

CS/SB 1012 by **BI, Richter**; (Similar to CS/H 0673) Financial Institutions

CS/CS/SB 364 by **CJ, CU, Brandes**; (Similar to CS/CS/H 0641) Computer Crimes

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CS/SB 700 by **JU, Bradley (CO-INTRODUCERS) Detert**; (Similar to H 7055) Department of Juvenile Justice

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON CRIMINAL AND
CIVIL JUSTICE
Senator Bradley, Chair
Senator Joyner, Vice Chair

MEETING DATE: Wednesday, March 12, 2014

TIME: 9:00 —11:00 a.m.

PLACE: *Mallory Horne Committee Room, 37 Senate Office Building*

MEMBERS: Senator Bradley, Chair; Senator Joyner, Vice Chair; Senators Altman, Braynon, Clemens, Dean, Diaz de la Portilla, Flores, Garcia, Grimsley, Hays, Smith, and Soto

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 1012 Banking and Insurance / Richter (Similar CS/H 673, Compare CS/H 675, Link S 1278)	Financial Institutions; Revising provisions relating to prohibited acts and practices by a financial institution; authorizing the circuit court to issue an injunction in order to protect the interests of the depositors, members, creditors, or stockholders of a financial institution and the public's interest in the safety and soundness of the financial institution system; providing notice requirements and procedures that allow a financial institution to protect trade secrets included in documents submitted to the Office of Financial Regulation; prohibiting certain financial institutions from using a name that may mislead consumers, etc. BI 03/05/2014 Fav/CS ACJ 03/12/2014 Favorable AP	Favorable Yeas 12 Nays 0
2	CS/CS/SB 364 Criminal Justice / Communications, Energy, and Public Utilities / Brandes (Similar CS/CS/H 641, Compare CS/H 643, Link S 366)	Computer Crimes; Providing that a person who willfully, knowingly, and without authorization accesses a computer network or electronic device, disrupts the ability to transmit data to or from a computer network or electronic device, damages a computer network or electronic device, or engages in the audio or video surveillance of an individual without the individual's authorization by accessing a computer network or electronic device commits an offense against the users of computer networks and electronic devices, etc. CU 02/04/2014 Fav/CS CJ 02/17/2014 Fav/CS ACJ 03/12/2014 Temporarily Postponed AP	Temporarily Postponed

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Criminal and Civil Justice
Wednesday, March 12, 2014, 9:00 —11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/SB 700 Judiciary / Bradley (Similar H 7055)	Department of Juvenile Justice; Allowing a child who has been detained to be transferred to the detention center or facility in the circuit in which the child resides or will reside at the time of detention; requiring the court to hold a hearing if a child is charged with direct contempt of court and to afford the child due process at such hearing; providing goals for the department's prevention services; prohibiting an employee from willfully and maliciously neglecting a juvenile offender, etc. CJ 02/17/2014 Favorable JU 03/04/2014 Fav/CS ACJ 03/12/2014 Temporarily Postponed AP	Temporarily Postponed

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.			
Secretary of Corrections			
4	Crews, Michael D. ()	Pleasure of Governor	Recommend Confirm Yeas 12 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	Office of Economic and Demographic Research, Criminal Justice Estimating Conference Update		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 Appropriations Subcommittee on Criminal and Civil Justice

BILL: CS/SB 1012

INTRODUCER: Banking and Insurance Committee and Senator Richter

SUBJECT: Financial Institutions

DATE: March 11, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Davis/Clodfelter</u>	<u>Sadberry</u>	<u>ACJ</u>	<u>Favorable</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1012 amends provisions of the Financial Institutions Codes (codes). The Office of Financial Regulation (OFR) regulates state-chartered banks, trust companies, credit unions, and other financial institutions pursuant to the codes. The OFR ensures that Florida-chartered financial institutions comply with state and federal requirements for safety and soundness. This bill provides the following changes to the codes:

- Updates provisions of the Florida Control of Money Laundering in Financial Institutions Act to codify the requirements of the Federal USA PATRIOT Act and the Office of Foreign Asset Control.
- Clarifies permissible activities for out of state trust companies and business trusts.
- Expands the scope of persons subject to prohibited acts and practices to include affiliates and related interests.
- Authorizes the OFR to issue immediate cease and desist orders for persons using misleading banking-related names to perpetrate fraud on Florida consumers.
- Expands competitive equality for Florida-chartered financial institutions by clarifying that the par value requirement only applies to the settlement of checks between financial institutions, and provides that such institutions may charge fees to cash checks.
- Expands competitive equality to Florida-chartered credit unions by authorizing employee benefit plans and specified types of insurance coverage that is consistent with regulations governing federal credit unions.

The bill repeals the \$2,000 annual assessment imposed on each international representative office, international administrative office and international trust company.

The OFR indicates that it expects the provisions of the bill to have a negligible fiscal impact. The Office of the State Courts Administrator expects the bill to result in an increase in workload for the court system, but is unable to estimate the extent or cost of the increase.

II. Present Situation:

The “dual banking system” refers to the parallel state and federal banking systems that co-exist in the United States. The federal system is based on a federal bank charter, powers defined under federal law, the National Bank Act,¹ operation under federal regulations, and oversight by the primary federal regulator, the Office of the Comptroller of the Currency (OCC) within the U.S. Department of the Treasury. The state system is characterized by state chartering, bank powers established under state law, and operation under state standards, including oversight by state supervisors. The primary federal regulator for state banks that are members of the Federal Reserve is the Federal Reserve. The primary federal regulator for non-members is the Federal Deposit Insurance Corporation.

National banks are subject to state laws concerning their daily course of business, such as their acquisition and transfer of property, their right to collect their debts and their liability to be sued for debts, contracts, usury, and trust powers.² However, while states are generally free to legislate on matters not controlled by federal regulation, the application of state laws to national banks is subject to the preemption doctrine. By operation of the Supremacy Clause of the United States Constitution, federal regulation of a particular subject preempts state regulation related to the same subject. For instance, the United States Supreme Court held that a federal statute granting small town banks the authority to sell insurance preempted a Florida statute that prohibited such sales.³ The federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 codified the test for “conflict preemption” articulated in the *Barnett Bank* decision. The conflict preemption test asks whether the state law prevents or significantly interferes with the exercise of a national bank’s powers.

Federal Oversight

The Federal Deposit Insurance Corporation (FDIC) insures deposits in banks and thrift institutions for at least \$250,000 and identifies, monitors, and addresses risks to deposit insurance funds. The FDIC Rules and Regulations require an annual, comprehensive on-site examination of every insured state nonmember bank at least once during each 12-month period, with exceptions.

¹ The National Bank Act of 1964 (12 U.S.C. s. 24) gives enumerated powers and “all such incidental powers as shall be necessary to carry on the business of banking” to nationally chartered banks. To prevent inconsistent or intrusive state regulation from impairing the national system, Congress provided “No national bank shall be subject to any visitatorial powers except as authorized by Federal law.” *Id.* at s. 484(a).

² *National Bank v. Commonwealth*, 76 U.S. 353 (1869).

³ *Barnett Bank of Marion County, N.A. v. Nelson, Florida Insurance Commissioner, et. al.*, 517 U.S. 25 (1999).

Anti-Money Laundering and Terrorist Financing Provisions

The Financial Crimes Enforcement Network (FinCEN) within the U.S. Department of the Treasury is charged with safeguarding the U.S. financial system from the abuses of money laundering, terrorist financing, and other financial crimes. It exercises regulatory functions primarily under the Currency and Financial Transactions Reporting Act of 1970, as amended by Title III of the USA PATRIOT Act of 2001⁴ and other legislation, which is known as the "Bank Secrecy Act" (BSA). The Secretary of the Treasury has delegated to the Director of FinCEN the authority to implement, administer, and enforce compliance with the BSA and associated regulations. These regulations include requiring banks and other financial institutions to take a number of precautions against financial crime, including the establishment of anti-money laundering (AML) programs, maintaining certain records, and the filing of reports.

The Office of Foreign Assets Control (OFAC) within the U.S. Department of the Treasury administers and enforces economic and trade sanctions programs primarily against countries and groups of individuals, such as terrorists and narcotics traffickers. Prohibited transactions can include trade or financial transactions and other dealings in which U.S. persons may not engage unless authorized by the OFAC or expressly exempted by statute.⁵

State Oversight

The Office of Financial Regulation (OFR) ensures Florida-chartered financial institutions comply with state and federal requirements for safety and soundness. The codes define the term, "financial institution," to include banks, trust business, credit unions, international banks, savings banks and other entities.⁶

Enforcement Authority

Section 655.041, F.S., allows the OFR to initiate administrative proceedings to impose a fine against persons that have violated the financial institutions codes, a cease and desist order of the OFR, or any written agreement with the OFR. Section 655.041, F.S., provides that a person must receive written notice of a violation and be offered a reasonable period to cure the violation before the accrual of any fines or the initiation of any administrative proceedings to impose a fine.

Lending Limits and Related Interests

According to the OCC regulations for national banks, lending limits ensure the safety and soundness of national banks by preventing excessive loans to one person or to related persons that are financially dependent. These limits promote diversification of loans and help ensure equitable access to banking services.⁷ The lending limits apply to all loans and extensions of credit made by national banks and their domestic operating subsidiaries. If the state lending

⁴ The official title of the USA PATRIOT Act is "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001." Pub. Law No. 107-56, H.R. 3162, 107th Cong. (October 26, 2001).

⁵ See <http://www.treasury.gov/resource-center/faqs/Sanctions/Pages/answer.aspx#1> (last visited February 26, 2014).

⁶ Section 655.005, F.S.

⁷ 12 C.F.R. 32.1(b).

limits are lower than those provided by Regulation O for state banks that are members of the Federal Reserve System, Regulation O provides that the state lending limits control.

Florida-chartered banks are also subject to lending limits. Generally, a bank may extend unsecured credit to any person up to 15 percent of its capital accounts, and up to 25 percent of its capital accounts for secured credit. For the latter, the codes specify that the 25 percent limitation must include the borrower's "related interests."⁸ If the bank's total extension of credit to any person (including his or her related interests) exceeds 15 percent of the bank's capital accounts, a majority of the bank's board of directors must approve the loan in advance. A bank is prohibited from extending credit of more than \$25,000 to any of its executive officers and directors (and their related interests) unless the majority of the board of directors have approved the loan in advance.

Currently, s. 655.005(1)(t), F.S., defines "related interest" as:

[W]ith respect to any person, the person's spouse, partner, sibling, parent, child, or other individual residing in the same household as the person.

With respect to any person, the term means a company, partnership, corporation, or other business organization controlled by the person. A person has control if the person:

- Owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the organization;
- Controls in any manner the election of a majority of the directors of the organization; or
- Has the power to exercise a controlling influence over the management or policies of the organization.

The 2011 Legislature amended the definition of "related interest."⁹ Prior to 2011, the term, "related interest," was defined within the context of credit unions' loan powers and lending limits for state banks, and was limited to only any partnership, corporation, or other business organization controlled by a person. Because of the 2011 legislation, "related interest" was moved to s. 655.005(1)(t), F.S., as a general definition and was amended to include specified family and household members of a person. The purpose of this change was to stop circumvention of lending limits by executives and stockholders, who used relatives to obtain loans and other financial benefits.

Regulation O contains a similar prohibition for loans to executive officers, directors, and principal shareholders of state and national banks that are members of the Federal Reserve System.¹⁰ Regulation O provides that a principal shareholder is a person with 10 percent or more of a bank's voting securities, and accounts for shares owned by that person's "immediate family." However, Regulation O only considers an individual's spouse, minor children, and the individual's children residing in the same household, while the Florida provision also includes partners, siblings, parents, or other individuals residing in the same household.

⁸ Section 658.48(1)(a), F.S.

⁹ Ch. 2011-194, Laws of Fla.

¹⁰ 12 C.F.R. s. 215.

Settlement of Checks and Par Value

Section 655.85, F.S., requires banks to settle checks “at par,” or at face value. This means that if a person presented a check made out to her or him for \$500 to any bank in Florida, the bank is required to provide \$500 in funds. In the past several years, this provision has generated significant litigation in both state and federal courts by consumers who were charged fees to have checks cashed at banks at which they were not account holders. These cases generally involved federal preemption and applicability of the fee limitations to bank-to-bank transactions or to the cashing of personal checks.

