings of fact and conclusions of law and which constitute final agency action for the purpose of chapter 120.

j. Enforce compliance with this section through civil or administrative proceedings.

k. Make recommendations concerning any matter within the purview of this section, this chapter, chapter 322, or chapter 327.

l. Adopt ~~Promulgate~~ rules for the administration and implementation of this section, including definitions of terms.

m. Consult and cooperate with other entities for the purpose of implementing the mandates of this section.

n. Have the authority to approve the type of blood test utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.

o. Have the authority to specify techniques and methods for breath alcohol testing and blood testing utilized under the driving and boating under the influence provisions and related

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provisions located in this chapter and chapters 322 and 327.

p. Have the authority to approve repair facilities for the approved breath test instruments, including the authority to set criteria for approval.

Nothing in this section shall be construed to supersede provisions in this chapter and chapters 322 and 327. The specifications in this section are derived from the power and authority previously and currently possessed by the Department of Law Enforcement and are enumerated to conform with the mandates of chapter 99-379, Laws of Florida.

Section 3. Section 316.1939, Florida Statutes, is amended to read:

316.1939 Refusal to submit to testing; penalties.—

(1) A person who has refused to submit to a chemical or physical test of his or her breath or urine, as described in s. 316.1932, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law, and such person whose driving privilege was previously suspended or who was previously fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood required under this chapter or chapter 327 commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law if all of the following apply, and:

(a) ~~Who~~ The arresting law enforcement officer had probable cause to believe that the person was driving or in actual physical control of a motor vehicle in this state while under

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the influence of alcoholic beverages, chemical substances, or controlled substances.

(b) The person ~~who~~ was placed under lawful arrest for a violation of s. 316.193, unless such test was requested pursuant to s. 316.1932(1)(c).

(c) The person ~~who~~ was informed that, if he or she refused to submit to such test, his or her privilege to operate a motor vehicle would be suspended for a period of 1 year or, in the case of a second or subsequent refusal, for a period of 18 months.

(d) The person, after having been informed as required in paragraph (c), still refuses ~~who was informed that a refusal to submit to a lawful test of his or her breath or urine as described in s. 316.1932, if his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law; and~~

~~(e) Who, after having been so informed, refused to submit to any such test when requested to do so by a law enforcement officer or correctional officer~~

~~commits a misdemeanor of the first degree and is subject to punishment as provided in s. 775.082 or s. 775.083.~~

(2) The disposition of any administrative proceeding that relates to the suspension of a person's driving privilege does not affect a criminal action under this section.

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(3) The disposition of a criminal action under this section does not affect any administrative proceeding that relates to the suspension of a person's driving privilege. The department's records showing that a person's license has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood are ~~shall be~~ admissible and create ~~shall create~~ a rebuttable presumption of such suspension.

Section 4. Section 316.19395, Florida Statutes, is created to read:

316.19395 Driving under the influence diversion programs.-

(1) Any judicial circuit may create a driving under the influence diversion program. A judicial circuit that creates such a diversion program shall publish the terms and conditions of the program on the website of the office of the state attorney for that circuit.

(2) Each judicial circuit that offers a diversion program under this section shall notify the department of each person who successfully completes the program. The department shall notate the successful completion of the diversion program on the driving record of each such person.

(3) A person who successfully completes a diversion program offered under this section is ineligible for future participation in such a program.

Section 5. Subsection (1) of section 316.656, Florida Statutes, is amended to read:

316.656 Mandatory adjudication; prohibition against accepting plea to lesser included offense.-

(1) Notwithstanding the provisions of s. 948.01, a court may not ~~no court may~~ suspend, defer, or withhold adjudication of

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 291 guilt or imposition of sentence for any violation of s. 316.193
 292 or s. 316.1939, for manslaughter resulting from the operation of
 293 a motor vehicle, or for vehicular homicide.

294 Section 6. Subsection (2) of section 322.34, Florida
 295 Statutes, is amended to read:

296 322.34 Driving while license suspended, revoked, canceled,
 297 or disqualified.—

298 (2) Any person whose driver license or driving privilege
 299 has been canceled, suspended, or revoked as provided by law, or
 300 who does not have a driver license or driving privilege but is
 301 under suspension or revocation equivalent status as defined in
 302 s. 322.01(43), except persons defined in s. 322.264, who,
 303 knowing of such cancellation, suspension, revocation, or
 304 suspension or revocation equivalent status, drives any motor
 305 vehicle upon the highways of this state while such license or
 306 privilege is canceled, suspended, or revoked, or while under
 307 suspension or revocation equivalent status, commits:

308 (a) A misdemeanor of the second degree, punishable as
 309 provided in s. 775.082 or s. 775.083.

310 (b)~~1~~ A misdemeanor of the first degree, punishable as
 311 provided in s. 775.082 or s. 775.083, upon a second or
 312 subsequent conviction, except as provided in paragraph (c).

313 ~~2~~ A person convicted of a third or subsequent conviction,
 314 except as provided in paragraph (c), must serve a minimum of 10
 315 days in jail.

316 (c) A felony of the third degree, punishable as provided in
 317 s. 775.082, s. 775.083, or s. 775.084, upon a third or
 318 subsequent conviction if the current violation of this section
 319 or the most recent prior violation of the section is related to

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 320 driving while license canceled, suspended, revoked, or
 321 suspension or revocation equivalent status resulting from a
 322 violation of:

323 1. Driving under the influence. A person to whom this
 324 subparagraph applies must serve a minimum of 30 days in jail
 325 upon a first conviction, a minimum of 60 days in jail upon a
 326 second conviction, and a minimum of 90 days in jail upon a third
 327 or subsequent conviction;

328 2. Refusal to submit to a urine, breath-alcohol, or blood
 329 alcohol test. A person to whom this subparagraph applies must
 330 serve a minimum of 30 days in jail upon a first conviction, a
 331 minimum of 60 days in jail upon a second conviction, and a
 332 minimum of 90 days in jail upon a third or subsequent
 333 conviction;

334 3. A traffic offense causing death or serious bodily
 335 injury; or

336 4. Fleeing or eluding.

337
 338 The element of knowledge is satisfied if the person has been
 339 previously cited as provided in subsection (1); or the person
 340 admits to knowledge of the cancellation, suspension, or
 341 revocation, or suspension or revocation equivalent status; or
 342 the person received notice as provided in subsection (4). There
 343 ~~is shall be~~ a rebuttable presumption that the knowledge
 344 requirement is satisfied if a judgment or an order as provided
 345 in subsection (4) appears in the department's records for any
 346 case except for one involving a suspension by the department for
 347 failure to pay a traffic fine or for a financial responsibility
 348 violation.

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349 Section 7. Subsection (1) of section 327.35, Florida
 350 Statutes, is amended to read:
 351 327.35 Boating under the influence; penalties; "designated
 352 drivers."—

353 (1) A person ~~commits is guilty of~~ the offense of boating
 354 under the influence and is subject to punishment as provided in
 355 subsection (2) if the person is operating a vessel within this
 356 state and:

357 (a) The person is under the influence of alcoholic
 358 beverages, any chemical substance set forth in s. 877.111, ~~or~~
 359 any substance controlled under chapter 893, or any intoxicating
 360 substance when affected to the extent that the person's normal
 361 faculties are impaired;

362 (b) The person has a blood-alcohol level of 0.08 or more
 363 grams of alcohol per 100 milliliters of blood; or

364 (c) The person has a breath-alcohol level of 0.08 or more
 365 grams of alcohol per 210 liters of breath.

366 Section 8. Section 933.02, Florida Statutes, is amended to
 367 read:

368 933.02 Grounds for issuance of search warrant.—Upon proper
 369 affidavits being made, a search warrant may be issued under ~~the~~
 370 ~~provisions of~~ this chapter upon any of the following grounds:

371 (1) When the property shall have been stolen or embezzled
 372 in violation of law;

373 (2) When any property shall have been used:

374 (a) As a means to commit any crime;

375 (b) In connection with gambling, gambling implements and
 376 appliances; or

377 (c) In violation of s. 847.011 or other laws in reference

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378 to obscene prints and literature;

379 (3) When any property constitutes evidence relevant to
 380 proving that a felony has been committed;

381 (4) When any property is being held or possessed:

382 (a) In violation of any of the laws prohibiting the
 383 manufacture, sale, and transportation of intoxicating liquors;

384 (b) In violation of the fish and game laws;

385 (c) In violation of the laws relative to food and drug; or

386 (d) In violation of the laws relative to citrus disease
 387 pursuant to s. 581.184; ~~or~~

388 (5) When the laws in relation to cruelty to animals, as
 389 provided in chapter 828, have been or are violated in any
 390 particular building or place; ~~or—~~

391 (6) When a sample of the blood of a person constitutes
 392 evidence relevant to proving that a violation of s. 316.193 or
 393 s. 327.35 has been committed.

394
 395 This section also applies to any papers or documents used as a
 396 means of or in aid of the commission of any offense against the
 397 laws of the state.

398 Section 9. This act shall take effect October 1, 2025.

SB 138 – Driving Under the Influence

This bill amends and creates multiple statutes. First, it amends s. 316.193, F.S., which prohibits driving under the influence, and amends s. 327.35, F.S., which prohibits boating under the influence, adding “any intoxicating substance” to the list of substances where a person cannot be under the influence, thus expanding the pool of potential offenders committing felonies under this statute. Furthermore, this bill also amends s. 316.1932, F.S. and s. 316.1939, F.S., adding a **2nd degree misdemeanor** for refusing to submit to a breathalyzer test and adding a **2nd degree misdemeanor** for refusing to submit to a urine test. This bill also creates s. 316.19395, F.S., stating that “any judicial circuit may create a driving under the influence diversion program.” Finally, it amends s. 322.34, F.S., for driving with a suspended, revoked, canceled, or disqualified license and driving under the influence or refusing to submit to a urine, breath-alcohol, or blood alcohol test, adding the following: “a person to whom this subparagraph applies must serve a minimum of 30 days in jail upon a first conviction, a minimum of 60 days in jail upon a second conviction, and a minimum of 90 days in jail upon a third or subsequent conviction.”

Per DOC, in FY 23-24, there were 516 new commitments to prison for felonies under the amended statutes. While this bill expands the definition for what under the influence means, the number of potential offenders under this new language is not known. Therefore, the magnitude of the impact on the prison population cannot be determined.

EDR PROPOSED ESTIMATE: Positive Indeterminate

Requested by: Senate

**OFFICE OF THE STATE COURTS ADMINISTRATOR
2025 JUDICIAL IMPACT STATEMENT**

DATE: February 7, 2025

BILL NUMBER: SB 138

SPONSOR(S): Senator Wright

STATUTE(S) AFFECTED: ss. 316.193, 316.1932, 316.1939, 316.656, 322.24, 327.35, and 933.02, F.S.; creates s. 316.19395, F.S.

COMPANION BILL(S): None

AGENCY CONTACT: Tashiba Robinson, Chief of Legislative Affairs

TELEPHONE: (850) 922-5692

ASSIGNED OSCA STAFF: BNS

- I. **SUMMARY:** The bill amends the offense of driving under the influence (DUI) and the offense of boating under the influence (BUI) to prohibit operating a motor vehicle or vessel under the influence of any intoxicating substance while impaired. The bill also authorizes judicial circuits to create DUI diversion programs; increases criminal penalties for refusal to submit to a lawful breath or urine test; establishes mandatory minimum sentences for driving on a suspended, canceled, or revoked license under certain conditions; and prohibits a court from suspending, deferring, or withholding adjudication or imposition of sentence for refusal to submit to a breath or urine test.

The bill takes effect on October 1, 2025.