Vida Baptista (“Baptista”), sought to cash a check at a Florida branch of JPMorgan Chase, a national bank. While a Chase account holder wrote the check, Baptista was not a Chase account holder, and was charged a \$6 fee by Chase to cash the check immediately. Baptista brought a class action lawsuit against Chase in federal court, asserting the fee violated s. 655.85, F.S. The federal court held that s. 655.85, F.S., applied to fees on personal checks presented by the payee in person. However, in applying the Barnett Bank/Dodd-Frank preemption test described above, the federal district and appellate courts ruled in favor of Chase, finding that s. 655.85, F.S., was preempted by the National Bank Act, which allows banks to exercise a range of incidental powers necessary to carry on the business of banking.¹¹

Baptista also brought a separate class action lawsuit against PNC Bank, a North Carolina state-chartered bank, in a Florida state court, based on grounds similar to those raised in her lawsuit against Chase. Baptista did not hold an account at PNC Bank and was charged a \$5 check-cashing fee to cash a check at a Florida branch. The Fifth District Court of Appeal found that a statute was not preempted. The court held that a North Carolina state-chartered bank was not permitted to charge check-cashing fees under the statute. Finding that the statute was not ambiguous, the Fifth DCA found that the statute did not apply only to bank-to-bank transactions.¹² In an earlier decision, the Fifth DCA had ruled in favor of Bank of America (a national bank) by holding that s. 655.85, F.S., was preempted by federal law.¹³

On January 2, 2013, a federal district court in Florida ruled in favor of Regions Bank (an Alabama state-chartered bank) in a class action lawsuit similar to both Baptista cases.¹⁴ Following the 11th Circuit Court of Appeal’s decision in *Baptista v. JPMorgan Chase Bank*, the federal district court found that s. 655.85, F.S., was preempted, and thus inapplicable to both national banks and out-of-state state-chartered banks. However, the federal court did not address the issue of whether the statute applied only to bank-to-bank transactions or to the cashing of personal checks. These decisions do not affect the statute’s prohibition on Florida-chartered banks to charge check-cashing fees, because banks must follow the laws and regulations of their chartering authority.

¹¹ *Vida Baptista v. JPMorgan Chase Bank*, 640 F.3d 1194 (11th Cir. C.A. 2011). The U.S. Supreme Court denied Baptista’s petition for certiorari review of the federal appellate decision. *Baptista v. JPMorgan Chase Bank, N.A.*, 132 S.Ct. 253 (2011).

¹² *Vida Baptista v. PNC, N.A.*, 91 So.3d 230 (Fla. 5th DCA 2012) (per curiam), *cert. denied*, 133 S.Ct. 895 (2013).

¹³ *Britt v. Bank of America, N.A.*, 52 So.3d 809 (Fla. 5th DCA 2011).

¹⁴ *Pereira v. Regions Bank*, 2013 WL 265314 (M.D.Fla. 2013).

Competitive Equality

States have enacted competitive equality or parity statutes to address the competitive advantages granted to national banks through their “incidental banking powers” under the federal National Bank Act. In Florida, if a state law places a Florida institution at a competitive disadvantage with a national institution, the OFR may grant a Florida institution the authority to make any loan or investment or exercise any power that it could make or exercise if it was a federally chartered financial institution, and provide entitlement to the same privileges and protections granted to a federally chartered or regulated institution.¹⁵ In addition, the office or commission must consider the importance of maintaining a competitive dual system of financial institutions, and whether issuing such an order or rule is in the public interest.¹⁶

III. Effect of Proposed Changes:

Settlement of Checks and Par Value (Sections 11 and 12)

The bill provides that financial institutions must settle checks between institutions at par. The bill clarifies that banks are not prohibited from charging fees to cash checks presented by payees in person, thereby providing consistency with the federal decisions discussed in the Present Situation above. The bill provides a statement of legislative intent indicating that the changes clarify the relevant portions of the codes relating to the fees imposed by financial institutions.

Enforcement Authority

Related Interests (Section 1)

The bill amends the definition of “related interest” under s. 655.005, F.S. The bill removes a person’s partner, sibling, or other individual residing in the same household as the person from the definition. The revised definition provides that the term “related interest” applies to an individual, company, partnership, corporation, or other business organization that engages in a common business enterprise with that person.

Prohibited Acts (Section 2)

The bill amends s. 655.0322, F.S., to expand the scope of prohibited acts and practices to include affiliates and related interests. The codes define “affiliate” as “a holding company of a financial institution established pursuant to state or federal law, a subsidiary or service corporation of such holding company, or a subsidiary or a service corporation of a financial institution.”¹⁷

Administrative Authority and Fines (Section 6)

The bill amends s. 655.041, F.S., to revise the OFR’s authority by providing that a violation of any rules adopted under the codes is also grounds for the OFR to impose administrative fines. The bill provides that a violation of any OFR order is a basis for administrative fines. Under

¹⁵ See Section 655.061, F.S.

¹⁶ The OFR’s orders of general application are publicly available on its agency website.

<https://real.flofr.com/ConsumerServices/SearchLegalDocuments/LDSearch.aspx> (last accessed February 28, 2014).

¹⁷ Violation of subsection (2), (3), or (4) is a third degree felony, punishable by imprisonment for a term of up to five years and a fine of up to \$5,000. Violation of subsection (4) or (5) is a second degree felony, punishable by imprisonment for a term of up to 15 years and a fine of up to \$10,000.

current law, the OFR may initiate a proceeding if a person has violated the codes, a cease and desist order, or a written agreement with the OFR. The bill expands the scope of the section to apply to affiliates and persons regulated by the OFR pursuant to s. 655.0391, F.S. The bill provides that if there is a violation of an OFR order or written agreement, fines begin accruing immediately upon the service of a complaint. Such fines will continue until the violation is corrected.

Injunctions (Section 3)

The bill provides that a violation of a “formal enforcement action” would allow the circuit court to have jurisdiction to hear the complaint. The bill defines a “formal enforcement action.” The bill provides that the circuit court has jurisdiction to issue an injunction in order to protect the interests of the depositors, members, creditors, or stockholders or the public’s interest in the safety and soundness of the financial institution system. Currently, the codes authorize the OFR to pursue injunctive relief in circuit court whenever a “threatened and impending” violation of the codes “will cause substantial injury to a state financial institution or its depositors, members, creditors, or stockholders.”

Approval of Directors and Executive Officers (Sections 5 and 16)

The bill creates a new subsection in s. 655.0385, F.S., to prohibit a director or executive officer of a state financial institution or affiliate from concurrently serving as a director or officer in a nonaffiliated financial institution or affiliate in the same geographical area or the same major business market area, unless this prohibition is waived by the OFR. The OFR may waive this prohibition if the person can demonstrate that the proposed concurrent service does not present a conflict of interest and neither institution is disadvantaged in the common market area. The bill amends s. 657.028, F.S., to provide that an individual may not serve as a director, officer, or committee member of a credit union if he or she had defaulted on a debt or obligation to a financial institution that resulted in a material loss to the financial institution and allows for exceptions with the prior approval of the OFR. The same criteria already applies to individuals serving at other financial institutions.

Unauthorized Banking (Section 14)

The bill amends s. 655.922, F.S., to expand the list of terms, names, words, symbols, etc., which are limited for use by a financial institution authorized to do business in Florida. The bill prohibits a financial institution, affiliate, subsidiary, or service corporation from conducting business in Florida using a name, trademark, Internet address or logo that may mislead consumers or cause confusion as to the identification of the proper legal business or the nature of the institution’s business. The bill enhances the OFR’s enforcement authority by authorizing the OFR to seek a circuit court order for the annulment or dissolution of a corporation found violating any provision of this section, and to issue and serve an emergency cease and desist order. The bill provides that the OFR is not required to determine the consequences that a violation of this section may cause. Currently, the codes prohibit any person, other than an authorized state or federal financial institution, from engaging in the business of soliciting or receiving funds for deposit, issuing certificates of deposit, or paying checks. A violation of this provision is a third-degree felony.

Examinations, Records, and Reports

Examinations (Sections 7, 8, and 23)

The bill amends s. 655.045, F.S., to clarify that the OFR is required to conduct an examination of each state financial institution at least once every 18 months. Beginning July 1, 2014, the bill provides that during each 36-month period, the OFR is required to conduct an examination of each state financial institution in a manner that allows the preparation of a complete examination report not subject to the right of a federal or other non-Florida entity to limit access to the information. Under current law, the OFR may accept an examination made by an appropriate federal regulatory agency or may conduct a joint or concurrent examination with the federal agency.

The bill amends s. 655.057, F.S., to provide that any information provided to the OFR by any person pursuant to an investigation or other supervisory activity of the OFR is not considered a waiver of any privilege or other legal proceeding in which the office is not a party. It also clarifies who has the right to copy membership and shareholder records.

Trade Secrets (Section 9)

Currently, the codes do not provide a public records exemption for trade secret documents held by the OFR. Senate Bill 1278, if enacted, creates a public records exemption for certain examination documents containing proprietary business information that is a trade secret. The bill creates s. 655.0591, F.S., to specify requirements for submission of a document or other information to the OFR in order for a person to claim that the information is a trade secret. The failure to file a notice of trade secret with the OFR constitutes a waiver of any claim by such person that the information is a trade secret. The requirements include labeling each page or portion as a trade secret and separating the trade secret documents from the non-trade secret material. The bill requires the submitting party to include an affidavit certifying certain information as to the trade secret status of the documents. If the OFR receives a public records request for information that is marked and certified as confidential, the OFR must immediately notify the person that certified the information as a trade secret. The bill requires the OFR to inform such person that, in order to avoid disclosure of the trade secret; the person must file an action in circuit court within 30 days seeking declaratory judgment that the document contains trade secrets and an order barring disclosure. The owner of the information is required to provide written notice to the OFR that the action was filed and the OFR may not release the documents pending the outcome of legal action. The failure to file an action within 30 days constitutes a waiver of any claim of confidentiality. The bill allows the OFR to disclose a trade secret to an employee or officer of another governmental agency whose use of the trade secret is within the scope of their employment.

Florida Control of Money Laundering and Terrorist Financing (Sections 4, 10, 19, 20, 22, 25, 27, 28, 30, and 31)

The bill updates current recordkeeping and reporting provisions to conform to the USA PATRIOT Act and the Office of Foreign Asset Control (OFAC) requirements. The bill amends s. 655.50, F.S., to require each financial institution to designate and retain a BSA/AML compliance officer and provides that the board of directors is responsible for establishing the

institution's BSA/AML and OFAC policies and compliance. The bill also amends s. 655.50, F.S., to define the term "suspicious activity," and requires a financial institution to maintain specified records and report financial transactions that the institution reasonably believes is suspicious activity. It also provides that a suspicious activity report is entitled to the same confidentiality provided under 31 C.F.R. s. 1020.320.

Out of State Trust, Business Trust, and Trust Business (Sections 13 and 18)

The bill amends s. 655.921, F.S., to provide that the codes do not prohibit a financial institution or business trust which has its principal place of business outside of Florida from filing suit in Florida to collect any debt or foreclose on any security interest in collateral securing a debt. The intent of this language is to clarify permissible activities for out-of-state trust companies and business trusts. It also provides that an out-of-state business trust which own pools of mortgages and is pursuing foreclosure actions is not considered to be engaging in trust business in Florida.

The bill revises the definition of "trust business" in s. 658.12, F.S., to include a business that receives compensation that is not deemed de minimis by the OFR. The OFR indicates that it routinely receives inquiries on behalf of individuals engaging in estate planning activities that involves the use of trusts, which provide for the appointment of trustees that are not family members and are not otherwise subject to a structure of regulatory oversight. These trusts often provide for de minimis compensation and expense reimbursement. Further, the individuals are not engaging in business as professional fiduciaries.

Credit Unions and Competitive Equality (Sections 15 and 17)

The bill revises the application process and approval criteria for new branch applications and relocations by state-chartered credit unions and codifies a 2008 Order of General Application (OGA) issued by the OFR which allows a state credit union to maintain branches without requiring prior OFR examination and approval if certain conditions are met. Currently, s. 657.008, F.S., allows Florida credit unions to establish or relocate branch offices only if the credit union is operating in a safe and sound manner, its board has determined that such branches are reasonably necessary to furnish service to its members, and the credit union has provided 30 days' prior written notification to the OFR. Thus, Florida credit unions that do not meet this criterion cannot establish or relocate branch offices, even if the establishment or relocation of a branch would be in the best interests of the credit union and its members. This has placed Florida credit unions at a competitive disadvantage with their federally chartered counterparts, who are permitted under the Federal Credit Union Act and the National Credit Union Administration's (NCUA) regulations to establish or relocate branches if its directors determine that such action would be in the best interest of the federal credit union's members.

The bill s. 657.041, F.S., to authorize state credit unions to establish employee, officer, and director benefit plans, insurance, and investments consistent with NCUA rules for federal credit unions. This would codify the 2011 OGA currently in place to address competitive equality issues regarding a state credit union's ability to offer products that are permissible for a federal credit union.

Loans of \$50,000 or Less (Sections 21, 22, 26, and 29)

Current law caps the interest rate on loans of \$50,000 or less which are issued by state-chartered banks at 18 percent per year. The law allows two additional charges with exceptions. National banks are not subject to such lending restrictions, which raises a competitive equality issue for Florida-chartered banks. The bill repeals section 658.49, F.S., and makes technical and conforming changes.

Annual Assessments for International Offices (Section 24)

The bill repeals the \$2,000 annual assessment that is imposed on each international representative office, international administrative office, and international trust company office by s. 663.12, F.S..

Effective Date (Section 32)

The bill takes effect July 1, 2014.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

CS/SB 1012 repeals the \$2,000 annual assessment imposed on each international representative office, international administrative office and international trust company.

B. Private Sector Impact:

The bill codifies current federal credit union regulations relating to branches, and employee benefit plans, which would place state credit unions at parity with federal credit unions.

The bill clarifies that institutions may charge customers a fee to cash checks. This will provide consistency with the federal laws permitting national banks and out-of-state state-chartered banks operating in Florida to charge check-cashing fees, and will place Florida-chartered banks at parity with national and other state-chartered banks.

C. Government Sector Impact:

According to the OFR, the fiscal impact of repealing the \$2,000 annual assessment fee for each international representative office, international administrative office or international trust company office is \$18,000 on annual basis. The OFR considers this fiscal impact to be negligible.

The Office of the State Courts Administrator indicates that it expects some increase in workload as a result of the expanded authority to issue injunctions, new provisions regarding public records and trade secrets, and new authorization for the OFR and out-of-state financial institutions and business trust to engage in litigation. However, the extent and cost of the increase in workload 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: 655.005, 655.0322, 655.034, 655.037, 655.0385, 655.041, 655.045, 655.057, 655.50, 655.85, 655.921, 655.922, 657.008, 657.028, 657.041, 658.12, 658.21, 658.235, 663.02, 663.09, 663.12, 663.306, 665.013, 665.033, 665.034, 667.003, 667.006, and 667.008.

This bill creates section 655.0591 of the Florida Statutes.

This bill repeals section 658.49 of the Florida Statutes.

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

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

CS by Banking and Insurance on March 5, 2014:

CS/SB 1012 provides technical, clarifying changes.

B. Amendments:

None.

By the Committee on Banking and Insurance; and Senator Richter

597-02194-14

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1 A bill to be entitled
 2 An act relating to financial institutions; amending s.
 3 655.005, F.S.; revising the definition of "related
 4 interest"; amending s. 655.0322, F.S.; revising
 5 provisions relating to prohibited acts and practices
 6 by a financial institution; applying certain
 7 provisions to affiliates; amending s. 655.034, F.S.;
 8 authorizing the circuit court to issue an injunction
 9 in order to protect the interests of the depositors,
 10 members, creditors, or stockholders of a financial
 11 institution and the public's interest in the safety
 12 and soundness of the financial institution system;
 13 defining "formal enforcement action"; amending s.
 14 655.037, F.S.; conforming a cross-reference; amending
 15 s. 655.0385, F.S.; prohibiting a director or executive
 16 officer from concurrently serving as a director or
 17 officer in a financial institution or affiliate in the
 18 same geographical area or the same major business
 19 market area unless waived by the Office of Financial
 20 Regulation; amending s. 655.041, F.S.; revising
 21 provisions relating to administrative fines;
 22 clarifying that the office may initiate administrative
 23 proceedings for violations of rules; providing that
 24 fines for violations begin accruing immediately upon
 25 the service of a complaint; applying certain
 26 provisions to affiliates; revising the applications
 27 for imposing a fine; amending s. 655.045, F.S.;
 28 requiring the office to conduct an examination of a
 29 financial institution within a specified period;

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30 amending s. 655.057, F.S.; conforming a cross-
 31 reference; providing that specified records are not
 32 considered a waiver of privileges or legal rights in
 33 certain proceedings; clarifying who has a right to
 34 copy member or shareholder records; creating s.
 35 655.0591, F.S.; providing notice requirements and
 36 procedures that allow a financial institution to
 37 protect trade secrets included in documents submitted
 38 to the office; amending s. 655.50, F.S.; amending
 39 provisions relating to the control of money laundering
 40 to also include terrorist financing; adding and
 41 revising definitions; requiring a financial
 42 institution to have a BSA/AML compliance officer;
 43 updating cross-references; amending s. 655.85, F.S.;
 44 clarifying that an institution may impose a fee for
 45 the settlement of a check under certain circumstances;
 46 providing legislative intent; amending s. 655.921,
 47 F.S.; revising provisions relating to business
 48 transactions by an out-of-state financial institution;
 49 providing that such institution may file suit to
 50 collect a security interest in collateral; amending s.
 51 655.922, F.S.; revising provisions relating to the
 52 name of a financial institution; prohibiting certain
 53 financial institutions from using a name that may
 54 mislead consumers; authorizing the office to seek
 55 court orders to annul or dissolve a business entity
 56 for certain violations and to issue emergency cease
 57 and desist orders; amending s. 657.008, F.S.;
 58 requiring certain credit unions seeking to establish a

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59 branch office to submit an application to the office
 60 for examination and approval; providing the criteria
 61 for the examination; amending s. 657.028, F.S.;

62 revising provisions relating to prohibited activities
 63 of directors, officers, committee members, employees,
 64 and agents of credit unions; requiring the name and
 65 address of the credit manager to be submitted to the
 66 office; amending s. 657.041, F.S.; authorizing a
 67 credit union to pay health and accident insurance
 68 premiums and to fund employee benefit plans under
 69 certain circumstances; amending s. 658.12, F.S.;

70 revising the definition of "trust business"; amending
 71 ss. 658.21 and 658.235, F.S.; conforming cross-
 72 references; repealing s. 658.49, F.S., relating to
 73 requirements for bank loans up to \$50,000; amending
 74 ss. 663.02 and 663.09, F.S.; conforming provisions to
 75 changes made by the act; amending s. 663.12, F.S.;

76 deleting an annual assessment imposed on certain
 77 international offices; amending s. 663.306, F.S.;

78 conforming provisions to changes made by the act;
 79 amending ss. 665.013, 665.033, 665.034, 667.003,
 80 667.006, and 667.008, F.S.; conforming cross-
 81 references; providing an effective date.

82
 83 Be It Enacted by the Legislature of the State of Florida:

84
 85 Section 1. Paragraph (t) of subsection (1) of section
 86 655.005, Florida Statutes, is amended to read:
 87 655.005 Definitions.-

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88 (1) As used in the financial institutions codes, unless the
 89 context otherwise requires, the term:

90 (t) "Related interest" means, with respect to a any
 91 person:

92 1. The person's spouse, ~~partner, sibling, parent,~~ child, or
 93 other dependent individual residing in the same household as the
 94 person; ~~With respect to any person, the term means~~

95 2. A company, partnership, corporation, or other business
 96 organization controlled by the person. A person has control if
 97 the person:

98 a.1. Owns, controls, or has the power to vote 25 percent or
 99 more of any class of voting securities of the organization;

100 b.2. Controls in any manner the election of a majority of
 101 the directors of the organization; or

102 c.3. Has the power to exercise a controlling influence over
 103 the management or policies of the organization; ~~or~~

104 3. An individual, company, partnership, corporation, or
 105 other business organization that engages in a common business
 106 enterprise with that person. A common business enterprise exists
 107 if:

108 a. The expected source for repayment of a loan or extension
 109 of credit is the same for each borrower and neither borrower has
 110 another source of income from which the loan, together with the
 111 borrower's other obligations, may be fully repaid. An employer
 112 will not be treated as a source of repayment under this
 113 paragraph because of wages and salaries paid to an employee,
 114 unless the standards of sub-subparagraph b. are met;

115 b. Loans or extensions of credit are made:

116 (I) To borrowers who are directly or indirectly related

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117 through common control, including where one borrower is directly
 118 or indirectly controlled by another borrower; and

119 (II) Substantial financial interdependence exists between
 120 or among the borrowers. Substantial financial interdependence
 121 exists if 50 percent or more of one borrower's gross receipts or
 122 gross expenditures on an annual basis are derived from
 123 transactions with the other borrower. Gross receipts and
 124 expenditures include gross revenues and expenses, intercompany
 125 loans, dividends, capital contributions, and similar receipts or
 126 payments;

127 c. Separate persons borrow from a financial institution to
 128 acquire a business enterprise such that those borrowers will own
 129 more than 50 percent of the voting securities or voting
 130 interests of the enterprise, in which case a common enterprise
 131 is deemed to exist between the borrowers for purposes of
 132 combining the acquisition loans; or

133 d. The office determines, based upon an evaluation of the
 134 facts and circumstances of particular transactions, that a
 135 common enterprise exists.

136 Section 2. Section 655.0322, Florida Statutes, is amended
 137 to read:

138 655.0322 Prohibited acts and practices; criminal
 139 penalties.-

140 (1) As used in this section, the term "financial
 141 institution" means a financial institution as defined in s.
 142 ~~655.005 s. 655.50 which includes a state trust company, state or~~
 143 ~~national bank, state or federal association, state or federal~~
 144 ~~savings bank, state or federal credit union, Edge Act or~~
 145 ~~agreement corporation, international bank agency, international~~

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146 ~~branch, representative office or administrative office~~ or other
 147 business entity as defined by the commission by rule, whether
 148 organized under the laws of this state, the laws of another
 149 state, or the laws of the United States, which ~~institution~~ is
 150 located in this state.

151 (2) ~~A~~ ~~It is unlawful for any~~ financial institution-
 152 affiliated party may not ~~to~~ ask for, or willfully and knowingly
 153 receive or consent to receive for himself or herself or any
 154 related interest, a ~~any~~ commission, emolument, gratuity, money,
 155 property, or thing of value for:

156 (a) Procuring, or endeavoring to procure, for any person a
 157 loan or extension of credit from such financial institution,
 158 affiliate, subsidiary, or service corporation; or

159 (b) Procuring, or endeavoring to procure, the purchase or
 160 discount of any note, draft, check, bill of exchange, or other
 161 obligation by such financial institution, affiliate, subsidiary,
 162 or service corporation.

163 Any person who violates this subsection commits ~~is guilty of~~ a
 164 felony of the third degree, punishable as provided in s.
 165 775.082, s. 775.083, or s. 775.084.

166 (3) ~~A~~ ~~It is unlawful for any~~ financial institution-
 167 affiliated party may not ~~to~~:

168 (a) Knowingly receive or possess ~~himself or herself~~ of any
 169 of such financial institution's ~~its~~ property other ~~otherwise~~
 170 than in payment of a just demand, or ~~and~~, with intent to deceive
 171 or defraud, to omit to make or cause to be made a full and true
 172 entry thereof in the financial institution's ~~its~~ books and
 173 accounts, or concur in omitting to make any material entry
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175 thereof;

176 (b) Embezzle, abstract, or misapply any money, property, or
 177 thing of value of ~~such the~~ financial institution, affiliate,
 178 subsidiary, or service corporation with intent to deceive or
 179 defraud ~~the such~~ financial institution, affiliate, subsidiary,
 180 or service corporation;

181 (c) Knowingly make, draw, issue, put forth, or assign any
 182 certificate of deposit, draft, order, bill of exchange,
 183 acceptance, note, debenture, bond or other obligation, mortgage,
 184 judgment, or decree without authority from the board of
 185 directors of such financial institution;

186 (d) Make a ~~any~~ false entry in any book, report, or
 187 statement of such financial institution, affiliate, subsidiary,
 188 or service corporation with intent to deceive or defraud the
 189 ~~such~~ financial institution, affiliate, subsidiary, or service
 190 corporation, or another person, firm, or corporation, or with
 191 intent to deceive the office, any other appropriate federal or
 192 state regulatory agency, or an ~~any~~ authorized representative
 193 appointed to examine the affairs of the such financial
 194 institution, affiliate, subsidiary, or service corporation; or

195 (e) Deliver or disclose to the office or ~~any of~~ its
 196 employees an application, ~~any~~ examination report, report of
 197 condition, report of income and dividends, internal audit,
 198 account, statement, or other document known by him or her to be
 199 fraudulent or false as to any material matter.

200

201 Any person who violates this subsection commits ~~is guilty of~~ a
 202 felony of the third degree, punishable as provided in s.

203 775.082, s. 775.083, or s. 775.084.

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204 (4) A ~~It is unlawful for any~~ financial institution-
 205 affiliated party may not ~~to~~ knowingly place among the assets of
 206 such financial institution, affiliate, subsidiary, or service
 207 corporation any note, obligation, or security ~~that which~~ the
 208 financial institution, affiliate, subsidiary, or service
 209 corporation does not own or ~~that, which~~ to the party's
 210 ~~individual's~~ knowledge, is fraudulent or otherwise worthless or
 211 for the financial institution-affiliated party ~~any such~~
 212 ~~individual~~ to represent to the office that any note, obligation,
 213 or security carried as an asset of such financial institution,
 214 affiliate, subsidiary, or service corporation is the property of
 215 the financial institution, affiliate, subsidiary, or service
 216 corporation and is genuine if it is known to such party
 217 ~~individual~~ that such representation is false or that the such
 218 note, obligation, or security is fraudulent or otherwise
 219 worthless. Any person who violates this subsection commits ~~is~~
 220 ~~guilty of~~ a felony of the third degree, punishable as provided
 221 in s. 775.082, s. 775.083, or s. 775.084.

222 (5) Any person who willfully makes a ~~any~~ false statement or
 223 report, or willfully overvalues any land, property, or security,
 224 for the purposes of influencing in any way the action of a ~~any~~
 225 financial institution, affiliate, subsidiary, or service
 226 corporation or any other entity authorized by law to extend
 227 credit, upon an ~~any~~ application, advance, discount, purchase,
 228 purchase agreement, repurchase agreement, commitment, or loan,
 229 or any change or extension of ~~any of~~ the same, by renewal,
 230 deferment of action or otherwise, or the acceptance, release, or
 231 substitution of security therefor, commits ~~is guilty of~~ a felony
 232 of the second degree, punishable as provided in s. 775.082, s.