- II. **ANALYSIS:**
The bill amends several provisions of current law to strengthen criminal prosecutions and penalties for BUI and DUI and for the failure to submit to a lawful breath or urine test incident to a DUI arrest. Specifically, the bill:

- Amends s. 316.193, F.S., to include “any intoxicating substance” to the list of substances under which a person operating or in actual physical control of a vehicle under its influence and while impaired would commit the offense of driving under the influence.
- Amends ss. 316.1932 and 316.1939, F.S., to establish that a first refusal to submit to a chemical or physical breath or urine test

**OFFICE OF THE STATE COURTS ADMINISTRATOR
2025 JUDICIAL IMPACT STATEMENT**

incident to a lawful arrest for DUI is a second-degree misdemeanor. Under current law, criminal penalties apply only upon the second refusal to submit to testing which is a first-degree misdemeanor.

- Creates s. 316.19395, F.S., to authorize judicial circuits to create DUI diversion programs; require that the terms and conditions of such programs be posted on the state attorney's website; require the circuit to notify the Department of Highway Safety and Motor Vehicles (DHSMV) when a defendant successfully completes the program; require DHSMV to notate the successful completion of the program on the defendant's driving record; and prohibit a defendant who successfully completes a DUI diversion program from participating in such programs in the future.
- Amends s. 316.656, F.S., to prohibit a court from suspending, deferring, or withholding adjudication of guilt or imposition of sentence for refusal to submit to a chemical or physical breath or urine test incident to a lawful arrest for DUI.
- Amends s. 322.34, F.S., to establish mandatory minimum sentences upon a third or subsequent conviction of driving on a suspended, canceled, or revoked license if the current violation or the most recent violation is related to a license status resulting from a DUI or refusal to submit to a urine, breath-alcohol, or blood alcohol test.
- Amends s. 327.325, F.S., to include "any intoxicating substance" to the list of substances under which a person operating a vessel in this state under its influence and while impaired would commit the offense of boating under the influence.
- Amends s. 933.02, F.S., to allow for the issuance of a search warrant to obtain a blood sample as evidence that a person has committed DUI or BUI.

The bill takes effect on October 1, 2025.

- III. **ANTICIPATED JUDICIAL OR COURT WORKLOAD IMPACT:** Indeterminate. Provisions prohibiting suspension of guilt or sentencing for refusal to submit to testing as well as reporting requirements for DUI diversion programs are not likely to have a significant impact on judicial workload; however, the bill may encourage judicial circuits to implement a DUI Court (currently there are four DUI Courts operating statewide) which could reduce workload. The effect on workload from establishing a

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2025 JUDICIAL IMPACT STATEMENT**

new misdemeanor offense for first refusals to submit to testing, and authorizing search warrants to obtain a blood sample as evidence of DUI or BUI, is too speculative to quantify. To the extent arrests for first refusals and warrant requests increase, judicial workload may also increase.

IV. **IMPACT TO COURT RULES/JURY INSTRUCTIONS:** The bill may require the creation/amendment of standard jury instructions relating to DUI, BUI, and refusal to submit to testing.

V. **ESTIMATED FISCAL IMPACTS ON THE JUDICIARY:**

A. **Revenues:** None.

B. **Expenditures:** The fiscal impact of this legislation cannot be accurately determined due to the unavailability of data needed to establish the increase in judicial workload resulting from the creation of a new misdemeanor offense related to first refusals, etc., as discussed in Section III.

Trial court judicial workload is measured using a case weighting system that calculates the amount of time it takes for a judge to dispose of a case. The number of case filings using the case weighting system is used to determine the need for additional judicial resources each year. Any judicial workload increases in the future as a result of legislation that passes this session will be reflected in the Supreme Court's annual opinion, *In re: Certification of Need for Additional Judges*. Please note that the workload impact from each bill may be nominal but the cumulative effect to the State Courts System from all bills could be substantial.



The Florida Senate

Committee Agenda Request

To: Senator Jonathan Martin, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: January 17, 2025

I respectfully request that **Senate Bill 138**, relating to Driving Under the Influence, be placed on the:

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

Thank you for your consideration.

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

Senator Tom A. Wright
Florida Senate, District 8

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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2/11/25
Meeting Date

138
Bill Number or Topic

CJ
Committee

Amendment Barcode (if applicable)

Name AARON WAYT FL ASSN OF CRIM DEF LAWYERS

Phone (407) 435-3194

Address
Street

Email AARON@DONPUMP#REY.102

City

State

Zip

Speaking:

☐ For

☒ Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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The Florida Senate

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SB 138

Bill Number or Topic

2/11/2025

Meeting Date

~~Dep~~ Criminal Justice

Committee

Amendment Barcode (if applicable)

Name

Mandi Stewart

Phone

505.205.4833

Address

1273 Ribbon Rd.

Street

Email

TheTrentonStewartFoundation@gmail.com

St. Johns

City

FL

State

32259

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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APPEARANCE RECORD

2/11/2025

Meeting Date

SB 138

Bill Number or Topic

Criminal Justice

Committee

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Amendment Barcode (if applicable)

Name Robert Stewart

Phone 904-806-0684

Address 1273 Ribbon Rd.

Email The Trenton Stewart Foundation @ gmail.com

Street

St. Johns, FL 32259

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Meeting Date

Criminal Justice

Committee

SB138

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Jodi James

Phone

321 890 7302

Address

1385 Cypress Ave Suite 106

Street

Melbourne

City

FL

State

32935

Zip

Email

jodi@FLCAN.org

Speaking:

☐ For



Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida Cannabis Action
Network

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Meeting Date

CRIMINAL JUSTICE

Committee

SB 138

Bill Number or Topic

Amendment Barcode (if applicable)

Name JON DORP

Phone 386-237-7432

Address 61 SHERIFF EW JOHNSTON DR
Street

Email JDORP@FLAGLERSSHERIFF.COM

BUNNEL,
City

FL
State

32110
Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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The Florida Senate

APPEARANCE RECORD

SB 138

Bill Number or Topic

2/11/2025

Meeting Date

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Committee

Amendment Barcode (if applicable)

Name Sergeant Jimmie Stone

Phone 386-290-2309

Address 123 W. Indiana Av
Street

Email jstone@volusia.sheriff.fl.gov

DeLand
City

FL
State

32720
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

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SB 138

Bill Number or Topic

2-11-25

Meeting Date

CS

Committee

Amendment Barcode (if applicable)

Name LIEUTENANT MIKE CRABB

Phone 321-436-4447

Address 2500 W. COLONIAL DR
Street

Email MICHAEL.CRABB@DCSOFL.COM

Orlando
City

FL
State

32802
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

SHERIFF MINA

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 150

INTRODUCER: Criminal Justice Committee and Senator Gaetz

SUBJECT: Animal Cruelty During a Declared State of Emergency

DATE: February 11, 2025

REVISED: 2/11/25

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cella	Stokes	CJ	Fav/CS
2.		AG	
3.		RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 150 amends s. 828.13, F.S., to create a new offense of animal cruelty for abandoning an animal by using a restraint on the animal and leaving it restrained outside during a natural disaster. The offense is a third degree felony.^{1,2}

The bill defines the terms “natural disaster” and “restraint.”

The bill names the act “Trooper’s Law.”

The bill has a positive indeterminate impact. *See Section V. Fiscal Impact Statement.*

The bill takes effect on October 1, 2025.

¹ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082, F.S. and 775.083, F.S.

² As is the case with other animal cruelty offenses, the bill provides for the possibility of a fine that may be elevated above the typical fine. For example, the third degree felony fine is generally up to \$5,000 but this new offense provides for a fine up to \$10,000. Sections 775.082(3) F.S., 775.083(1)(g), F.S., and 820.13, F.S.

II. Present Situation:

Dog Rescued by Florida Highway Patrol Trooper Tied Up During Hurricane Milton

Hurricane Milton struck the state in early October 2024. During the storm, a Florida Highway Patrol trooper discovered a dog tied to a fence off I-75 surrounded by rising water. The trooper returned sometime later and rescued the dog. The dog, now named Trooper, was taken to the Tallahassee Humane Society and was subsequently adopted. This bill addresses that situation.³

General Animal Cruelty Statutes

Section 828.12(1), F.S., provides first degree misdemeanor penalties⁴ for certain cases involving cruelty to animals. A person commits the crime of animal cruelty if he or she:

- Unnecessarily overloads;
- Overdrives;
- Torments;
- Deprives of necessary sustenance or shelter;
- Unnecessarily mutilates, or kills any animal, or causes such to be done; or
- Carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner.

A person who is convicted of a violation of s. 828.12, F.S., may be prohibited by the court from owning, possessing, keeping, harboring, or having custody or control over any animal for a period of time determined by the court.⁵

Section 828.12(2), F.S., specifies that a person who intentionally commits an act to any animal, or a person who owns or has the custody or control of any animal and fails to act, which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, commits aggravated animal cruelty, a felony of the third degree.⁶

Also, s. 828.13(2)(a), (b), and (c) F.S., provide that a person commits a first degree misdemeanor⁷ if he or she:

- Impounds or confines any animal in any place and fails to supply the animal during such confinement with a sufficient quantity of good and wholesome food and water;
- Keeps any animals in any enclosure without wholesome exercise and change of air; or
- Abandons to die any animal that is maimed, sick, infirm, or diseased;

³ Tallahassee Democrat, *Trooper, abandoned amid Hurricane Milton and sent to Leon County, finds 'fur-ever' home*, December 2, 2024, Kyla A. Sanford, available at <https://www.tallahassee.com/story/news/local/2024/12/02/trooper-dog-abandoned-amid-hurricane-milton-finds-fur-ever-home-leon-county-humane-society/76709656007/> (last visited February 6, 2025).

⁴ A first degree misdemeanor is punishable by up to 1 year in the county jail or a \$1,000 fine or both. Sections 775.082, F.S., and 775.083, F.S. However, a violation of s. 828.12(1), F.S., may result in a fine of up to \$5,000. Section 828.12(1), F.S.

⁵ Section 828.12(6), F.S.

⁶ A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S. However, a violation of s. 828.12(2), F.S., may result in a fine of up to \$10,000. Sections 775.082(3) F.S., 775.083(1)(g), F.S., and 828.12(2), F.S.

⁷ A first degree misdemeanor is punishable by up to 1 year in the county jail or a \$1,000 fine or both. Sections 775.082, F.S., and 775.083, F.S. However, a violation of s. 828.13(2), F.S., may result in a fine of up to \$5,000. Sections 775.082, 775.083, and 828.13(2), F.S.

Section 828.13(3), F.S., prohibits a person who is the owner or possessor or has charge or custody of any animal who abandons such animal to suffer injury or malnutrition or abandons any animal in a street, road, or public place without providing for the care, sustenance, protection, and shelter of such animal which is punishable as a misdemeanor of the first degree.⁸

Section 828.13(1)(a), F.S., defines the term “abandon” to mean to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner. The term “owner” is defined as any owner, custodian, or other person in charge of an animal.

Emergency Powers, Disaster Preparedness

Section 252.36, F.S., specifies that in the event of an emergency beyond local control, the Governor may assume direct operational control over all or any part of the emergency management functions within this state and is authorized to delegate such powers as she or he may deem prudent. The Governor has declared a state of emergency for various weather related conditions, including numerous hurricanes.⁹

Section 252.3568, F.S., provides, in accordance with s. 252.35, F.S.,¹⁰ the Division of Emergency Management within the Executive Office of the Governor (Division) must address strategies for the evacuation of persons with pets in the shelter component of the state comprehensive emergency management plan and must include the requirement for similar strategies in its standards and requirements for local comprehensive emergency management plans. The Department of Agriculture and Consumer Services and the Department of Education must assist the division in determining strategies regarding this activity.