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233 775.083, or s. 775.084.

234 (6) Any person who knowingly executes, or attempts to
 235 execute, a scheme or artifice to defraud a financial
 236 institution, affiliate, subsidiary, or service corporation or
 237 any other entity authorized by law to extend credit, or to
 238 obtain ~~any~~ of the moneys, funds, credits, assets, securities, or
 239 other property owned by, or under the custody or control of, a
 240 financial institution, affiliate, subsidiary, service
 241 corporation, or ~~any~~ other entity authorized by law to extend
 242 credit, by means of false or fraudulent pretenses,
 243 representations, or promises, commits is guilty of a felony of
 244 the second degree, punishable as provided in s. 775.082, s.
 245 775.083, or s. 775.084.

246 Section 3. Section 655.034, Florida Statutes, is amended to
 247 read:

248 655.034 Injunctions.—

249 (1) If the office determines that ~~whenever~~ a violation of
 250 the financial institutions codes or a violation of a formal
 251 enforcement action has occurred or is threatened or impending
 252 and such violation will cause substantial injury to a state
 253 financial institution or to the depositors, members, creditors,
 254 or stockholders thereof, the circuit court has jurisdiction to
 255 hear a ~~any~~ complaint filed by the office and, upon proper
 256 showing, to issue an injunction restraining such violation or
 257 granting other ~~such~~ appropriate relief. Upon proper showing, the
 258 circuit court may also issue an injunction restraining any
 259 conduct or other act in order to protect the interests of
 260 depositors, members, creditors, or stockholders of a financial
 261 institution or the interests of the public in the safety and

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262 soundness of the financial institution system in this state and
 263 the proper conduct of fiduciary functions.

264 (2) As used in this section, the term "formal enforcement
 265 action" means:

266 (a) With respect to a financial institution, a supervisory
 267 action subject to enforcement pursuant to s. 655.033, s.
 268 655.037, or s. 655.041 which directs the financial institution
 269 to take corrective action to address violations of law or safety
 270 and soundness deficiencies.

271 (b) With respect to a person or entity that is not a
 272 financial institution, an order issued by the office pursuant
 273 the financial institutions codes which is directed to such
 274 person or entity.

275 Section 4. Subsection (1) of section 655.037, Florida
 276 Statutes, is amended to read:

277 655.037 Removal of a financial institution-affiliated party
278 by the office.—

279 (1) The office may issue and serve upon any financial
 280 institution-affiliated party and upon the ~~state~~ financial
 281 institution, subsidiary, or service corporation involved, a
 282 complaint stating charges if ~~whenever~~ the office has reason to
 283 believe that the financial institution-affiliated party is
 284 engaging or has engaged in conduct that is:

285 (a) An unsafe or unsound practice;

286 (b) A prohibited act or practice;

287 (c) A willful violation of any law relating to financial
288 institutions;289 (d) A violation of any other law involving fraud or moral
290 turpitude which constitutes a felony;

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291 (e) A violation of s. 655.50, relating to the ~~Florida~~
 292 control of money laundering and terrorist financing in Financial
 293 ~~Institutions Act~~; chapter 896, relating to offenses related to
 294 financial transactions; or ~~any~~ similar state or federal law;

295 (f) A willful violation of any rule of the commission;

296 (g) A willful violation of any order of the office;

297 (h) A willful breach of any written agreement with the
 298 office; or

299 (i) An act of commission or omission or a practice which is
 300 a breach of trust or a breach of fiduciary duty.

301 Section 5. Present subsections (4) and (5) of section
 302 655.0385, Florida Statutes, are redesignated as subsections (5)
 303 and (6), respectively, and a new subsection (4) is added to that
 304 section, to read:

305 655.0385 Disapproval of directors and executive officers.—

306 (4) A director or executive officer of a state financial
 307 institution or affiliate may not concurrently serve as a
 308 director, or be employed as an officer, of a nonaffiliated
 309 financial institution or affiliate whose principal place of
 310 business is located in the same metropolitan statistical area in
 311 this state. A person affected by this prohibition may provide
 312 written notice to the office of the proposed appointment or
 313 employment. Such notice may provide information that such
 314 concurrent service does not present a conflict of interest and
 315 that neither institution is competitively disadvantaged in the
 316 common market area. The office may waive this prohibition if the
 317 information provided demonstrates that the individual's proposed
 318 concurrent service does not present a conflict of interest and
 319 neither institution is competitively disadvantaged in the common

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320 market area. A person who violates this subsection is subject to
 321 suspension, removal, or prohibition under s. 655.037.

322 Section 6. Section 655.041, Florida Statutes, is amended to
 323 read:

324 655.041 Administrative fines; enforcement.—

325 (1) The office may, by complaint, initiate a proceeding
 326 pursuant to chapter 120 to impose an administrative fine against
 327 any person found to have violated a ~~any~~ provision of the
 328 financial institutions codes ~~or the rules adopted thereunder, an~~
 329 ~~or a cease and desist~~ order of the office, or ~~a~~ any written
 330 agreement with the office. Such ~~No such~~ proceeding may not ~~shall~~
 331 be initiated and no fine shall accrue pursuant to this section
 332 until after such person has been notified in writing of the
 333 nature of the violation and ~~has been~~ afforded a reasonable
 334 period of time, as set forth in the notice, to correct the
 335 violation and has failed to do so. If the office provided such
 336 notice, a fine for a violation of an office order or written
 337 agreement begins to accrue immediately upon service of the
 338 complaint and continues to accrue until the violation is
 339 corrected.

340 (2) ~~Any~~ Such fine may not exceed \$2,500 per a day for each
 341 violation except as provided in this section.

342 (a) If the office determines that ~~any~~ such person has
 343 recklessly violated a ~~any~~ provision of the financial
 344 institutions codes, ~~an~~ ~~or a cease and desist~~ order of the
 345 office, or ~~a~~ any written agreement with the office, which
 346 violation results in more than a minimal loss to a financial
 347 institution, affiliate, subsidiary, or service corporation, or
 348 in a pecuniary benefit to such person, the office may impose a

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349 fine of up to not exceeding \$10,000 per a day for each day the
350 violation continues.

351 (b) If the office determines that ~~any~~ such person has
352 knowingly violated ~~a any~~ provision of the financial institutions
353 codes, ~~an or a cease and desist~~ order of the office, or ~~a any~~
354 written agreement with the office, which violation results in
355 more than a minimal loss to a financial institution, affiliate,
356 subsidiary, or service corporation, or in a pecuniary benefit to
357 such a person, the office may impose a fine of up to not
358 ~~exceeding~~ the lesser of \$500,000 per day or 1 percent of the
359 total assets in the case of a financial institution, or \$50,000
360 per day in any other case for each day the violation continues.

361 (c) The office may by complaint impose an administrative
362 fine of up to, not exceeding \$10,000 per a day on a, upon any
363 financial institution-affiliated party, on and upon a state
364 financial institution, subsidiary, service corporation, or
365 affiliate, or on a person subject to supervision by the office
366 pursuant to s. 655.0391 which ~~who~~ refuses to permit an examiner
367 to examine a state financial institution, subsidiary, or service
368 corporation; ~~who refuses~~ to permit an examiner to review the
369 books and records of an affiliate or a contracting service
370 entity subject to supervision by the office pursuant to s.
371 655.0391; ~~or who refuses~~ to give an examiner any information
372 required in the course of ~~an any~~ examination or review of the
373 books and records.

374 (3) ~~An Any~~ administrative fine levied by the office may be
375 enforced by the office ~~by appropriate proceedings~~ in the circuit
376 court of the county in which such person resides or in which the
377 principal office of a state financial institution, affiliate,

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378 subsidiary, service corporation, or contracting service entity
379 is located or does business in the state. In any administrative
380 or judicial proceeding arising under this section, a party may
381 elect to correct the violation asserted by the office and, upon
382 doing so, any fine ceases to accrue; however, an election to
383 correct the violation does not render an any administrative or
384 judicial proceeding moot.

385 Section 7. Section 655.045, Florida Statutes, is amended to
386 read:

387 655.045 Examinations, reports, and internal audits;
388 penalty.—

389 (1) The office shall conduct an examination of the
390 condition of each state financial institution at least every 18
391 months during each 18-month period. The office may conduct more
392 frequent examinations based upon the risk profile of the
393 financial institution, prior examination results, or significant
394 changes in the institution or its operations. The office may use
395 continuous, phase, or other flexible scheduling examination
396 methods for very large or complex state financial institutions
397 and financial institutions owned or controlled by a multi-
398 financial institution holding company. The office shall consider
399 examination guidelines from federal regulatory agencies in order
400 to facilitate, coordinate, and standardize examination
401 processes.

402 (a) ~~With respect to, and examination of, the condition of a~~
403 ~~state institution,~~ The office may accept an examination of a
404 state financial institution made by an appropriate federal
405 regulatory agency; ~~or may conduct make~~ a joint or concurrent
406 examination of the institution with the federal agency. However,

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407 at least once during each 36-month period beginning July 1,
 408 2014, the office shall conduct an examination of each state
 409 financial institution in a manner that allows the preparation of
 410 a complete examination report not subject to the right of a
 411 federal or other non-Florida entity to limit access to the
 412 information contained therein. The office may furnish a copy of
 413 all examinations or reviews made of financial institutions or
 414 their affiliates to the state or federal agencies participating
 415 in the examination, investigation, or review, or as otherwise
 416 authorized under ~~by~~ s. 655.057.

417 (b) If, as a part of an examination or investigation of a
 418 state financial institution, subsidiary, or service corporation,
 419 the office has reason to believe that the conduct or business
 420 operations of an affiliate may have a negative impact on the
 421 state financial institution, subsidiary, or service corporation,
 422 the office may conduct such examination or investigation of the
 423 affiliate as the office deems necessary.

424 (c) The office may recover the costs of examination and
 425 supervision of a state financial institution, subsidiary, or
 426 service corporation that is determined by the office to be
 427 engaged in an unsafe or unsound practice. The office may also
 428 recover the costs of a ~~any~~ review conducted pursuant to
 429 paragraph (b) of an ~~any~~ affiliate of a state financial
 430 institution determined by the office to have contributed to an
 431 unsafe or unsound practice at a state financial institution,
 432 subsidiary, or service corporation.

433 (d) As used in ~~For the purposes of~~ this section, the term
 434 "costs" means the salary and travel expenses directly
 435 attributable to the field staff examining the state financial

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436 institution, subsidiary, or service corporation, and the travel
 437 expenses of any supervisory staff required as a result of
 438 examination findings. The mailing of any costs incurred under
 439 this subsection must be postmarked within 30 days after the date
 440 of receipt of a notice stating that such costs are due. The
 441 office may levy a late payment of up to \$100 per day or part
 442 thereof that a payment is overdue, unless excused for good
 443 cause. However, for intentional late payment of costs, the
 444 office may levy an administrative fine of up to \$1,000 per day
 445 for each day the payment is overdue.

446 (e) The office may require an audit of a state financial
 447 institution, subsidiary, or service corporation by an
 448 independent certified public accountant, or other person
 449 approved by the office, if the office, after conducting an
 450 examination of the state financial institution, subsidiary, or
 451 service corporation, or after accepting an examination of the
 452 ~~such~~ state financial institution by an appropriate state or
 453 federal regulatory agency, determines that an audit is necessary
 454 in order to ascertain the condition of the financial
 455 institution, subsidiary, or service corporation. The cost of
 456 such audit shall be paid by the state financial institution,
 457 subsidiary, or state service corporation audited.

458 (2) ~~(a)~~ Each state financial institution, subsidiary, or
 459 service corporation shall submit a report, at least four times
 460 each calendar year, as of such dates as the commission or office
 461 determines. The ~~Such~~ report must include such information as the
 462 commission by rule requires for that type of institution.

463 (a) ~~(b)~~ The office shall levy an administrative fine of up
 464 to \$100 per day for each day the report is past due, unless it

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465 is excused for good cause. ~~However,~~

466 (b) For an intentional late filing of the report ~~required~~
 467 ~~under paragraph (a)~~, the office shall levy an administrative
 468 fine of up to \$1,000 per day for each day the report is past
 469 due.

470 ~~(3)(a)~~ The board of directors of each state financial
 471 institution or, in the case of a credit union, the supervisory
 472 committee or audit committee shall perform or cause to be
 473 performed, within each calendar year, an internal audit of each
 474 state financial institution, subsidiary, or service corporation
 475 and ~~to~~ file a copy of the report and findings of such audit with
 476 the office on a timely basis. The ~~Such~~ internal audit must
 477 include such information as the commission by rule requires for
 478 that type of institution.