If a county maintains designated shelters, it must also designate a shelter that can accommodate persons with pets. The shelter must be in compliance with applicable FEMA Disaster Assistance Policies and Procedures and with safety procedures regarding the sheltering of pets established in the shelter component of both local and state comprehensive emergency management plans.

III. Effect of Proposed Changes:

The bill creates a third degree felony¹¹ animal cruelty offense in s. 812.13, F.S., for abandoning an animal by using a restraint on the animal and leaving it restrained outside during a natural disaster.

The bill defines the following terms:

⁸ A first degree misdemeanor is punishable by up to 1 year in the county jail or a \$1,000 fine or both. Sections 775.082, F.S., and 775.083, F.S. However, a violation of s. 828.13(3), F.S., may result in a fine of up to \$5,000. Sections 775.082, and 775.083, F.S. and 828.13(3), F.S..

⁹ See Fla. Exec. Order No. 24-215 (October 5, 2024), available at, <https://www.flgov.com/eog/sites/default/files/executive-orders/2024/EO-24-215-1.pdf> (Last visited February 7, 2025).

¹⁰ Section 252.35, F.S., relates to Emergency management powers and the Division of Emergency Management.

¹¹ The third degree felony is punishable by up to 5 years imprisonment, and in these cases up to a \$10,000 fine. Sections 775.082(3) F.S., 775.083(1)(g), F.S., and 828.13(4).

- “Natural disaster” means a situation in which a hurricane, tropical storm, or tornado warning has been issued for a municipality or a county by the National Weather Service, or in which a municipality or county is under a mandatory or voluntary evacuation order.
- “Restraint” means a chain, rope, tether, leash, cable, or other device that attaches an animal to a stationary object or trolley system.

The bill names the act “Trooper’s Law.”

The bill takes effect on October 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has a positive indeterminate impact due to the penalties provided in the bill. It is unknown how many offenses of animal cruelty have taken place during a declared emergency, and therefore the prison bed impact cannot be determined.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 828.12

IX. Additional Information:

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

CS/150 by Criminal Justice on February 11, 2025:

The committee substitute:

- Creates an animal cruelty offense in s. 828.13, F.S., for abandoning an animal by using a restraint on the animal and leaving it restrained it outside during a natural disaster.
- It defines the terms “natural disaster” and “restraint”.
- The CS names the act “Trooper’s Law”.

- B. **Amendments:**

None.



190218

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/11/2025	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

Section 2. Section 828.13, Florida Statutes, is amended to
read:

828.13 Confinement of animals without sufficient food,
water, or exercise; abandonment of animals.—

(1) As used in this section:



190218

(a) "Abandon" means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.

(b) "Natural disaster" means a situation in which a hurricane, tropical storm, or tornado warning has been issued for a municipality or a county by the National Weather Service, or in which a municipality or county is under a mandatory or voluntary evacuation order.

(c) "Owner" includes any owner, custodian, or other person in charge of an animal.

(d) "Restraint" means a chain, rope, tether, leash, cable, or other device that attaches an animal to a stationary object or trolley system.

(2) A person who ~~Whoever:~~

(a) Impounds or confines any animal in any place and fails to supply the animal during such confinement with a sufficient quantity of good and wholesome food and water,

(b) Keeps any animals in any enclosure without wholesome exercise and change of air, or

(c) Abandons to die any animal that is maimed, sick, infirm, or diseased,

~~commits is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or ~~by both imprisonment and a fine.~~

(3) ~~A~~ Any person who is the owner or possessor, or has charge or custody, of any animal who abandons such animal to suffer injury or malnutrition or abandons any animal in a street, road, or public place without providing for the care,



190218

sustenance, protection, and shelter of such animal commits is
~~guilty of~~ a misdemeanor of the first degree, punishable as
provided in s. 775.082 or by a fine of not more than \$5,000, or
~~by both imprisonment and a fine.~~

(4) A person who abandons an animal by using a restraint on
the animal and leaving that animal restrained outside during a
natural disaster commits a felony of the third degree,
punishable as provided in s. 775.082 or by a fine of not more
than \$10,000, or both.

Section 3. This act shall take effect October 1, 2025.

===== 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 abandoning restrained animals
during natural disasters; providing a short title;
amending s. 828.13, F.S.; defining terms; prohibiting
abandoning an animal that is restrained outside during
a natural disaster; providing criminal penalties;
providing an effective date.

By Senator Gaetz

1-00702-25

2025150__

A bill to be entitled

An act relating to animal cruelty during a declared state of emergency; amending s. 828.12, F.S.; providing increased criminal penalties for animal cruelty offenses committed during a declared state of emergency; providing an effective date.

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

Section 1. Subsection (1) of section 828.12, Florida Statutes, is amended to read:

828.12 Cruelty to animals.—

(1)(a) Except as provided in paragraph (b), a person who unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner, commits animal cruelty, a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or both.

(b) A person who commits a violation of paragraph (a) during a state of emergency declared pursuant to s. 252.36 in an area included in the state of emergency commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. This act shall take effect July 1, 2025.



The Florida Senate

Committee Agenda Request

To: Senator Jonathan Martin, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: January 27, 2025

I respectfully request that **Senate Bill #150**, relating to Animal Cruelty During a Declared State of Emergency, be placed on the:

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

A handwritten signature in blue ink, which appears to read "Don Gaetz", is written over a horizontal line.

Senator Don Gaetz
Florida Senate, District 1

The Florida Senate

APPEARANCE RECORD

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2-11-25

Meeting Date

C-5

Committee

SB 150

Bill Number or Topic

Amendment Barcode (if applicable)

Name

LIEUTENANT MIKE GRABBS

Phone

321-436-4447

Address

2560 W Colonial Dr

Email

michael.grabbs@ocsofl.com

Street

ORLANDO

City

FL

State

32802

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

SHERIFF MWA

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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2/11/25

Meeting Date

SB 150

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

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Phone 850 508-1001

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City

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Zip

Speaking: ☒ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Humane Society of the United States

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

2/11/25

Meeting Date

SB 150

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Diana Ferguson

Phone

850-681-4788

Address

119 S Monroe St Suite 202

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dferguson@nubridgeunion.com

Street

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City

FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

FL Animal Control Association

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 234

INTRODUCER: Senator Leek

SUBJECT: Criminal Offenses Against Law Enforcement Officers and Other Personnel

DATE: February 10, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Vaughan	Stokes	CJ	Favorable
2. _____	_____	ACJ	_____
3. _____	_____	FP	_____

I. Summary:

SB 234 amends s. 776.051, F.S., to revise language to expand law enforcement officers' protection from citizens' use or threatened use of force during an arrest or detention. The bill prohibits a person from using or threatening to use force to resist *a lawful or an unlawful arrest or detention*, or resisting an officer *acting in the performance of his or her legal duties as described in s. 943.10(1)*, F.S., if he or she is known, or reasonably appears, to be a law enforcement officer.

The language requiring that an officer must *be engaged in the execution of a legal duty, if the law enforcement officer was acting in good faith* is removed.

Additionally the bill removes provisions stating that a law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, is not justified in the use of force if the arrest or execution of a legal duty is unlawful and known to be unlawful.

The bill amends s. 782.065, F.S., to add manslaughter to the list of crimes that a person must be sentenced to life imprisonment without the eligibility of release upon conviction, if such offense was committed against specified officers¹ *who were acting in the performance of their official duties as described in s. 943.10, F.S.*

The bill also amends s. 784.07(2), F.S., relating to assault or battery on an officer, to specify that such *officer is acting in the performance of his or her official duties*. The bill removes language requiring the officer be engaged in the lawful performance of his or her duties.

¹ Specified officers include law enforcement officers, part-time law enforcement officers, auxiliary law enforcement officers, correctional officers, part-time correctional officers, auxiliary correctional officers, correctional probation officers, part-time correctional probation officers, or auxiliary correctional probation officers, as those terms are defined in ss. 782.065 and 943.10, F.S.

Additionally, the bill provides the duties and responsibilities of such positions are described in s. 943.10, F.S.

The bill amends s. 843.01(1), F.S., relating to resisting, obstructing, or opposing an officer with violence, to specify that such officer is acting in the performance of his or her official duties as described in s. 943.10, F.S. The bill removes language requiring an officer be engaged in the lawful performance of his or her duties.

The bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections. See Section V. Fiscal Impact Statement.

The bill takes effect on October 1, 2025.

II. Present Situation:

Officer Jason Raynor was a dedicated member of the Daytona Beach Police Officer who was shot by Othal Wallace during questioning on June 23, 2021, and succumbed to his injuries on August 21, 2021.² Officer Raynor joined the Daytona Beach police Department in February 2019 after previously serving with the Port Orange Police Department. While employed at the Port Orange Police Department, he received an award of achievement in December 2018 for heroically rescuing a citizen attempting to jump from a bridge.³

A “Law enforcement officer” is any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The term includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. The term also includes a special officer employed by a Class I, Class II, or Class III railroad pursuant to s. 354.01, F.S.⁴

Use of Force or Threatened Use of Force

Section 776.012, F.S., provides that a person is justified in using or threatening to use force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to defend himself or herself or another against the other’s

² The Daytona Beach News-Journal, *Daytona Beach Police Officer Jason Raynor dies 55 days after he was shot while on patrol*, Frank Fernandez, August 19, 2021, available at <https://www.news-journalonline.com/story/news/2021/08/17/daytona-beach-police-officer-jayson-raynor-dies-othal-wallace/8174227002/> (last visited February 6, 2025).

³ *WFTV9, Heart of gold’: Who is Jason Raynor, the Daytona Beach police officer shot in the head?*, available at <https://www.wftv.com/news/local/volusia-county/heart-gold-who-is-jason-raynor-daytona-beach-police-officer-shot-head/XUDRYZFUBBDCBFVLNZR4SAYD24/> (last visited February 6, 2025).

⁴ Section 943.10(1), F.S.

imminent use of unlawful force. A person who uses or threatens to use force in accordance with this subsection does not have a duty to retreat before using or threatening to use such force.⁵

Additionally, a person is justified in using or threatening to use deadly force if he or she reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony. A person who uses or threatens to use deadly force in accordance with this subsection does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be.⁶

Section 776.051, F.S., provides that a person is not justified in the use or threatened use of force to resist an arrest by a law enforcement officer, or to resist a law enforcement officer who is engaged in the execution of a legal duty, if the law enforcement officer was acting in good faith and he or she is known, or reasonably appears, to be a law enforcement officer.⁷

A law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, is not justified in the use of force if the arrest or execution of a legal duty is unlawful and known by him or her to be unlawful.⁸

Courts have found that ss. 776.012 and 776.051, F.S. (1974), were both enacted as a part of the same act.⁹ Statutes that are a part of a single act must be read in *pari materia*.¹⁰ The effect of reading these statutes in *pari materia* is to permit an individual to defend himself against unlawful or excessive force, even when being arrested.¹¹ This view is consistent with the position taken by other jurisdictions that have been confronted with questions relating to statutes similar to ss. 776.012, 776.051 and 843.01, F.S.¹²

Chapter 776, Florida Statutes, recognizes principles set forth in the case law of other jurisdictions in that the right of self-defense against the use of excessive force by a police officer is a concept entirely different from resistance to an arrest, lawful or unlawful, by methods of self-help. [citations omitted] The former concept is grounded on the view that a citizen should be able to exercise reasonable resistance to protect life and limb; which cannot be repaired in the courtroom. The latter view is based on the principle that a self-help form of resistance promotes intolerable disorder. Any damage done by an improper arrest can be repaired through the legal processes.

Therefore, self-defense is not “irrelevant” to a prosecution for resisting arrest with violence.¹³

⁵ Section 776.012(1), F.S.

⁶ Section 776.012(2), F.S.

⁷ Section 776.051(1), F.S.

⁸ Section 776.051(2), F.S.

⁹ See ch. 74-383 L.O.F.

¹⁰ *Ivester v. State*, 398 So. 2d 926 (Fla. 1st DCA 1981), citing *Major v. State*, 180 So.2d 335, 337 (Fla.1965).

¹¹ *Ivester v. State*, 398 So.2d 926 (Fla. 1981).

¹² *Id.*

¹³ *Ivester v. State*, 398 So.2d 926 (Fla. 1981).

Assault or Battery on Law Enforcement

Under s. 784.07(2), F.S., a person charged with of an assault or battery, or the attempt to commit such offense upon a law enforcement officer, or other specified persons, must have the offense reclassified as follows:

- In the case of assault, from a second degree misdemeanor¹⁴ to a first degree misdemeanor.¹⁵
- In the case of battery, from a first degree misdemeanor to a third degree felony. A person convicted of battery upon a law enforcement officer committed in furtherance of a riot or an aggravated riot prohibited under s. 870.01, F.S., must be sentenced to a minimum term of imprisonment of 6 months.
- In the case of aggravated assault, from a third degree felony¹⁶ to a second degree felony. Any person convicted of aggravated assault upon a law enforcement officer must be sentenced to a minimum term of imprisonment of three years.
- In the case of aggravated battery, from a second degree felony¹⁷ to a first degree felony. Any person convicted of aggravated battery of a law enforcement officer must be sentenced to a minimum term of imprisonment of five years.

The Florida Bar's Florida Standard Criminal Jury Instructions for Assault, Battery, Stalking, Culpable Negligence, And Violation of Injunctions include specific instructions for assault on a law enforcement officer and battery on a law enforcement officer or other specified personnel. The instructions require the *victim* to have been engaged in the lawful performance of his or her duty.¹⁸

Murder of a Law Enforcement Officer, Correctional Officer, or Probation Officer

Under s. 782.065, F.S., a person convicted of a murder offense upon a law enforcement officer¹⁹ engaged in the performance of a legal duty, must be sentenced to life imprisonment without eligibility for release. Such murder offenses include:

- Murder in the first degree in violation of s. 782.04(1), F.S., when a death sentence was not imposed;
- Murder in the second or third degree in violation of s. 782.04(2), (3), or (4), F.S.;
- Attempted murder in the first or second degree in violation of s. 782.04(1)(a)1. or (2), F.S.; or
- Attempted felony murder in violation of s. 782.051, F.S.

¹⁴ A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days, as provided in s. 775.082 or s. 775.083, F.S.

¹⁵ A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year. Sections 775.082 and 775.083, F.S.

¹⁶ A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

¹⁷ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine; A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

¹⁸ Florida Standard Jury Instruction 8.10 and 8.11 (Crim).

¹⁹ Section 782.065(2), F.S., includes a law enforcement officer, part-time law enforcement officer, auxiliary law enforcement officer, correctional officer, part-time correctional officer, auxiliary correctional officer, correctional probation officer, part-time correctional probation officer, or auxiliary correctional probation officer, as those terms are defined in s. 943.10, F.S., engaged in the lawful performance of a legal duty.

Resisting Arrest

Under s. 843.01, F.S., a person who knowingly and willfully resists, obstructs, or opposes specified officers or other persons legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty, by offering or doing violence to the person of such officer or legally authorized person, commits a third degree felony.²⁰

Officers specified in s. 843.01, F.S., include:

- Law enforcement officer, correctional officer, correctional probation officer, part-time law enforcement officer, part-time correctional officer or auxiliary law enforcement officer;²¹
- Members of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission;
- Parole and probation supervisors;
- County probation officers; or
- Personnel or representatives of the Department of Law Enforcement.

The Florida Bar's Florida Standard Criminal Jury Instructions for Obstruction of Justice, resisting an officer with violence provides a special instruction incorporating s. 776.051(1), F.S. should be given when the defendant is charged with resisting an arrest by a law enforcement officer or with resisting a law enforcement officer and the defense claims the officer was acting unlawfully.²² A special instruction for juries incorporating instructions for justifiable use of deadly force should be given when the defense claims that the defendant was justified in using or threatening to use deadly force if he or she reasonably believed that such force was necessary to prevent imminent death or bodily harm.²³

III. Effect of Proposed Changes:

The bill is named the Jason Raynor Act and is named after Officer Jason Raynor of the Daytona Beach Police Department who was shot during a confrontation in 2021 and later succumbed to his injuries.

The bill amends s. 776.051, F.S., to revise language to expand law enforcement officers' protection from citizens' use or threatened use of force during an arrest or detention. The bill prohibits a person from using or threatening to use force to resist *a lawful or an unlawful arrest or detention*, or resisting an officer *acting in the performance of his or her legal duties as described in s. 943.10(1)*, F.S., if he or she is known, or reasonably appears, to be a law enforcement officer.

Language requiring that an officer must *be engaged in the execution of a legal duty, if the law enforcement officer was acting in good faith*, is removed.

²⁰ Section 843.01, F.S.

²¹ Section 943.10(1), (2), (3), (6), (7), (8), or (9), F.S.

²² Florida Standard Jury Instruction 8.13 (Crim).

²³ Florida Standard Jury Instruction 3.6f (Crim).

Additionally the bill removes provisions stating that a law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, is not justified in the use of force if the arrest or execution of a legal duty is unlawful and known to be unlawful.

The bill amends s. 782.065, F.S., to add manslaughter to the list of crimes that a person must be sentenced to life imprisonment without the eligibility of release upon conviction, if such offense was committed against specified officers²⁴ *who were acting in the performance of their official duties as described in s. 943.10, F.S.*

The bill also amends s. 784.07(2), F.S., relating to assault or battery on an officer, to specify that such *officer is acting in the performance of his or her official duties*. The bill removes language requiring the officer be engaged in the lawful performance of his or her duties.

Additionally, the bill provides the duties and responsibilities of such positions are described in s. 943.10, F.S.

The bill amends s. 843.01(1), F.S., relating to resisting, obstructing, or opposing an officer with violence, to specify that such officer is acting in the performance of his or her official duties as described in s. 943.10, F.S. The bill removes language requiring an officer be engaged in the lawful performance of his or her duties.

The bill takes effect on October 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

²⁴ Specified officers include law enforcement officers, part-time law enforcement officers, auxiliary law enforcement officers, correctional officers, part-time correctional officers, auxiliary correctional officers, correctional probation officers, part-time correctional probation officers, or auxiliary correctional probation officers, as those terms are defined in ss. 782.065. and 943.10, F.S.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections (DOC). The EDR provides the following additional information regarding its estimate:

- Per the DOC, in FY 23-24, there were 5 new commitments to prison under s. 782.065, F.S., 389 new commitments to prison under s. 784.07, F.S., and 189 new commitments to prison under s. 843.01, F.S. There were two new commitments to prison for manslaughter of law enforcement officers, correctional officers, correctional probation officers, or other first responders (s. 782.07, F.S.). Both ss. 782.07, F.S. and 784.07, F.S. include other specified personnel, so it is not known how many of these offenses involve the respective positions listed under s. 943.10, F.S. Furthermore, it is not known how the removal of police acting lawfully would impact the prison population.²⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill language specifies that the duties of a law enforcement officer are provided in s. 943.10(1), F.S., however that reference provides a definition only and may not be inclusive of all duties.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 776.051, 782.065, 784.07, and 843.01.

²⁵ Office of Economic and Demographic Research, *SB 234 - Criminal Offenses Against Law Enforcement Officers and Other Personnel*, (on file with the Senate Committee on Criminal Justice).

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 Leek

7-00650-25

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A bill to be entitled

An act relating to criminal offenses against law enforcement officers and other personnel; providing a short title; amending s. 776.051, F.S.; revising a prohibition on the use or threatened use of force to resist arrest or detention; amending s. 782.065, F.S.; providing for enhanced punishment for manslaughter when committed against specified officers; revising applicability; amending s. 784.07, F.S.; revising the definition of the term "law enforcement officer"; revising provisions concerning assault or battery upon specified officers and other personnel; amending s. 843.01, F.S.; revising a provision concerning resisting, obstructing, or opposing specified officers or legally authorized persons; providing an effective date.

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

Section 1. This act may be cited as the "Officer Jason Raynor Act."

Section 2. Section 776.051, Florida Statutes, is amended to read:

776.051 Use or threatened use of force in resisting arrest or ~~detention making an arrest or in the execution of a legal duty~~; prohibition.—

~~(1)~~ A person is not justified in the use or threatened use of force to resist a lawful or an unlawful ~~an~~ arrest or ~~detention~~ by a law enforcement officer, or to resist a law

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enforcement officer acting in the performance of his or her official duties as described in s. 943.10(1), if who is engaged in the execution of a legal duty, if the law enforcement officer was acting in good faith and he or she is known, or reasonably appears, to be a law enforcement officer.

~~(2) A law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, is not justified in the use of force if the arrest or execution of a legal duty is unlawful and known by him or her to be unlawful.~~

Section 3. Section 782.065, Florida Statutes, is amended to read:

782.065 Murder; law enforcement officer, correctional officer, correctional probation officer.—Notwithstanding ss. 775.082, 775.0823, 782.04, 782.051, and chapter 921, a defendant must ~~shall~~ be sentenced to life imprisonment without eligibility for release upon findings by the trier of fact that, beyond a reasonable doubt:

(1) The defendant committed murder in the first degree in violation of s. 782.04(1) and a death sentence was not imposed; murder in the second or third degree in violation of s. 782.04(2), (3), or (4); attempted murder in the first or second degree in violation of s. 782.04(1)(a)1. or (2); ~~or attempted~~ felony murder in violation of s. 782.051; or manslaughter in violation of s. 782.07(1); and

(2) The victim of any offense described in subsection (1) was a law enforcement officer, part-time law enforcement officer, auxiliary law enforcement officer, correctional officer, part-time correctional officer, auxiliary correctional officer, correctional probation officer, part-time correctional

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probation officer, or auxiliary correctional probation officer, as those terms are defined in s. 943.10, who was acting in the performance of his or her official duties as described in s. 943.10 ~~engaged in the lawful performance of a legal duty.~~

Section 4. Paragraph (e) of subsection (1) and subsection (2) of section 784.07, Florida Statutes, are amended to read:

784.07 Assault or battery of law enforcement officers and other specified personnel; reclassification of offenses; minimum sentences.—

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

(e) "Law enforcement officer" includes a law enforcement officer, a correctional officer, a correctional probation officer, a part-time law enforcement officer, a part-time correctional officer, an auxiliary law enforcement officer, and an auxiliary correctional officer, as those terms are respectively defined in s. 943.10, and any county probation officer; an employee or agent of the Department of Corrections who supervises or provides services to inmates; an officer of the Florida Commission on Offender Review; a federal law enforcement officer as defined in s. 901.1505; and law enforcement personnel of the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, or the Department of Law Enforcement. The duties and responsibilities of these respective positions are described in s. 943.10.

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer, a firefighter, an emergency medical care provider, hospital personnel, a railroad special officer, a traffic accident investigation officer as described in s. 316.640, a nonsworn law

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enforcement agency employee who is certified as an agency inspector, a blood alcohol analyst, or a breath test operator while such employee is in uniform and engaged in processing, testing, evaluating, analyzing, or transporting a person who is detained or under arrest for DUI, a law enforcement explorer, a traffic infraction enforcement officer as described in s. 316.640, a parking enforcement specialist as defined in s. 316.640, a person licensed as a security officer as defined in s. 493.6101 and wearing a uniform that bears at least one patch or emblem that is visible at all times that clearly identifies the employing agency and that clearly identifies the person as a licensed security officer, or a security officer employed by the board of trustees of a community college, while the officer, firefighter, emergency medical care provider, hospital personnel, railroad special officer, traffic accident investigation officer, traffic infraction enforcement officer, inspector, analyst, operator, law enforcement explorer, parking enforcement specialist, public transit employee or agent, or security officer who is acting in the performance of his or her official duties ~~is engaged in the lawful performance of his or her duties~~, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

(b) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree. Notwithstanding any other provision of law, a person convicted of battery upon a law enforcement officer committed in furtherance of a riot or an aggravated riot prohibited under s. 870.01 shall be sentenced to

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a minimum term of imprisonment of 6 months.