479 (a)(b) With the approval of the office, the board of
 480 directors or, in the case of a credit union, the supervisory
 481 committee may elect, in lieu of such periodic audits, to adopt
 482 and implement an adequate continuous audit system and procedure
 483 that includes ~~which must include~~ full, adequate, and continuous
 484 written reports to, and review by, the board of directors or, in
 485 the case of a credit union, the supervisory committee, together
 486 with written statements of the actions taken thereon and reasons
 487 for omissions to take actions, all of which shall be noted in
 488 the minutes and filed among the records of the board of
 489 directors or, in the case of a credit union, the supervisory
 490 committee. If at any time such continuous audit system and
 491 procedure, including the reports and statements, becomes
 492 inadequate, in the judgment of the office, the state financial
 493 institution shall promptly make such changes as may be required

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494 by the office to cause the same to accomplish the purpose of
 495 this section.

496 ~~(b)(e)~~ A ~~Any~~ de novo state financial institution open less
 497 than 4 months is exempt from the audit requirements of this
 498 section.

499 (4) A copy of the report of each examination must be
 500 furnished to the entity examined and, ~~Such report shall be~~
 501 presented to the board of directors at its next regular or
 502 special meeting.

503 Section 8. Paragraph (a) of subsection (3) and subsections
 504 (4) through (6) of section 655.057, Florida Statutes, are
 505 amended to read:

506 655.057 Records; limited restrictions upon public access.—

507 (3) The provisions of this section do not prevent or
 508 restrict:

509 (a) Publishing reports that are required to be submitted to
 510 the office pursuant to s. 655.045(2) ~~(a)~~ or required by
 511 applicable federal statutes or regulations to be published.

512 Any confidential information or records obtained from the office
 513 pursuant to this subsection shall be maintained as confidential
 514 and exempt from the provisions of s. 119.07(1).

515 (4) (a) Orders of courts or of administrative law judges for
 516 the production of confidential records or information must ~~shall~~
 517 provide for inspection in camera by the court or the
 518 administrative law judge, and, After the court or administrative
 519 law judge determines ~~has made a determination~~ that the documents
 520 requested are relevant or would likely lead to the discovery of
 521 admissible evidence and that the information sought is not
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 523 ~~otherwise reasonably available from other sources, the said~~
 524 documents shall be subject to further orders by the court or the
 525 administrative law judge to protect the confidentiality thereof.
 526 Any order directing the release of information ~~is shall be~~
 527 immediately reviewable, and a petition by the office for review
 528 of such order ~~shall~~ automatically ~~stays stay~~ further proceedings
 529 in the trial court or the administrative hearing until the
 530 disposition of such petition by the reviewing court. If any
 531 other party files such a petition for review, it will operate as
 532 a stay of such proceedings only upon order of the reviewing
 533 court.

(b) Confidential records and information furnished pursuant
 535 to a legislative subpoena shall be kept confidential by the
 536 legislative body or committee ~~that which~~ received the records or
 537 information. However, except in a case involving investigation
 538 of charges against a public official subject to impeachment or
 539 removal, ~~and then~~ disclosure of such information shall be only
 540 to the extent necessary as determined by the legislative body or
 541 committee ~~to be necessary~~.

(c) Documents, statements, books, records, and any other
 543 information provided to the office by any person pursuant to an
 544 investigation, examination, or other supervisory activity by the
 545 office are not considered a waiver of any privilege or other
 546 legal right in an administrative or legal proceeding in which
 547 the office is not a party.

(5) Every credit union and mutual association shall
 549 maintain, ~~in the principal office where its business is~~
 550 ~~transacted,~~ full and correct records of the names and residences
 551 of all the members of the credit union or mutual association in

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 552 the principal office where its business is transacted. Such
 553 records ~~are shall be~~ subject to ~~the inspection by of~~ all ~~the~~
 554 members of the credit union or mutual association, and the
 555 officers authorized to assess taxes under state authority,
 556 during normal business hours ~~of each business day~~. No member or
 557 any other person has the right to copy the membership records
 558 for any purpose other than in the course of business of the
 559 credit union or mutual association, as authorized by the office
 560 or the board of directors of the credit union or mutual
 561 association. A current list of members shall be made available
 562 to the office's examiners for their inspection and, upon the
 563 request of the office, shall be submitted to the office. Except
 564 as otherwise provided in this subsection, the list of the
 565 members of the credit union or mutual association is
 566 confidential and exempt from ~~the provisions of~~ s. 119.07(1).
 567 (6) Every bank, trust company, and stock association shall
 568 maintain, in the principal office where its business is
 569 transacted, full and complete records of the names and
 570 residences of all the shareholders of the bank, trust company,
 571 or stock association and the number of shares held by each. Such
 572 records ~~are shall be~~ subject to the inspection of all the
 573 shareholders of the bank, trust company, or stock association,
 574 and the officers authorized to assess taxes under state
 575 authority, during normal business hours ~~of each banking day~~. No
 576 shareholder or any other person has the right to copy the
 577 shareholder records for any purpose other than in the course of
 578 business of the bank, the trust company, or the stock
 579 association, as authorized by the office or the board of
 580 directors of the bank, the trust company, or the stock

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581 association. A current list of shareholders shall be made
 582 available to the office's examiners for their inspection and,
 583 upon the request of the office, shall be submitted to the
 584 office. Except as otherwise provided in this subsection, any
 585 portion of this list which reveals the identities of the
 586 shareholders is confidential and exempt from ~~the provisions of~~
 587 s. 119.07(1).

588 Section 9. Section 655.0591, Florida Statutes, is created
 589 to read:

590 655.0591 Trade secret documents.-

591 (1) If any person who is required to submit documents or
 592 other information to the office pursuant to the financial
 593 institutions codes, or by rule or order of the office or
 594 commission, claims that such submission contains a trade secret,
 595 such person may file with the office a notice of trade secret
 596 when the information is submitted to the office as provided in
 597 this section. Failure to file such notice constitutes a waiver
 598 of any claim by such person that the document or information is
 599 a trade secret. The notice must provide the contact information
 600 of the person claiming ownership of the trade secret. The person
 601 claiming the trade secret is responsible for updating the
 602 contact information with the office.

603 (a) Each page of such document or specific portion of a
 604 document claimed to be a trade secret must be clearly marked
 605 with the words "trade secret."

606 (b) All material identified as a trade secret shall be
 607 segregated from all other material, such as by being sealed in
 608 an envelope clearly marked with the words "trade secret."

609 (c) In submitting a notice of trade secret to the office or

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610 the Department of Financial Services, the submitting party shall
 611 include an affidavit certifying under oath to the truth of the
 612 following statements concerning all documents or information
 613 that are claimed to be trade secrets:

614 1. [...I consider/my company considers...] this information
 615 a trade secret that has value and provides an advantage or an
 616 opportunity to obtain an advantage over those who do not know or
 617 use it.

618 2. [...I have/my company has...] taken measures to prevent
 619 the disclosure of the information to anyone other than those who
 620 have been selected to have access for limited purposes, and
 621 [...I intend/my company intends...] to continue to take such
 622 measures.

623 3. The information is not, and has not been, reasonably
 624 obtainable without [...my/our...] consent by other persons by
 625 use of legitimate means.

626 4. The information is not publicly available elsewhere.

627 (2) If the office receives a public records request for a
 628 document or information that is marked and certified as a trade
 629 secret, the office shall promptly notify the person that
 630 certified the document as a trade secret. The notice shall be
 631 sent to the address provided with the most recent contact
 632 information provided to the office and must inform such person
 633 that, in order to avoid disclosure of the trade secret, the
 634 person must file an action in circuit court within 30 days after
 635 the date of the notice seeking a declaratory judgment that the
 636 document in question contains trade secrets and an order barring
 637 public disclosure of the document. The owner shall provide
 638 written notice to the office that the action was filed and the

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639 office may not release the documents pending the outcome of
 640 legal action. Failure to file an action within 30 days
 641 constitutes a waiver of any claim of confidentiality, and the
 642 office shall release the document as requested.

643 (3) The office may disclose a trade secret, together with
 644 the claim that it is a trade secret, to an officer or employee
 645 of another governmental agency whose use of the trade secret is
 646 within the scope of his or her employment.

647 Section 10. Section 655.50, Florida Statutes, is reordered
 648 and amended to read:

649 655.50 Florida Control of Money Laundering and Terrorist
 650 Financing in Financial Institutions Act; reports of transactions
 651 involving currency or monetary instruments; when required;
 652 purpose; definitions; penalties.-

653 (1) This section may be cited as the "Florida Control of
 654 Money Laundering and Terrorist Financing in Financial
 655 Institutions Act."

656 (2) ~~It is~~ The purpose of this section is to require the
 657 submission to the office of certain reports and the maintenance
 658 of certain records of customers, accounts, and transactions
 659 involving currency or monetary instruments or suspicious
 660 activities if ~~when~~ such reports and records deter using the use
 661 of financial institutions to conceal, move, or provide the
 662 proceeds obtained from or intended for of criminal or terrorist
 663 activities and if such reports and records ~~activity and~~ have a
 664 high degree of usefulness in criminal, tax, or regulatory
 665 investigations or proceedings.

666 (3) As used in this section, the term:

667 (a) "BSA/AML compliance officer" means the financial

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668 institution's officer responsible for the development and
 669 implementation of the financial institution's policies and
 670 procedures for complying with the requirements of this section
 671 relating to anti-money laundering (AML), and the requirements of
 672 the Bank Secrecy Act of 1970 (BSA), Pub. L. No. 91-508, as
 673 amended, the USA Patriot Act of 2001, Pub. L. No. 107-56, as
 674 amended, and federal and state rules and regulations adopted
 675 thereunder, and 31 C.F.R. parts 500-598, relating to the
 676 regulations of the Office of Foreign Assets Control (OFAC) of
 677 the United States Department of the Treasury.

678 (b) ~~(a)~~ "Currency" means currency and coin of the United
 679 States or of any other country.

680 (c) ~~(b)~~ "Financial institution" means a financial
 681 institution, as defined in 31 U.S.C. s. 5312, as amended,
 682 including a credit card bank, located in this state.

683 (d) ~~(e)~~ "Financial transaction" means a transaction
 684 involving the movement of funds by wire, electronic funds
 685 transfer, or any other means, or involving one or more monetary
 686 instruments, which in any way or degree affects commerce, or a
 687 transaction involving the use of a financial institution that
 688 ~~which~~ is engaged in, or the activities of which affect, commerce
 689 in any way or degree.

690 (e) ~~(d)~~ "Monetary instruments" means coin or currency of the
 691 United States or of any other country, travelers' checks,
 692 personal checks, bank checks, money orders, stored value cards,
 693 prepaid cards, investment securities or in bearer form or
 694 ~~otherwise in such form that title thereto passes upon delivery,~~
 695 and negotiable instruments in bearer form or otherwise in such
 696 form that title thereto passes upon delivery, or similar

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697 devices.

698 (i)(e) "Transaction" means a purchase, sale, loan, pledge,
699 gift, transfer, delivery, or other disposition, and with respect
700 to a financial institution includes a deposit, withdrawal,
701 transfer between accounts, exchange of currency, loan, extension
702 of credit, purchase or sale of any stock, bond, certificate of
703 deposit, or other monetary instrument, or any other payment,
704 transfer, or delivery by, through, or to a financial
705 institution, by whatever means effected.

706 (f) "Report" means a report of each deposit, withdrawal,
707 exchange of currency, or other payments or transfer, by,
708 through, or to that financial institution, which that involves a
709 transaction required or authorized to be reported by this
710 section, and includes the electronic submission of such
711 information in the manner provided ~~for~~ by rule of the
712 commission.

713 (g) "Specified unlawful activity" means any "racketeering
714 activity" as defined in s. 895.02.

715 (h) "Suspicious activity" means any transaction reportable
716 as required and described under 31 C.F.R. s. 1020.320.

717 (4) A financial institution shall designate and retain a
718 BSA/AML compliance officer. The board of directors of a
719 financial institution must ensure that the designated compliance
720 officer is properly qualified and has sufficient authority and
721 resources to administer an effective BSA/AML compliance program.
722 The board is ultimately responsible for establishing the
723 institution's BSA/AML policies and overall BSA/AML compliance. A
724 change in the BSA/AML compliance officer must be reported to the
725 office.

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726 (5)(4)(a) ~~A~~ Every financial institution shall keep a record
727 of each financial transaction occurring in this state known to
728 it which involves to involve currency or other monetary
729 instrument, as the commission prescribes by rule, ~~has of~~ a value
730 greater than in excess of \$10,000, and involves to involve the
731 proceeds of specified unlawful activity, or is to be designed to
732 evade the reporting requirements of this section, chapter 896,
733 or ~~any~~ similar state or federal law, or which the financial
734 institution reasonably believes is suspicious activity. Each
735 financial institution and shall maintain appropriate procedures
736 to ensure compliance with this section, chapter 896, and ~~any~~
737 other similar state or federal law. Any report of suspicious
738 activity made pursuant to this subsection is entitled to the
739 same confidentiality provided under 31 C.F.R. s. 1020.320,
740 whether the report or information pertaining to or identifying
741 the report is in the possession or control of the office or the
742 reporting institution.