(c) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree. Notwithstanding any other provision of law, any person convicted of aggravated assault upon a law enforcement officer shall be sentenced to a minimum term of imprisonment of 3 years.

(d) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree. Notwithstanding any other provision of law, any person convicted of aggravated battery of a law enforcement officer shall be sentenced to a minimum term of imprisonment of 5 years.

Section 5. Subsection (1) of section 843.01, Florida Statutes, is amended to read:

843.01 Resisting, obstructing, or opposing by offering or doing violence to legally authorized person, police canine, or police horse.—

(1) Whoever knowingly and willfully resists, obstructs, or opposes any officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission; parole and probation supervisor; county probation officer; personnel or representative of the Department of Law Enforcement; or other person legally authorized to execute process in the execution of legal process or acting in the performance of his or her official duties as described in s. 943.10 ~~in the lawful execution of any legal duty~~, by offering or doing violence to the person of such officer or legally authorized person, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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146 Section 6. This act shall take effect October 1, 2025.

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SB 234 – Criminal Offenses Against Law Enforcement Officers and Other Personnel

This bill amends multiple statutes. First, it amends s. 776.051, F.S., stating that (new language in bold): “A person is not justified in the use or threatened use of force to **resist a lawful or an unlawful arrest or detention** by a law enforcement officer, or to resist a law enforcement officer **acting in the performance of his or her** official duties as described in s. 943.10(1), F.S., if he or she is known, or reasonably appears, to be a law enforcement officer.” The language also deletes “who is engaged in the execution of a legal duty, if the law enforcement officer was acting in good faith.” Furthermore, it deletes the following language: “A law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, is not justified in the use of force if the arrest or execution of a legal duty is unlawful and known by him or her to be unlawful.” It also amends s. 782.065, F.S., adding manslaughter to when a person must be sentenced to life imprisonment without the eligibility of release due to killing or attempting to kill a law enforcement officer, correctional officer, or correctional probation officer. It also deletes that the officer was “engaged in the lawful performance of a legal duty” and adds “was acting in the performance of his or her official duties as described in s. 943.10, F.S.” It also amends s. 784.07, F.S., adding that “the duties and responsibilities of these respective positions are described in s. 943.10, F.S.” Additionally, it deletes “is engaged in the lawful performance of his or her duties” and adds in its place “who is acting in the performance of his or her official duties.” This could expand the pool of offenders for assault or battery of law enforcement officers. Finally, this bill amends s. 843.01, F.S., for resisting, obstructing, or opposing by offering or doing violence to legally authorized person, police canine, or police horse, deleting “in the lawful execution of any legal duty” and adding in its place “acting in the performance of his or her official duties as described in s. 943.10, F.S.”

Per DOC, in FY 23-24, there were 5 new commitments to prison under s. 782.065, F.S., 389 new commitments to prison under s. 784.07, F.S., and 189 new commitments to prison under s. 843.01, F.S. There were two new commitments to prison for manslaughter of law enforcement officers, correctional officers, correctional probation officers, or other first responders (s. 782.07, F.S.). Both s. 782.07, F.S. and s. 784.07, F.S. include other specified personnel, so it is not known how many of these offenses involve the respective positions listed under s. 943.10, F.S. Furthermore, it is not known how the removal of police acting lawfully would impact the prison population.

EDR PROPOSED ESTIMATE: Positive Indeterminate

Requested by: Senate

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

2/11/25

Meeting Date

CJ

Committee

234

Bill Number or Topic

Amendment Barcode (if applicable)

Name

AARON WAYT FL ASSN OF CRIM
DEF LAWYERS

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City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

APPEARANCE RECORD2-11-25

Meeting Date

234

Bill Number or Topic

Criminal Justice

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name RJ LarizzaPhone 386-239-7714Address 251 N. Ridgewood Av

Street

Email _____

Daytona

City

Bah

State

FL 32114

Zip

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☒I am appearing without
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The Florida Senate
APPEARANCE RECORD

2/11/25

Meeting Date

234

Bill Number or Topic

Deliver both copies of this form to
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Committee

Amendment Barcode (if applicable)

Name

Mike Scudiero

Phone

386 212 3937

Address

810 Fentress Ct. #150

Email

mike@cfpb.us

Street

Daytona Beach

State

FL

Zip

32117

Speaking:

☒ For

☐ Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2-11-25

Meeting Date

CJ

Committee

S.B. 234

Bill Number or Topic

Amendment Barcode (if applicable)

Deliver both copies of this form to
Senate professional staff conducting the meeting

Name LIEUTENANT MICHAEL CRABBS

Phone 321-432-4447

Address 2500 W. COLONIAL DR

Street

Email MICHAEL.CRABBS@OC.SOFLA.COM

ORLANDO, FL 32802

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

SHERIKÉ MINA

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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2/11/25

Meeting Date

SB 234

Bill Number or Topic

CRIMINAL JUSTICE

Committee

Amendment Barcode (if applicable)

Name William B. Smith

Phone 305-333-4344

Address 300 E BREVARD ST
Street

Email WSMITH@FLPBA.ORG

TALLAHASSEE FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

FL PBA

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

Feb 11, 2025

Meeting Date

Criminal Justice

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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0234

Bill Number or Topic

Amendment Barcode (if applicable)

Name Jennifer Cook Pritt Ex Director FI Police Chiefs Phone 850-219-3631

Address 2636 Mitcham Drive Email jpriitt@fpca.com

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Police Chiefs Association

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)



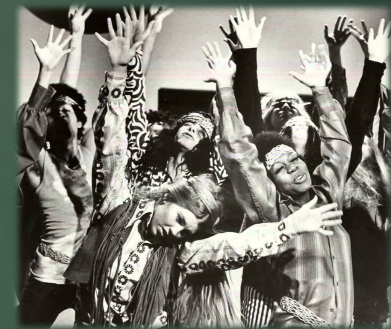
Cannabis and Criminal Justice

WHAT WE NEED TO KNOW

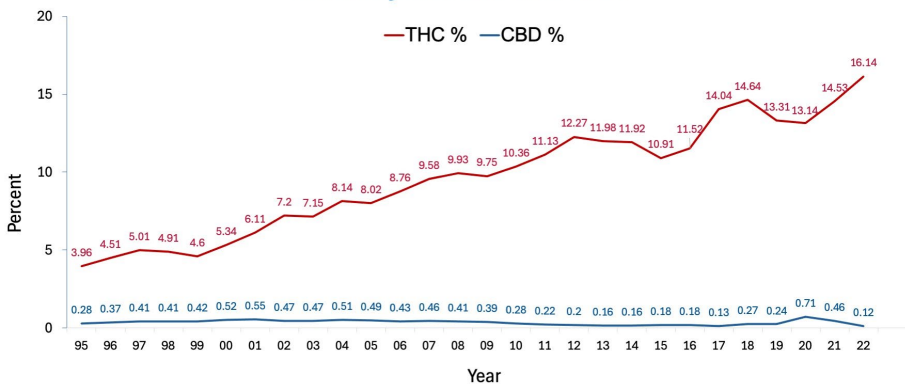
BY: JESSICA SPENCER, EDD, CAP, CPP

Marijuana Potency Changes

- ▶ 1975 – .74%
- 1978 – 1.37%
- 1988 – 3.39%
- 1993 – 3.4%
- 1998 – 4.91%
- 2008 – 9.93%
- 2022 – 16.14%



Percentage of THC and CBD in Cannabis Samples
Seized by the DEA, 1995-2022



SOURCE: U Miss, Potency Monitoring Project

1

Source: Dr. El Sohley, Marijuana Project at the National Center for Natural Products Research, School of Pharmacy, Univ. of Mississippi Seizure potency rates

High Times Cannabis Cup 2015

Chem Dog 32.13%

Emperor Cookie Dough 31.1%

Karmasutra 29.72%

Strawberry Banana 28.4%

Vegan Strawberry Cough 28.31%

The Brotherhood 27.65%

Life Is Good OG (bx OG F6) 27.2%

Chiquita Banana 27.16%

Sunny Days 26.7%

Sour Kush 60/40 26.6%

Lemon OG Haze 26.14%

Sunshine #4 by Bhodi Seeds 25.95%

Gorilla Glue #4 25.8%

Ghost Train Haze 25.74%



Not “just a plant”



Source: HighTimes.com *The Strongest Weed Strains on Earth* by Nico Escondido, June 28, 2016

Source: DEA St. Louis Division Twitter Account, <https://bit.ly/3lgmRsi>

Set Your Location To Start Shopping!

 [Find a Dispensary](#)

 [Set Delivery](#)



Sativa

Bellamy Bros

Rattler - Whole Flower 3.5G

~~\$58.00~~ \$50.00 / 3.5g

36% THC



Indica

Modern Flower

Blue Spring Cookies - Whole Flower 3.5G

~~\$45.00~~ \$30.00 / 3.5g

35% THC



MF

Indica

Seed Junky

Lemon Chry X Cap Junky - Whole Flower 3.5G

~~\$45.00~~ \$40.00 / 3.5g

35% THC

Seed Junky
GENETICS



Sativa

Trulieve

Pineapple Upside Down Cake - Minis 3.5G

~~\$27.00~~ \$23.00 / 3.5g

35% THC



Feedback

Top Sellers



Dabbalicious Vape Cartridge
Entourage

Indica

THC: 81.56%

\$28.00 ~~\$40.00~~ **\$12.00 off**



Apple Fritter: Vape Cartridge
Entourage

Hybrid

THC: 81.02%

\$28.00 ~~\$40.00~~ **\$12.00 off**



24k Gold Punch Vape Cartridge
Entourage

Hybrid

THC: 80.36%

\$28.00 ~~\$40.00~~ **\$12.00 off**



Strawberry Cough Vape Cartridge
Secret Orchard

Sativa

THC: 80.63%

\$28.00 ~~\$40.00~~ **\$12.00 off**



Lane Splitter: Tier 1 Flower
Kynd

Indica

THC: 24.9%

\$24.50 ~~\$35.00~~ **\$10.50 off**

Daily or Near-Daily (DND) Marijuana Use Surpasses Daily or Near-Daily (DND) Alcohol Use in the US

Daily or Near-Daily (DND) Marijuana Use Increases by 1867% from 1992 to 2022

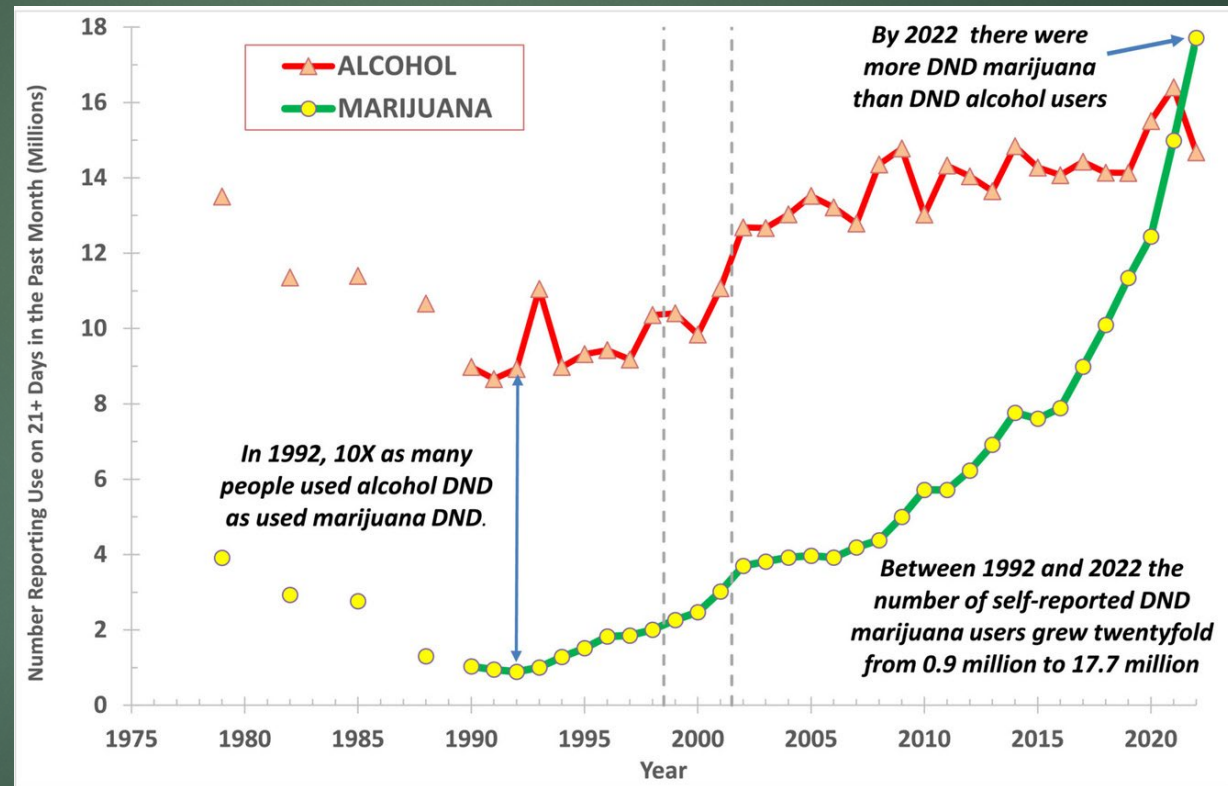


Image and study via Jonathan P. Caulkins: Changes in self-reported cannabis use in the United States from 1979 to 2022

The adolescent brain is especially susceptible to marijuana use

1 in 3

Past-Year Users Have
CUD (Addiction)

When kids use, they have a greater chance of addiction since their brains are being primed

7X

Use Before the Age of 18
increases the likelihood
of CUD by seven times

National Institute on Drug Abuse, 2021

Marijuana and Mental Health



Dan Linn, exec. director of the Illinois NORML – said in 2014 “There’s always been this link between cannabis and schizophrenia,”

Cannabis use is associated with subsequent development or earlier onset of psychosis and schizophrenia.

Evidence suggests a dose-response relationship, with more frequent use of higher potency cannabis products associated with a greater risk of schizophrenia.

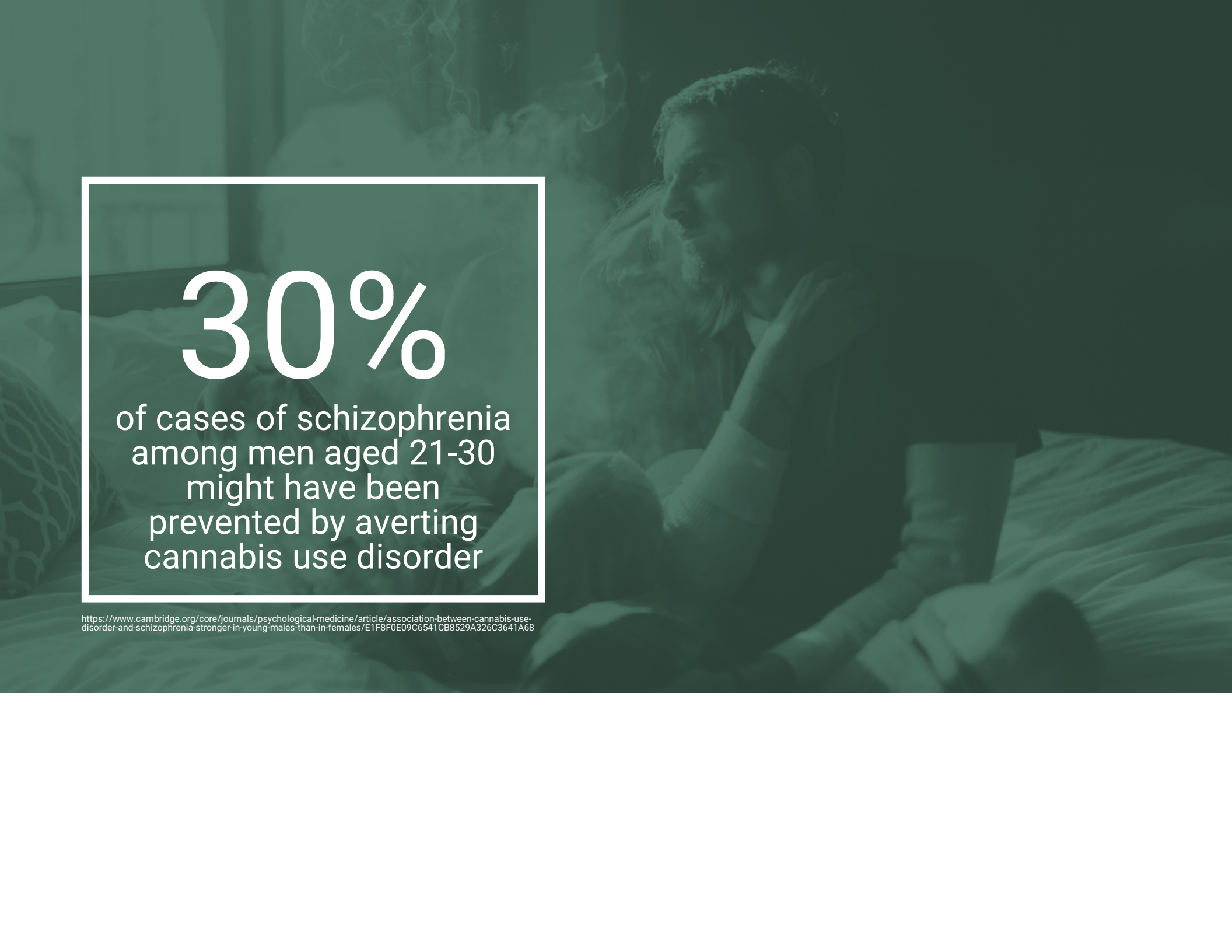
JAMANetworkOpen.2025;8(2):e2457868.doi:10.1001/jamanetworkopen.2024.57868

Daily users of
high-potency
marijuana
are

5X

more likely to suffer from a
psychotic disorder compared
with those who have never
used marijuana

[https://www.thelancet.com/article/S2215-0366\(19\)30048-3/fulltext](https://www.thelancet.com/article/S2215-0366(19)30048-3/fulltext)



30%

of cases of schizophrenia
among men aged 21-30
might have been
prevented by averting
cannabis use disorder

<https://www.cambridge.org/core/journals/psychological-medicine/article/association-between-cannabis-use-disorder-and-schizophrenia-stronger-in-young-males-than-in-females/E1F8F0E09C6541CB8529A326C3641A68>

Marijuana and Violence

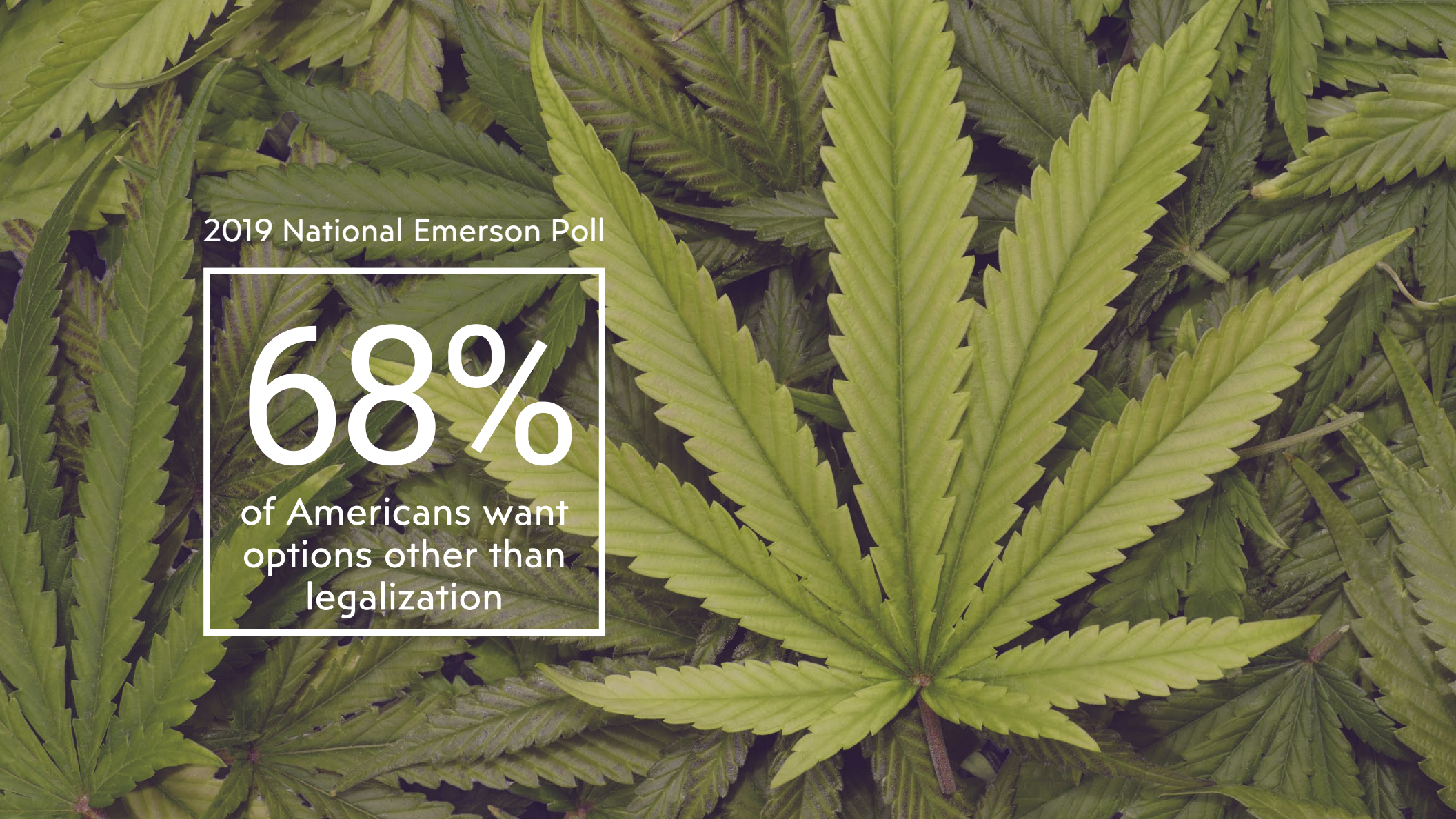
- ▶ Parkland, FL, Nikolas Cruz 2/1/2018 “a lot of marijuana” and xanax
- ▶ Miami, FL, Rudy Eugene 5/26/2012 Medical examiner detected only Mj ruled out bath salts
- ▶ Denver, CO, Richard Kirk, 4/14/2014 marijuana edible
- ▶ The trouble with tracking marijuana and violent crime is that the facts and circumstances of each case may be related to marijuana, but marijuana is not a charged offense.
 - ▶ Ex. Drug transactions and a robbery happens, or home invasion, or burglary looking for drugs, or felony murder that happens during drug transactions
 - ▶ No code for marijuana robbery, marijuana murder
 - ▶ Felony murder in the information it will layout that the felony that occurred was a marijuana transaction, but that marijuana transaction isn't charged.