743 (a)(b) Multiple financial transactions shall be treated as
744 a single transaction if the financial institution has knowledge
745 that they are made by or on behalf of any person and result in
746 ~~either~~ cash in or cash out totaling more than \$10,000 during any
747 business day, as defined in s. 655.89(1).

748 (b)(e) ~~A~~ Any financial institution may keep a record of any
749 financial transaction occurring in this state, regardless of the
750 value, if it suspects that the transaction involves to involve
751 the proceeds of specified unlawful activity.

752 (c)(d) A financial institution, or officer, employee, or
753 agent thereof, which that files a report in good faith pursuant
754 to this subsection section is not liable to any person for loss

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755 or damage caused in whole or in part by the making, filing, or
756 governmental use of the report, or any information contained
757 therein.

758 ~~(d)(5)~~ (a) Each financial institution shall file a report
759 ~~with the office of the records record~~ required under this
760 ~~subsection with the office paragraphs (4) (a) and (b) and any~~
761 ~~record maintained pursuant to paragraph (4) (c).~~ Each report
762 ~~shall record filed pursuant to subsection (4) must~~ be filed at
763 such time and must contain such information as the commission
764 requires by rule.

765 ~~(e)(b)~~ The timely filing of the reports report required by
766 31 U.S.C. s. 5313 and 31 C.F.R. part 1020 with the appropriate
767 federal agency is deemed compliance with the reporting
768 requirements of this subsection unless the reports are not
769 regularly and comprehensively transmitted by the federal agency
770 to the office.

771 (6) Each financial institution shall maintain a record of
772 each qualified business customer that is designation of a person
773 ~~granted an exemption under the authority of~~ 31 U.S.C. s. 5313,
774 including any name, address, and taxpayer identification number
775 of the exempt customer person, as well as the name and address
776 of the financial institution and the signature of the financial
777 institution official designating the exempt customer person.
778 Such record of exemptions shall be made available to the office
779 for inspection and copying and ~~shall be~~ submitted to the office
780 within 15 days after request.

781 (7) All reports and records filed with the office pursuant
782 to this section are confidential and exempt from s. 119.07(1).
783 However, the office shall provide any report filed pursuant to

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784 this section, or information contained therein, to federal,
785 state, and local law enforcement and prosecutorial agencies, and
786 any federal or state agency responsible for the regulation or
787 supervision of financial institutions.

788 (8) ~~(a)~~ Each financial institution shall maintain:

789 (a) For a minimum of 5 calendar years Full and complete
790 records of all financial transactions, including all records
791 required by 31 C.F.R. parts 500-598 and 1010 for a minimum of 5
792 calendar years parts 103.33 and 103.34.

793 ~~(b) The financial institution shall retain~~ A copy of all
794 reports filed with the office under subsection (5) (4) for a
795 minimum of 5 calendar years after submission of the report.

796 ~~(c) The financial institution shall retain~~ A copy of all
797 records of exemption for each qualified business customer
798 ~~designation of exempt person~~ made pursuant to subsection (6) for
799 a minimum of 5 calendar years after termination of exempt status
800 of such customer.

801 (9) The office, in addition to any other power conferred
802 upon it to enforce and administer this chapter and the financial
803 institutions codes, ~~the office~~ may:

804 (a) Bring an action in any court of competent jurisdiction
805 to enforce or administer this section. In such action, the
806 office may seek an award of any civil penalty authorized by law
807 and any other appropriate relief at law or equity.

808 (b) Pursuant to s. 655.033, issue and serve upon a person
809 an order requiring such person to cease and desist and take
810 corrective action if whenever the office finds that such person
811 is violating, has violated, or is about to violate any provision
812 of this section, chapter 896, or ~~any~~ similar state or federal

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813 law; any rule or order adopted under this section, chapter 896,
814 or ~~any~~ similar state or federal law; or any written agreement
815 related to this section, chapter 896, or ~~any~~ similar state or
816 federal law and entered into with the office.

817 (c) Pursuant to s. 655.037, issue and serve upon any person
818 an order of removal ~~if whenever~~ the office finds that such
819 person is violating, has violated, or is about to violate any
820 provision of this section, chapter 896, or ~~any~~ similar state or
821 federal law; any rule or order adopted under this section,
822 chapter 896, or ~~any~~ similar state or federal law; or any written
823 agreement related to this section, chapter 896, or ~~any~~ similar
824 state or federal law and entered into with the office.

825 (d) Impose and collect an administrative fine against any
826 person found to have violated any provision of this section,
827 chapter 896, or ~~any~~ similar state or federal law; any rule or
828 order adopted under this section, chapter 896, or ~~any~~ similar
829 state or federal law; or any written agreement related to this
830 section, chapter 896, or ~~any~~ similar state or federal law and
831 entered into with the office, in an amount up to not exceeding
832 \$10,000 ~~per a~~ day for each willful violation or \$500 per a day
833 for each negligent violation.

834 (10) (a) Except as provided in paragraph (b), a person who
835 willfully violates ~~any provision of~~ this section commits is
836 ~~guilty of~~ a misdemeanor of the first degree, punishable as
837 provided in s. 775.082 or s. 775.083.

838 (b) A person who willfully violates or knowingly causes
839 another to violate ~~any provision of~~ this section, when the
840 violation involves:

841 1. Financial transactions totaling or exceeding \$300 but

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842 less than \$20,000 in any 12-month period, commits is guilty of a
843 felony of the third degree, punishable as provided in s. 775.082
844 or s. 775.083; ~~or~~

845 2. Financial transactions totaling or exceeding \$20,000 but
846 less than \$100,000 in any 12-month period, commits is guilty of
847 a felony of the second degree, punishable as provided in s.
848 775.082 or s. 775.083; or

849 3. Financial transactions totaling or exceeding \$100,000 in
850 any 12-month period, commits is guilty of a felony of the first
851 degree, punishable as provided in s. 775.082 or s. 775.083.

852 (c) In addition to the penalties otherwise authorized by
853 ss. 775.082 and 775.083, a person who has been convicted of or
854 who has pleaded guilty or nolo contendere to having violated
855 paragraph (b) may be sentenced to pay a fine of up to not
856 ~~exceeding~~ \$250,000 or twice the value of the financial
857 transaction, whichever is greater, except that on a second or
858 subsequent conviction for or plea of guilty or nolo contendere
859 to a violation of paragraph (b), the fine may be up to \$500,000
860 or quintuple the value of the financial transaction, whichever
861 is greater.

862 (d) A financial institution as defined in s. 655.005 which
863 ~~that~~ willfully violates this section is also liable for a civil
864 penalty of not more than the greater of the value of the
865 financial transaction involved or \$25,000. However, the civil
866 penalty may not exceed \$100,000.

867 (e) A person other than a financial institution as defined
868 in s. 655.005 who violates this section is also liable for a
869 civil penalty of not more than the greater of the value of the
870 financial transaction involved or \$25,000.

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871 (11) In any prosecution brought pursuant to this section,
 872 the common law corpus delicti rule does not apply. The
 873 defendant's confession or admission is admissible during trial
 874 without the state having to prove the corpus delicti if the
 875 court finds in a hearing conducted outside the presence of the
 876 jury that the defendant's confession or admission is
 877 trustworthy. Before the court admits the defendant's confession
 878 or admission, the state must prove by a preponderance of the
 879 evidence that there is sufficient corroborating evidence that
 880 tends to establish the trustworthiness of the statement by the
 881 defendant. Hearsay evidence is admissible during the
 882 presentation of evidence at the hearing. In making its
 883 determination, the court may consider all relevant corroborating
 884 evidence, including the defendant's statements.

885 Section 11. Section 655.85, Florida Statutes, is amended to
 886 read:

887 655.85 Settlement of checks.—~~If a~~ Whenever any check is
 888 forwarded or presented to a financial an institution for
 889 payment, except when presented by the payee in person, the
 890 paying institution or remitting institution shall settle the
 891 amount of the check at par ~~may pay or remit the same~~, at its
 892 option, ~~either~~ in money or in exchange drawn on its reserve
 893 agent or agents in the City of New York or in any reserve city
 894 within the Sixth Federal Reserve District; ~~however, an~~
 895 ~~institution may not settle any check drawn on it otherwise than~~
 896 ~~at par. The term "at par" applies only to the settlement of~~
 897 checks between collecting and paying or remitting institutions
 898 and does not apply to, or prohibit an institution from,
 899 deducting from the face amount of the check drawn on it a fee

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900 for paying the check if the check is presented to the
 901 institution by the payee in person. ~~The provisions of This~~
 902 ~~section does de~~ not apply ~~with respect~~ to the settlement of a
 903 check sent to such institution as a special collection item.

904 Section 12. The Legislature intends that the amendment to
 905 s. 655.85, Florida Statutes, made by this act, clarify the
 906 relevant portions of the financial institutions codes as defined
 907 in s. 655.005, Florida Statutes, relating to fees imposed by a
 908 financial institution for the payment of checks presented in
 909 person without requiring further amendment.

910 Section 13. Section 655.921, Florida Statutes, is amended
 911 to read:

912 655.921 Transaction of business by out-of-state financial
 913 institutions; exempt transactions ~~in the financial institutions~~
 914 ~~codes.~~—

915 (1) ~~Nothing in~~ The financial institutions codes do not
 916 ~~shall be construed to prohibit a financial institution or~~
 917 business trust that has ~~having~~ its principal place of business
 918 outside this state and that does not operate ~~operating~~ branches
 919 in this state from:

920 (a) Contracting in this state with any person to acquire
 921 from such person a part, or the entire, interest in a loan that
 922 such person ~~proposes to make, has heretofore made, or hereafter~~
 923 makes, together with a like interest in any security instrument
 924 covering real or personal property in the state ~~proposed to be~~
 925 ~~given or hereafter or heretofore~~ given to such person to secure
 926 or evidence such loan.

927 (b) Entering into mortgage servicing contracts with persons
 928 authorized to transact business in this state and enforcing in

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929 this state the obligations ~~heretofore or hereafter~~ acquired by
 930 it in the transaction of business outside this state or in the
 931 transaction of any business authorized by this section.

932 (c) Acquiring, holding, leasing, mortgaging, contracting
 933 with respect to, or otherwise protecting, managing, or conveying
 934 property in this state which is ~~has heretofore or may hereafter~~
 935 ~~be~~ assigned, transferred, mortgaged, or conveyed to it as
 936 security for, or in whole or in part in satisfaction of, a loan
 937 or loans made by it or obligations acquired by it in the
 938 transaction of any business authorized by this section.

939 (d) Making loans or committing to make loans to any person
 940 located in this state and soliciting compensating deposit
 941 balances in connection therewith.

942 (e) Filing suit in any court in this state to collect any
 943 debt or foreclose on any security interest in collateral
 944 securing a debt.

945 (2) A ~~No such~~ financial institution or business trust may
 946 not shall be deemed to be transacting business in this state, or
 947 be required to qualify ~~to~~ to do so, solely by reason of the
 948 performance of any of the acts or business authorized in this
 949 section.

950 Section 14. Section 655.922, Florida Statutes, is amended
 951 to read:

952 655.922 Banking business by unauthorized persons; use of
 953 name.—

954 (1) Only ~~No person other than~~ a financial institution
 955 authorized to do business in this state pursuant to the
 956 financial institutions codes of any state or federal law may
 957 ~~shall, in this state,~~ engage in the business of soliciting or

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958 receiving funds for deposit, ~~or of~~ issuing certificates of
 959 deposit, ~~or of~~ paying checks in this state; and only such
 960 financial institution may ~~no person shall~~ establish or maintain
 961 a place of business in this state for any of the functions,
 962 transactions, or purposes identified ~~mentioned~~ in this
 963 subsection. A ~~Any~~ person who violates ~~the provisions of~~ this
 964 subsection commits ~~is guilty of~~ a felony of the third degree,
 965 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 966 This subsection does not prohibit the issuance or sale by a
 967 financial institution of traveler's checks, money orders, or
 968 other instruments for the transmission or payment of money, by
 969 or through employees or agents of the financial institution off
 970 the financial institution's premises.

971 (2) Only ~~No person other than~~ a financial institution
 972 authorized to do business shall, in this state as provided under
 973 subsection (1) may:

974 (a) Transact or solicit business under any name or title
 975 that contains the words "bank," "banc," "banco," "banque,"
 976 "banker," "banking," "trust company," "savings and loan
 977 association," "savings bank," or "credit union," or words of
 978 similar import, in any context or in any manner;

979 (b) Use any name, word, trademark, service mark, trade
 980 name, Internet address, logo, sign, symbol, or device in any
 981 context or in any manner; or

982 (c) Circulate or use any letterhead, billhead, circular,
 983 paper, electronic media, Internet website or posting, or writing
 984 of any kind or otherwise advertise or represent in any manner,
 985

986 which indicates or reasonably implies that the business being

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987 solicited, conducted, or advertised is the kind or character of
 988 business transacted or conducted by a financial institution or
 989 which is likely to lead any person to believe that such business
 990 is that of a financial institution; however, the words "bank,"
 991 "banc," "banco," "banque," "banker," "banking," "trust company,"
 992 "savings and loan association," "savings bank," or "credit
 993 union," or the plural of any thereof, may be used by, and in the
 994 corporate or other name or title of, any company ~~that which~~ is
 995 or becomes a ~~financial institution~~ holding company of a
 996 financial institution pursuant to state or federal law; any
 997 subsidiary of ~~any such financial institution~~ holding company
 998 which includes as a part of its name or title all or any part,
 999 or abbreviations, of the name or title of the ~~financial~~
 1000 ~~institution~~ holding company of which it is a subsidiary; any
 1001 trade organization or association, whether or not incorporated,
 1002 functioning for the purpose of promoting the interests of
 1003 financial institutions or ~~financial institution~~ holding
 1004 companies, the active members of which are financial
 1005 institutions or ~~financial institution~~ holding companies; and any
 1006 international development bank chartered pursuant to part II of
 1007 chapter 663.

1008 (3) ~~A~~ No person may not use the name, trademark, service
 1009 mark, trade name, Internet address, or logo of a any financial
 1010 institution or an affiliate or subsidiary thereof, or use a name
 1011 similar to that of a financial institution or an affiliate or
 1012 subsidiary thereof, to market or solicit business from a
 1013 customer or prospective customer of such institution if:

1014 (a) The solicitation is done without the written consent of
 1015 the financial institution or its affiliate or subsidiary; and

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1016 (b) A reasonable person would believe that the materials
 1017 originated from, are endorsed by, or are connected with the
 1018 financial institution or its affiliates or subsidiaries.
 1019 (4) A financial institution, affiliate, subsidiary, or
 1020 service corporation may not do business, solicit, or advertise
 1021 in this state using a name, trademark, service mark, trade name,
 1022 Internet address, or logo that may mislead consumers or cause
 1023 confusion as to the identification of the proper legal business
 1024 entity or the nature of the financial institution's business.
 1025 ~~(5)(4)~~ Any court, in a proceeding brought by the office, by
 1026 a any financial institution the principal place of business of
 1027 which is in this state, or by any other person residing, or
 1028 whose principal place of business is ~~located,~~ in this state and
 1029 whose interests are substantially affected thereby, may enjoin
 1030 any person from violating any provision of the provisions of
 1031 this section. Except for a financial institution duly chartered
 1032 by the office, the office may also seek an order from the
 1033 circuit court for the annulment or dissolution of a corporation
 1034 or any other business entity found violating any provision of
 1035 this section. For the purposes of this subsection, the interests
 1036 of a trade organization or association are deemed to be
 1037 substantially affected if the interests of ~~any of~~ its members
 1038 are so affected. ~~In addition,~~ The office may also issue and
 1039 serve upon any person who violates any provision of the
 1040 ~~provisions~~ of this section an emergency cease and desist order
 1041 or a complaint seeking a cease and desist order in accordance
 1042 with the procedures and in the manner prescribed by s. 655.033.
 1043 The office is not required to make any finding or determination
 1044 that a violation of this section is likely to result in

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1045 insolvency, substantial dissipation of assets or earnings, or
 1046 substantial prejudice to any person in association with the
 1047 issuance of an emergency cease and desist order.

1048 ~~(6)(5) Nothing in This section does not shall be construed~~
 1049 ~~to prohibit the lawful establishment or operation the lawful~~
 1050 ~~operations of a financial institution, affiliate, subsidiary, or~~
 1051 ~~service corporation or and nothing in this code shall be~~
 1052 ~~construed to prohibit any advertisement or other activity in~~
 1053 ~~this state by any person if such prohibition would contravene~~
 1054 ~~any applicable federal law that which preempts the law of this~~
 1055 ~~state.~~

1056 Section 15. Section 657.008, Florida Statutes, is amended
 1057 to read:

1058 657.008 Place of doing business.—

1059 (1) A ~~Every~~ credit union authorized to transact business
 1060 pursuant to the laws of this state shall have one principal
 1061 place of doing business as designated in its bylaws and where
 1062 legal process may be served. A credit union may change its place
 1063 of business through an amendment to its bylaws.

1064 (2) ~~(a)~~ Following ~~With~~ 30 days' prior written notification
 1065 to the office or within such other time as is approved by the
 1066 office, a credit union operating in a safe and sound manner may
 1067 maintain branches without requiring prior office examination and
 1068 approval at locations other than its main office or relocate
 1069 branches previously established if the maintenance of such
 1070 branches is determined by the board of directors to be
 1071 reasonably necessary to furnish service to its members.

1072 (a) A credit union that requires office examination and
 1073 approval before establishing or relocating a branch must submit

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1074 a written application in such form and supported by such
 1075 information, data, and records as the commission or office may
 1076 require to make all findings necessary for approval. Upon
 1077 receiving the application and a nonrefundable filing fee for the
 1078 establishment of the branch, the office shall consider the
 1079 following in determining whether to reject or approve the
 1080 application:

1081 1. The sufficiency of the net worth of the credit union in
 1082 relation to its deposit liabilities, including the proposed
 1083 branch, and the additional fixed assets, if any, which are
 1084 proposed for the branch and its operations without undue risk to
 1085 the credit union or its depositors;

1086 2. The sufficiency of earnings and earnings prospects of
 1087 the credit union necessary to support the anticipated expenses
 1088 and operating losses of the branch during its formative or
 1089 initial years;

1090 3. The sufficiency and quality of management available to
 1091 operate the branch;

1092 4. The name of the proposed branch in order to determine if
 1093 it reasonably identifies the branch as a branch of the main
 1094 office and is not likely to unduly confuse the public; and

1095 5. The substantial compliance of the applicant with the
 1096 applicable law governing its operations.

1097 (b) If any branch is located outside this state, the cost
 1098 of examining such branch shall be borne by the credit union.
 1099 Such cost includes ~~shall include~~, but is ~~shall~~ not ~~be~~ limited
 1100 to, examiner travel expense and per diem.

1101 (3) A credit union may share office space with one or more
 1102 credit unions and contract with any person or corporation to

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1103 provide facilities or personnel.

1104 (4) ~~A~~ Any credit union organized under this state or
 1105 federal law, the members of which are presently, or were at the
 1106 time of admission into the credit union, employees of the state
 1107 or a political subdivision or municipality thereof, or members
 1108 of the immediate families of such employees, may apply for space
 1109 in any building owned or leased by the state or respective
 1110 political subdivision or municipality in the community or
 1111 district in which the credit union does business.

1112 (a) The application shall be addressed to the officer
 1113 charged with the allotment of space in such building. If space
 1114 is available, the officer may allot space to the credit union at
 1115 a reasonable charge for rent or services.

1116 (b) If the governing body having jurisdiction over the
 1117 building determines that the services rendered by the credit
 1118 union to the employees of the governing body are equivalent to a
 1119 reasonable charge for rent or services, available space may be
 1120 allotted to the credit union without charge for rent or
 1121 services.

1122 (5) (a) The office may authorize foreign credit unions to
 1123 establish branches in this state ~~Florida~~ if all of the following
 1124 criteria are met:

1125 1. The state in which the foreign credit union's home
 1126 office is located permits Florida credit unions to do business
 1127 in the state under restrictions that are no greater than those
 1128 placed upon a domestic credit union doing business in that
 1129 state. For this purpose, such restrictions must ~~shall~~ include,
 1130 ~~but are not limited to,~~ any fees, bonds, or other charges levied
 1131 on domestic credit unions doing business in that state.

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1132 2. The deposits of such foreign credit union and its
 1133 proposed Florida branch must ~~shall~~ have insurance of accounts
 1134 with the National Credit Union Administration.

1135 3. The credit union's field of membership is so limited as
 1136 to be within that meaning of that term as defined in s. 657.002.

1137 (b) Every foreign credit union operating in this state must
 1138 ~~Florida shall~~ keep the office informed of every location at
 1139 which it is operating.

1140 (c) If the office has reason to believe that a foreign
 1141 credit union is operating a branch in this state in an unsafe
 1142 and unsound manner, it shall have the right to examine such
 1143 branch. If, upon examination, the office finds that such branch
 1144 is operating in an unsafe and unsound manner, it shall require
 1145 the branch office to make appropriate modifications to bring the
 1146 ~~such~~ branch operations into compliance with generally accepted
 1147 credit union operation in this state. The ~~Such~~ foreign credit
 1148 union shall reimburse the office for the full cost of such ~~this~~
 1149 examination. Costs ~~shall~~ include examiner salaries, per diem,
 1150 and travel expenses.

1151 (d) Any foreign credit union operating in this state shall,
 1152 in any connection therewith, be subject to suit in the courts of
 1153 this state, by this state and by the residents ~~citizens~~ of this
 1154 state.

1155 (6) A credit union may provide, directly or through a
 1156 contract with another company, off-premises armored car services
 1157 to its members. Armored car services do not constitute a branch
 1158 for the purposes of this section.

1159 Section 16. Section 657.028, Florida Statutes, is amended
 1160 to read:

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1161 657.028 Activities of directors, officers, committee
1162 members, employees, and agents.-

1163 (1) An individual may not disburse funds of the credit
1164 union for any extension of credit approved by her or him.

1165 (2) An elected officer, ~~or~~ director, ~~or~~ any committee
1166 member, other than the chief executive officer, may not be
1167 compensated for her or his service as such.

1168 (3) Except with the prior approval of the office, a person
1169 may not serve as an officer, director, or committee member of a
1170 credit union if she or he:

1171 (a) Has been convicted of a felony or of an offense
1172 involving dishonesty, a breach of trust, a violation of this
1173 chapter, or fraud, ~~except with the prior approval of the office;~~

1174 (b) Has been adjudicated bankrupt within the previous 7
1175 years;

1176 (c) Has been removed by any regulatory agency as a
1177 director, officer, committee member, or employee of a any
1178 financial institution, ~~except with the prior approval of the~~
1179 ~~office;~~

1180 (d) Has performed acts of fraud or dishonesty, or has
1181 failed to perform duties, resulting in a loss that which was
1182 subject to a paid claim under a fidelity bond, ~~except with the~~
1183 ~~prior approval of the office; or~~

1184 (e) Has been found guilty of a violation of s. 655.50,
1185 relating to the ~~Florida~~ control of money laundering and
1186 ~~terrorist financing in Financial Institutions Act;~~ chapter 896,
1187 relating to offenses related to financial transactions; or ~~any~~
1188 similar state or federal law; or

1189 (f) Has defaulted on a debt or obligation to a financial

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1190 institution which resulted in a material loss to the financial
1191 institution.

1192 (4) A person may not serve as a director of a credit union
1193 if she or he is an employee of the credit union, other than the
1194 chief executive officer of the credit union.

1195 (5) A director, officer, committee member, ~~officer,~~ agent,
1196 or employee of the credit union may not in any manner, directly
1197 or indirectly, participate in the deliberation upon or the
1198 determination of any question affecting her or his pecuniary
1199 interest or the pecuniary interest of any corporation,
1200 partnership, or association, other than the credit union, in
1201 which she or he or a member of her or his immediate family is
1202 directly or indirectly interested.

1203 (6) Within 30 days after election or appointment, a record
1204 of the names and addresses of the members of the board, members
1205 of committees, ~~and~~ all officers of the credit union, and the
1206 credit manager shall be filed with the office on forms
1207 prescribed by the commission.

1208 Section 17. Section 657.041, Florida Statutes, is amended
1209 to read:

1210 657.041 Insurance; employee benefit plans.-

1211 (1) A credit union may purchase for or make available to
1212 its members credit life insurance, credit disability insurance,
1213 life savings or depositors life insurance, or any other
1214 insurance coverage which may be directly related to the
1215 extension of credit or to the receipt of shares or deposits in
1216 amounts related to the members' respective ages, shares,
1217 deposits, or credit balances, or to any combination thereof.

1218 (2) A credit union may purchase and maintain insurance on

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1219 behalf of any person who is or was a director, officer,
 1220 employee, or agent of the credit union, or who is or was serving
 1221 at the request of the credit union as a director, officer,
 1222 employee, or agent of another corporation, partnership, joint
 1223 venture, trust, or other enterprise, against any liability
 1224 arising out of such person's capacity or status with the credit
 1225 union, whether or not the credit union would have the power to
 1226 indemnify such person against the asserted liability.

1227 (3) With the prior approval of members of a credit union
 1228 and the office, the credit union may pay the premiums for
 1229 reasonable health, accident, and related types of insurance
 1230 protection for members of the credit union's board of directors,
 1231 credit committee, supervisory committee, or other volunteer
 1232 committee established by the board. Any insurance protection
 1233 purchased must cease upon the insured person's leaving office
 1234 without residual benefits other than from pending claims, if
 1235 any, except that the credit union must comply with federal and
 1236 state laws providing departing officials the right to maintain
 1237 health insurance coverage at their own expense. The office shall
 1238 consider the credit union's size and financial condition and the
 1239 duties of the board or other officials in its consideration of
 1240 the request for approval for insurance coverage and may withhold
 1241 approval if the request would create an unsafe or unsound
 1242 practice or condition for the credit union.