Some specific research to marijuana and violence links: A Review of Cases of Marijuana and Violence - PMC
<https://pmc.ncbi.nlm.nih.gov/articles/PMC7084484/#sec4-ijerph-17-01578>

Violence and Cannabis Use: A Focused Review of a Forgotten Aspect in the Era of Liberalizing Cannabis
<https://pmc.ncbi.nlm.nih.gov/articles/PMC7525024/#s6>

Marijuana Is More Dangerous Than You Think

<https://pmc.ncbi.nlm.nih.gov/articles/PMC6461328/>

The background of the entire image is a dense, close-up photograph of cannabis leaves. The leaves are various shades of green, from a vibrant lime green to a darker forest green. They have a serrated, saw-toothed edge and a palmate shape with multiple leaflets radiating from a central point. The lighting is even, highlighting the texture of the leaf surfaces.

2019 National Emerson Poll

68%

of Americans want
options other than
legalization

Legalization
has far from
eliminated
the black
market and
has enabled
foreign
cartel
activity



70-80%

of marijuana sold in state-legal
dispensaries in California was
produced and grown illegally

NBC News, 2022

85-90%

of California-produced
marijuana is exported

Fuller, 2019



What can we do?

Primary Prevention

- ▶ Increase funding for prevention and education programs starting in elementary schools about safe and healthy choices
 - ▶ Science-based public awareness campaign should be implemented across multiple forms of media across the state
 - ▶ Educate parents and teens about the risks of early marijuana use, especially regarding brain development
-
- ▶ Dedicate at least 25% of drug demand reduction efforts and policy budget to include Opioid Abatement Funds to primary prevention strategies

What can we do?

Law Enforcement and Regulatory Agency Assistance

- ▶ Ensure the roughly 707 MMJ dispensaries operate under the state guidelines
 - ▶ Increase funding for regulatory oversight and enforcement
 - ▶ Continue to assess the appropriateness of the regulations in the spirit of public safety
 - ▶ Crack down on roadside signage of MMJ dispensaries and billboards
- ▶ Increase funding for law enforcement to crack down on illegal grow operations and trafficking
- ▶ Drugged driving prevention should be a priority, with tough laws imposed on those who drive stoned
- ▶ Monitor and improve the development of roadside test to detect marijuana impairment in drivers (DREs, blood concentration levels)
- ▶ Deprioritize simple possession arrests (drug courts, civil citations)



What can we do?

Environmental Strategies

- ▶ Implementing regulations on packaging for THC /"legal hemp" derivative products, marketing, and advertising
- ▶ Ban delta-8-THC and other synthetically derived tetrahydrocannabinols

By listing these drugs in FS § 893.03 Schedule 1. 18 states have banned intoxicating synthetic hemp cannabinoids (delta-8-THC, delta-10-THC and THC-O) due to concerns about contamination, lack of regulation, marketing products to children and high levels of THC.

- ▶ Alternatively, cap hemp products to 5mg THC per serving/piece and 50mg THC per container, as specified in SB1698 which passed.



What can we do?

Alternatives to Incarceration

- ▶ Increase availability and resources for adult drug courts, problem solving courts, juvenile drug courts, diversion and civil citation programs
- ▶ Expungement (allowing expungement for simple possession even if the offender has an expunged or sealed a non marijuana related offense, and diversion programs
- ▶ Marijuana use should be discouraged and individuals caught repeatedly whether adult or adolescent should be directed to early interventions and/or treatment
- ▶ Funding needs to be afforded to enhance affordable intervention/treatment programs
- ▶ Funding needs to be afforded to expanding mental health care
- ▶ If incarcerated increase funding for jails for accredited IJDT and utilization of trauma informed treatment approaches

FLHSMV
FLORIDA HIGHWAY SAFETY AND MOTOR VEHICLES



Senate Criminal Justice Committee

Use of Cannabis and Impact on DUIs



Florida Highway Patrol Enforcement Efforts

- 1982 authorized sworn Troopers
- Drug Recognition Experts (DREs) receive specialized training and are certified by the International Association of Chiefs of Police to evaluate suspects and determine if a suspect is impaired, what drug categories caused the impairment, and if a medical condition is causing the impairment.
 - FHP has 55 certified DRE's, of which nine are certified DRE Instructors. The State of Florida has 340 DRE's, representing 16% of the state total.
 - The cost of the training is approximately \$3,000, not including salaries. Additionally, every two years the troopers must be recertified.
 - FHP provides a pay additive to those members who achieve and maintain their certification.
 - Certain testimony is only admissible if completed by a DRE making their testimony, a valuable tool in the prosecution of a DUI case.

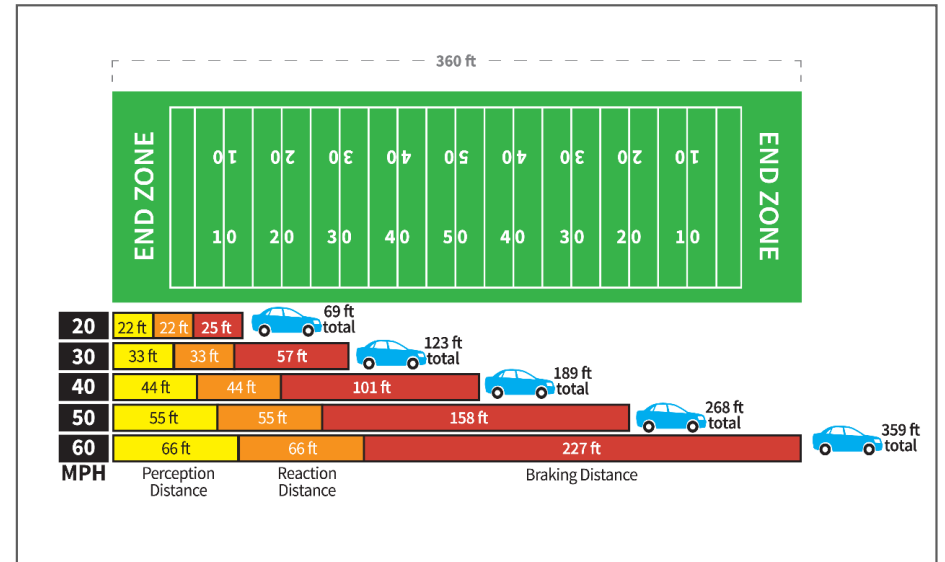




Cannabis Effects

Reaction Time and Driving

- The average driver:
 - Makes about 20 key decisions during each mile driven
 - Often has less than one-half second to react to avoid a potential collision
- Integrating information from several sources at once for a motor response is essential for driving.
- Slow driver reaction time can interfere with safe driving in dangerous situations.
- Not able to compensate for standard deviation of lateral position (SDLP), a measure for staying within a traffic lane.





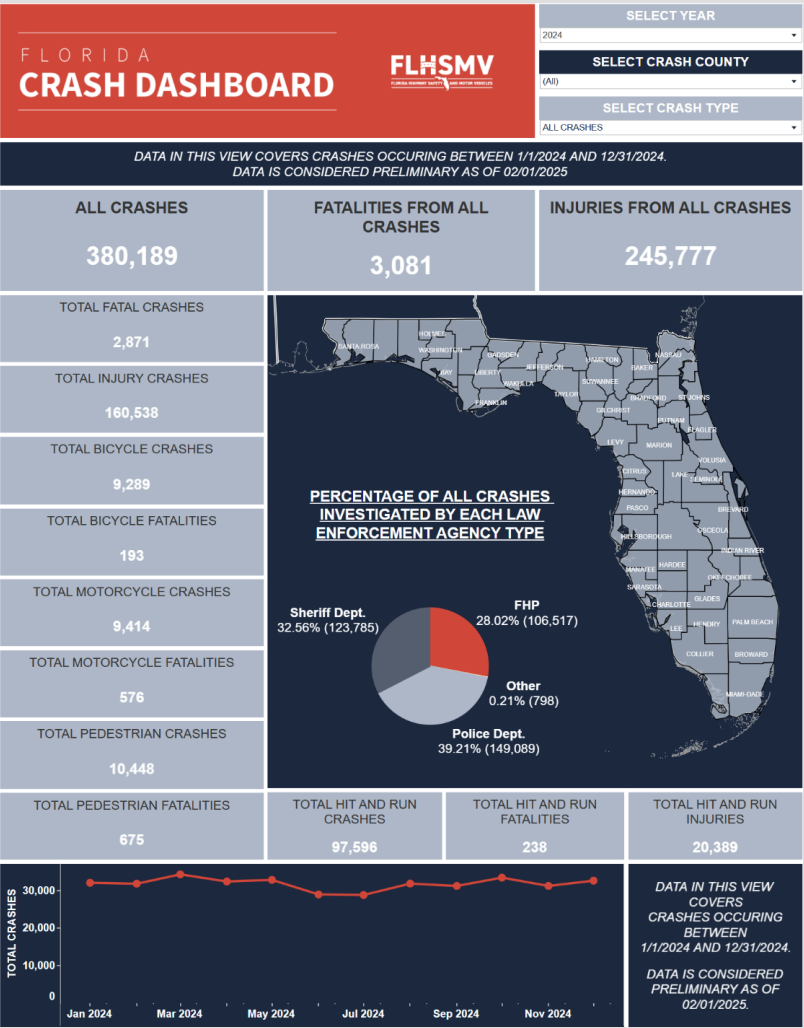
Enforcement

Arrest Decision



Historical Crash Data

Traffic Crash Facts Annual Reports



Historical Crash Data

Traffic Crash Facts
Annual Reports

Drug and Alcohol Confirmed Crashes and Fatalities by Year

Year	Alcohol Confirmed Crashes	Alcohol Confirmed Fatalities	Drug Confirmed Crashes	Drug Confirmed Fatalities	Drug and Alcohol Confirmed Crashes	Drug and Alcohol Confirmed Fatalities	Impaired Crashes	Impaired Fatalities
2018	5,106	372	673	348	386	300	6,165	1,020
2019	4,984	378	730	381	420	342	6,134	1,101
2020	4,554	384	708	384	380	328	5,642	1,096
2021	5,111	407	747	420	414	383	6,272	1,210
2022	5,262	423	617	367	368	332	6,247	1,122
2023	5,132	363	553	325	341	281	6,026	969

Total and Impaired Crashes and Fatalities

Year	Total Codable Crashes	Impaired Crashes	% Impaired Crashes to Total Crashes	Total Fatal Crashes	Impaired Fatal Crashes	% Impaired Fatal Crashes to Total Fatal Crashes	Total Fatalities	Impaired Fatalities	% Impaired Fatalities to Total Fatalities
2018	403,626	6,165	1.53%	2,917	948	32.50%	3,135	1,020	32.54%
2019	401,867	6,134	1.53%	2,951	1,008	34.16%	3,185	1,101	34.57%
2020	341,399	5,642	1.65%	3,098	996	32.15%	3,332	1,096	32.89%
2021	401,540	6,272	1.56%	3,454	1,086	31.44%	3,741	1,210	32.34%
2022	397,620	6,247	1.57%	3,320	1,040	31.33%	3,553	1,122	31.58%
2023	395,175	6,026	1.52%	3,162	898	28.40%	3,375	969	28.71%

Data & Statistics

- In 2023, Florida had 57,836 DUI arrests, with 26,823 convictions. Impaired driving can involve alcohol, drugs, or a combination of both.
- Data from 2015 – 2023: DUI citations (excluding breath or blood test refusals): 496,099 ; Refusals: 26,311

- In 2015 there were 63,230 DUI citations with 34,748 convictions (55% conviction rate)
- In 2023 there were 57,836 DUI citations with 26,823 convictions (46% conviction rate)

DUIs issued by agency type

Sheriff's Office	220,333
City Police	207,188
FHP	82,585
Other	12,169
SAO/COC	135

- Between 2015 and 2023 there was a 9% decrease in DUI citations issued and a 23% decrease in convictions for that offense.
 - Data represents citations for DUI, DUI bicycle, CMV DUI, DUI Manslaughter, DUI property damage, DUI Injury, Open container Driver and Passenger, and refusal to submit to breath or blood test.
- Over 1 in 3 fatal crashes are the result of someone being impaired.

Data & Statistics

- Section 381.89, F.S. requires the department to capture data on the number of marijuana-related citations and crashes, and to report this data on January 31st annually to the Governor and Legislature.
- The department implemented a supplement to Florida's Traffic Crash report. The supplement has been adopted by all state law enforcement agencies in the state and captures seven drug types based on the National Highway Traffic Safety Administration's recommendations for drug impairment. This supplement is required to be provided with all crash reports indicating a person was impaired by drugs at the time of the crash.



Prevalence of Drugs by Type by Year

Drugs Found	2020	2021	2022	2023	2024*	5-Year Total
Amphetamines	244	254	228	206	105	1,037
Cocaine	189	193	185	142	81	790
Marijuana	572	595	518	427	266	2,378
Opiates	151	154	118	100	39	562
Other Controlled Substances	415	465	373	331	174	1,758
Other Drugs (excludes post-crash drugs)	158	146	114	115	63	596
PCP	0	1	1	1	0	3
Unknown	9	5	4	5	3	26
Grand Total	1,738	1,813	1,541	1,327	731	7,150

Drug Prevalence Reported in Crashes

The following table depicts the types of drugs involved in traffic crash fatalities or traffic crash injuries.

As there can be up to four drug results reported in drivers and non-motorists involved in a crash, a single fatality may be counted in more than one drug type.

Fatalities & Injuries by Year by Drug Type

	2020		2021		2022		2023		2024		5-Year Total	
Drugs Found	Fatalities	Injuries	Fatalities	Injuries	Fatalities	Injuries	Fatalities	Injuries	Fatalities	Injuries	Fatalities	Injuries
Amphetamine	152	183	149	169	157	167	141	136	70	64	669	719
Cocaine	126	115	129	122	129	102	90	91	48	46	522	476
Marijuana	444	484	460	458	409	461	320	333	201	212	1834	1948
Opiate	55	148	80	118	68	82	37	79	16	20	256	447
Other Controlled Substances	199	312	216	298	205	268	159	230	90	119	869	1227
Other Drugs (excludes post-crash drugs)	117	92	100	103	85	71	83	52	48	52	433	370
PCP	0	0	0	1	1	0	0	0	0	0	1	1
Unknown	4	7	2	10	0	2	3	2	0	5	9	26
Grand Total	1,097	1,341	1,136	1,279	1,054	1,153	833	923	473	518	4,593	5,214

Public Safety Awareness

- Public Safety Stakeholders.
- FLHSMV's Never Drive Impaired Public Awareness Campaign- Created [Impaired Driving web page](#) with over 9 million impressions and over 1 million engagements through Google, YouTube, Facebook, Instagram, iHeart Radio and Florida News Network, and through earned media across social media channels.
- Interactive [Public Impaired Driving dashboard](#) on department's website.
- "Drive High Get a DUI" campaign discourages the public to not drive while under the influence of cannabis or other drugs.
- "Drive Sober or Get Pulled Over" campaign (Labor Day)
- Impaired Driving Coalition Participation-Developed model language for diversion programs to ensure statewide consistency and best practices for each judicial circuit.
- Developing DUI Data Repository that, when implemented, will provide consolidated DUI client information.



ARRIVE ALIVE

FLHSMV and FHP encourage the public to exercise sound judgment year-round and do their part to save lives. Report impaired drivers by contacting law enforcement or dialing ***FHP (*347)**.

Questions?

Thank you



Jonas Marquez

Director of Legislative Affairs

Office: (850) 617-3112

JonasMarquez@flhsmv.gov

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

2-11-25

Meeting Date

CJC

Committee

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Jessica Spenser

Phone

813 486 6970

Address

PO Box 256

Email

djessicaspenser@gmail.com

Street

Liveview FL 33568

City

State

Zip

Speaking:

☐

For

☐

Against

☒

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

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☐

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

Marijuana + DUI's

Bill Number or Topic

2/11/2025

Meeting Date

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Lt. Channing Taylor

Phone (830) 687-0579

Address 2900 Apalachee Pkwy

Street

Tallahassee

City

FL

State

32399

Zip

Email channingtaylor@flhsmv.gov

Speaking: ☐ For ☐ Against ☒ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

CourtSmart Tag Report

Room: SB 37
Caption: Senate Committee on Criminal Justice

Type:
Judge:

Started: 2/11/2025 1:45:56 PM
Ends: 2/11/2025 3:39:52 PM
Length: 01:53:57

1:45:56 PM	Chair Martin calls meeting to order
1:45:59 PM	Roll Call
1:46:13 PM	Chair Martin makes opening remarks
1:47:01 PM	Tab 5: Presentation by Jessica Spencer
1:47:09 PM	Jessica Spencer
2:14:34 PM	Questions:
2:14:38 PM	Vice Chair Smith
2:15:00 PM	Jessica Spencer
2:15:13 PM	Vice Chair Smith
2:15:32 PM	Jessica Spencer
2:15:45 PM	Vice Chair Smith
2:15:59 PM	Jessica Spencer
2:16:33 PM	Vice Chair Smith
2:17:05 PM	Jessica Spencer
2:18:13 PM	Vice Chair Smith
2:18:14 PM	Jessica Spencer
2:18:48 PM	Vice Chair Smith
2:19:57 PM	Jessica Spencer
2:20:45 PM	Senator Pizzo
2:21:00 PM	Jessica Spencer
2:22:07 PM	Senator Pizzo
2:22:14 PM	Jessica Spencer
2:22:19 PM	Senator Pizzo
2:22:23 PM	Jessica Spencer
2:22:27 PM	Senator Pizzo
2:22:57 PM	Jessica Spencer
2:23:02 PM	Senator Pizzo
2:23:07 PM	Jessica Spencer
2:23:10 PM	Senator Pizzo
2:23:18 PM	Jessica Spencer
2:23:21 PM	Senator Pizzo
2:23:23 PM	Jessica Spencer
2:23:28 PM	Senator Pizzo
2:23:33 PM	Jessica Spencer
2:23:37 PM	Senator Pizzo
2:23:46 PM	Jessica Spencer
2:24:40 PM	Senator Pizzo
2:24:48 PM	Jessica Spencer
2:24:57 PM	Senator Pizzo
2:25:13 PM	Jessica Spencer
2:25:16 PM	Senator Pizzo
2:25:49 PM	Jessica Spencer
2:26:56 PM	Chair Martin thanks Jessica Spencer
2:27:02 PM	Tab 3: SB 150 Animal Cruelty During a Declared State of Emergency by Senator Gaetz
2:27:04 PM	Senator Gaetz explains the bill
2:27:56 PM	Amendment #190218
2:27:58 PM	Senator Gaetz explains the amendment
2:28:12 PM	Senator Gaetz closes on the amendment
2:29:13 PM	Chair Martin reports amendment out
2:29:21 PM	Chair Martin recognizes public testimony
2:29:36 PM	Debate:
2:29:58 PM	Senator Pizzo

2:30:11 PM	Senator Gaetz waives close
2:30:17 PM	Roll call
2:30:33 PM	Tab 4: SB 234 Criminal Offenses Against Law Enforcement Officers and Other Personnel by Senator Leek
2:30:35 PM	Chair Martin recognizes Senator Leek
2:30:43 PM	Senator Leek explains bill
2:34:02 PM	Questions
2:34:05 PM	Senator Pizzo
2:35:08 PM	Senator Leek
2:35:11 PM	Senator Pizzo
2:35:16 PM	Senator Leek
2:36:17 PM	Senator Pizzo
2:37:30 PM	Senator Leek
2:37:43 PM	Senator Pizzo
2:38:37 PM	Senator Leek
2:38:55 PM	Senator Pizzo
2:40:07 PM	Senator Leek
2:40:12 PM	Senator Pizzo
2:40:32 PM	Senator Leek
2:40:40 PM	Senator Pizzo
2:40:47 PM	Senator Leek
2:41:07 PM	Vice Chair Smith
2:42:11 PM	Senator Leek
2:42:20 PM	Vice Chair Smith
2:43:33 PM	Senator Leek
2:43:59 PM	Vice Chair Smith
2:44:17 PM	Senator Leek
2:44:31 PM	Vice Chair Smith
2:45:24 PM	Senator Leek
2:45:51 PM	Chair recognizes public testimony:
2:46:08 PM	Aaron Wayt
2:46:29 PM	RJ Iarizza
2:48:21 PM	Chair Martin allows questions:
2:48:26 PM	Senator Pizzo
2:48:32 PM	RJ Iarizza
2:48:39 PM	Senator Pizzo
2:48:48 PM	RJ Iarizza
2:49:00 PM	Chair thank
2:49:05 PM	Mike S
2:49:21 PM	Debate:
2:50:17 PM	Senator Pizzo
2:52:15 PM	Vice Chair Smith
2:54:18 PM	Senator Leek closes on the bill
2:54:58 PM	Roll call
2:55:21 PM	Tab 2, SB 138 Driving Under the Influence by Senator Wright
2:55:24 PM	Chair Martin recognizes Senator Wright
2:55:37 PM	Senator Wright explains the bill
2:55:49 PM	Amendment 524716
2:55:53 PM	Senator Wright explains the amendment
2:57:00 PM	Questions:
2:57:02 PM	Senator Pizzo
2:57:13 PM	Senator Wright
2:57:22 PM	Senator Pizzo
2:57:39 PM	Senator Wright closes on the amendment
2:58:00 PM	Chair Martin reports amendment
2:58:06 PM	Questions:
2:58:15 PM	Vice Chair Smith
2:58:45 PM	Senator Wright
2:58:55 PM	Vice Chair Smith
2:59:07 PM	Senator Pizzo
2:59:40 PM	Chair Martin recognizes public testimony:
3:00:08 PM	Aaron Wayt

3:01:24 PM Mandi Stewart
3:05:47 PM Comments:
3:05:51 PM Vice Chair Smith
3:06:02 PM Mandi Stewart
3:06:06 PM Jodi James; Florida Cannabis Action Network
3:08:27 PM Senator Wright closes on the bill
3:09:21 PM Roll Call
3:09:57 PM Tab 1, SB 130 Compensation of Victims of Wrongful Incarceration by Senator Bradley
3:10:00 PM Chair Martin recognizes Senator Bradley
3:10:07 PM Senator Bradley explains the bill
3:11:36 PM Senator Bradley waives close
3:11:43 PM Roll Call
3:12:04 PM Tab 5, Presentation by The Department of Highway Safety and Motor Vehicles
3:12:06 PM Chair Martin recognizes Lt. Taylor
3:12:08 PM Lieutenant Taylor
3:28:01 PM Questions
3:28:06 PM Senator Pizzo
3:28:17 PM Lieutenant Taylor
3:28:29 PM Senator Pizzo
3:29:00 PM Lieutenant Taylor
3:34:04 PM Chair Martin
3:34:58 PM Lieutenant Taylor
3:35:43 PM Chair Martin
3:36:02 PM Lieutenant Taylor
3:37:08 PM Chair Martin
3:38:02 PM Lieutenant Taylor
3:39:41 PM Senator Simon moves we adjourn
3:39:44 PM Meeting adjourned
3:39:52 PM