1243 (4) With the prior approval of the board of a credit union
 1244 and the office, the credit union may fund employee benefit
 1245 plans. The office shall consider the credit union's size and
 1246 financial condition and the duties of the employees and may
 1247 withhold approval if the request would create an unsafe or

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1248 unsound practice or condition for the credit union.

1249 Section 18. Subsection (20) of section 658.12, Florida
 1250 Statutes, is amended to read:

1251 658.12 Definitions.—Subject to other definitions contained
 1252 in the financial institutions codes and unless the context
 1253 otherwise requires:

1254 (20) "Trust business" means the business of acting as a
 1255 fiduciary when such business is conducted by a bank, a state or
 1256 federal association, or a trust company, or ~~and~~ also when
 1257 conducted by any other business organization for compensation
 1258 that the office does not consider to be de minimis as its sole
 1259 or principal business.

1260 Section 19. Subsection (4) of section 658.21, Florida
 1261 Statutes, is amended to read:

1262 658.21 Approval of application; findings required.—The
 1263 office shall approve the application if it finds that:

1264 (4) The proposed officers have sufficient financial
 1265 institution experience, ability, standing, and reputation and
 1266 the proposed directors have sufficient business experience,
 1267 ability, standing, and reputation to indicate reasonable promise
 1268 of successful operation, and none of the proposed officers or
 1269 directors has been convicted of, or pled guilty or nolo
 1270 contendere to, any violation of s. 655.50, relating to the
 1271 ~~Florida~~ control of money laundering and terrorist financing in
 1272 ~~Financial Institutions Act~~; chapter 896, relating to offenses
 1273 related to financial institutions; or ~~any~~ similar state or
 1274 federal law. At least two of the proposed directors who are not
 1275 also proposed officers must ~~shall~~ have had at least 1 year
 1276 direct experience as an executive officer, regulator, or

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1277 director of a financial institution within the 3 years before ~~of~~
 1278 the date of the application. However, if the applicant
 1279 demonstrates that at least one of the proposed directors has
 1280 very substantial experience as an executive officer, director,
 1281 or regulator of a financial institution more than 3 years before
 1282 the date of the application, the office may modify the
 1283 requirement and allow only one director to have direct financial
 1284 institution experience within the last 3 years. The proposed
 1285 president or chief executive officer must ~~shall~~ have had at
 1286 least 1 year of direct experience as an executive officer,
 1287 director, or regulator of a financial institution within the
 1288 last 3 years.

1289 Section 20. Subsection (2) of section 658.235, Florida
 1290 Statutes, is amended to read:

1291 658.235 Subscriptions for stock; approval of major
 1292 shareholders.—

1293 (2) The directors shall also provide such detailed
 1294 financial, business, and biographical information as the
 1295 commission or office may reasonably require for each person who,
 1296 together with related interests, subscribes to 10 percent or
 1297 more of the voting stock or nonvoting stock that ~~which~~ is
 1298 convertible into voting stock of the proposed bank or trust
 1299 company. The office shall make an investigation of the
 1300 character, financial responsibility, and financial standing of
 1301 each such person in order to determine whether he or she is
 1302 likely to control the bank or trust company in a manner that
 1303 ~~which~~ would jeopardize the interests of the depositors and
 1304 creditors of the bank or trust company, the other stockholders,
 1305 or the general public. The ~~This~~ investigation must ~~shall~~ include

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1306 a determination of whether ~~any~~ such person has been convicted
 1307 of, or pled guilty or nolo contendere to, a violation of s.
 1308 655.50, relating to the ~~Florida~~ control of money laundering and
 1309 terrorist financing in Financial Institutions Act; chapter 896,
 1310 relating to offenses related to financial transactions; or ~~any~~
 1311 similar state or federal law.

1312 Section 21. Section 658.49, Florida Statutes, is repealed.

1313 Section 22. Subsection (1) of section 663.02, Florida
 1314 Statutes, is amended to read:

1315 663.02 Applicability of state banking laws.—

1316 (1) International banking corporations having offices in
 1317 this state are ~~shall be~~ subject to all the provisions of the
 1318 financial institutions codes and chapter 655 as though such
 1319 ~~international banking~~ corporations were state banks or trust
 1320 companies, except where it may appear, from the context or
 1321 otherwise, that such provisions are clearly applicable only to
 1322 banks or trust companies organized under the laws of this state
 1323 or the United States. Without limiting the foregoing general
 1324 provisions, it is the intent of the Legislature that the
 1325 following provisions are applicable to such banks or trust
 1326 companies: s. 655.031, relating to administrative enforcement
 1327 guidelines; s. 655.032, relating to investigations, subpoenas,
 1328 hearings, and witnesses; s. 655.0321, relating to hearings,
 1329 proceedings, and related documents and restricted access
 1330 thereto; s. 655.033, relating to cease and desist orders; s.
 1331 655.037, relating to removal by the office of an officer,
 1332 director, committee member, employee, or other person; s.
 1333 655.041, relating to administrative fines and enforcement; s.
 1334 655.50, relating to the control of money laundering and

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1335 ~~terrorist financing; s. 658.49, relating to loans by banks not~~
 1336 ~~exceeding \$50,000, and any provision of law for which the~~
 1337 ~~penalty is increased under s. 775.31 for facilitating or~~
 1338 ~~furthering terrorism. International banking corporations do~~
 1339 ~~shall not have the powers conferred on domestic banks by the~~
 1340 ~~provisions of s. 658.60, relating to deposits of public funds.~~
 1341 ~~The provisions of Chapter 687, relating to interest and usury,~~
 1342 ~~applies shall apply to all bank loans not subject to s. 658.49.~~

1343 Section 23. Subsection (1) of section 663.09, Florida
 1344 Statutes, is amended to read:

1345 663.09 Reports; records.—

1346 (1) An ~~Every~~ international banking corporation doing
 1347 business in this state shall, at such times and in such form as
 1348 the commission prescribes, make written reports in the English
 1349 language to the office, under the oath of one of its officers,
 1350 managers, or agents transacting business in this state, showing
 1351 the amount of its assets and liabilities and containing such
 1352 other matters as the commission or office requires. An
 1353 international banking corporation that maintains two or more
 1354 offices may consolidate such information in one report unless
 1355 the office otherwise requires for purposes of its supervision of
 1356 the condition and operations of each such office. The late
 1357 filing of such reports ~~is shall be~~ subject to an ~~the~~ imposition
 1358 ~~of the~~ administrative fine as ~~prescribed~~ under ~~by~~ s.
 1359 655.045(2) ~~(b)~~. If ~~any~~ such international banking corporation
 1360 fails ~~shall fail~~ to make ~~any~~ such report, as directed by the
 1361 office, or if ~~any~~ such report contains a ~~shall contain any~~ false
 1362 statement knowingly made, the same shall be grounds for
 1363 revocation of the license of the international banking

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1364 corporation.

1365 Section 24. Subsection (2) of section 663.12, Florida
 1366 Statutes, is amended to read:

1367 663.12 Fees; assessments; fines.—

1368 (2) Each international bank agency, international branch,
 1369 and state-chartered investment company shall pay to the office ~~a~~
 1370 ~~semiannual assessment, payable~~ on or before January 31 and July
 1371 31 of each year, a semiannual assessment in an amount determined
 1372 ~~by rule~~ by the commission by rule and calculated ~~in a manner so~~
 1373 ~~as to recover the costs of the office incurred in connection~~
 1374 ~~with the supervision of international banking activities~~
 1375 licensed under this part. The ~~These~~ rules must ~~shall~~ provide for
 1376 uniform rates of assessment for all licenses of the same type
 1377 and, ~~shall~~ provide for declining rates of assessment in relation
 1378 to the total assets of the licensee held in the state, but may
 1379 ~~shall not result, in any event, provide for~~ rates of assessment
 1380 which exceed the rate applicable to state banks pursuant to s.
 1381 658.73, unless the rate ~~of assessment~~ would result in a
 1382 semiannual assessment of less than \$1,000. For the purposes of
 1383 this subsection, the total assets of an international bank
 1384 agency, international branch, or state-chartered investment
 1385 company must ~~shall~~ include amounts due the agency or branch or
 1386 state investment company from other offices, branches, or
 1387 subsidiaries of the international banking corporations or other
 1388 corporations of which the agency, branch, or state-chartered
 1389 investment company is a part or from entities related to that
 1390 international banking corporation. ~~Each international~~
 1391 ~~representative office, international administrative office, or~~
 1392 ~~international trust company representative office shall pay to~~

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1393 ~~the office an annual assessment in the amount of \$2,000, payable~~
 1394 ~~on or before January 31 of each year.~~

1395 Section 25. Subsection (3) of section 663.306, Florida
 1396 Statutes, is amended to read:

1397 663.306 Decision by office.—The office may, in its
 1398 discretion, approve or disapprove the application, but it shall
 1399 not approve the application unless it finds that:

1400 (3) The proposed officers and directors have sufficient
 1401 experience, ability, standing, and reputation to indicate
 1402 reasonable promise of successful operation and none of the
 1403 proposed officers or directors have been convicted of, or pled
 1404 guilty or nolo contendere to, a violation of s. 655.50, relating
 1405 to the Florida control of money laundering and terrorist
 1406 financing in Financial Institutions Act; chapter 896, relating
 1407 to offenses related to financial transactions; or ~~any~~ similar
 1408 state or federal law.

1409 Section 26. Subsection (28) of section 665.013, Florida
 1410 Statutes, is amended to read:

1411 665.013 Applicability of chapter 658.—The following
 1412 sections of chapter 658, relating to banks and trust companies,
 1413 are applicable to an association to the same extent as if the
 1414 association were a "bank" operating thereunder:

1415 ~~(28) Section 658.49, relating to loans by banks not~~
 1416 ~~exceeding \$50,000.~~

1417 Section 27. Paragraph (c) of subsection (1) of section
 1418 665.033, Florida Statutes, is amended to read:

1419 665.033 Conversion of state or federal mutual association
 1420 to capital stock association.—

1421 (1) CONVERSION INTO CAPITAL STOCK ASSOCIATION.—Any state or

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1422 federal mutual association may apply to the office for
 1423 permission to convert itself into an association operated under
 1424 the provisions of this chapter in accordance with the following
 1425 procedures:

1426 (c) The office may approve or disapprove the plan ~~in its~~
 1427 ~~discretion~~, but may it shall not approve the plan unless it
 1428 finds that the association will comply sufficiently with the
 1429 requirements of the financial institutions codes after
 1430 conversion to entitle it to become an association operating
 1431 under the financial institutions codes and the rules of the
 1432 commission. The office may deny an any application from any
 1433 federal association that is subject to a any cease and desist
 1434 order or other supervisory restriction or order imposed by any
 1435 state or the federal supervisory authority, or insurer, or
 1436 guarantor or that has been convicted of, or pled guilty or nolo
 1437 contendere to, a violation of s. 655.50, relating to the ~~Florida~~
 1438 ~~control of money laundering and terrorist financing in Financial~~
 1439 ~~Institutions Act~~; chapter 896, relating to offenses related to
 1440 financial transactions; or ~~any~~ similar state or federal law.

1441 Section 28. Paragraph (a) of subsection (2) of section
 1442 665.034, Florida Statutes, is amended to read:

1443 665.034 Acquisition of assets of or control over an
 1444 association.—

1445 (2) The office shall issue the certificate of approval only
 1446 after it has made an investigation and determined that:

1447 (a) The proposed new owner or owners of voting capital
 1448 stock are qualified by character, experience, and financial
 1449 responsibility to control the association in a legal and proper
 1450 manner and none of the proposed new owners have been convicted

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1451 of, or pled guilty or nolo contendere to, a violation of s.
 1452 655.50, relating to the ~~Florida~~ control of money laundering and
 1453 terrorist financing in Financial Institutions Act; chapter 896,
 1454 relating to offenses related to financial transactions; or ~~any~~
 1455 similar state or federal law.

1456 Section 29. Subsection (29) of section 667.003, Florida
 1457 Statutes, is amended to read:

1458 667.003 Applicability of chapter 658.—Any state savings
 1459 bank is subject to all the provisions, and entitled to all the
 1460 privileges, of the financial institutions codes except where it
 1461 appears, from the context or otherwise, that such provisions
 1462 clearly apply only to banks or trust companies organized under
 1463 the laws of this state or the United States. Without limiting
 1464 the foregoing general provisions, it is the intent of the
 1465 Legislature that the following provisions apply to a savings
 1466 bank to the same extent as if the savings bank were a "bank"
 1467 operating under such provisions:

1468 ~~(29) Section 658.49, relating to loans by banks not~~
 1469 ~~exceeding \$50,000.~~

1470 Section 30. Paragraph (c) of subsection (1) of section
 1471 667.006, Florida Statutes, is amended to read:

1472 667.006 Conversion of state or federal mutual savings bank
 1473 or state or federal mutual association to capital stock savings
 1474 bank.—

1475 (1) CONVERSION INTO CAPITAL STOCK SAVINGS BANK.—Any state
 1476 or federal mutual savings bank or state or federal mutual
 1477 association may apply to the office for permission to convert
 1478 itself into a capital stock savings bank operated under the
 1479 provisions of this chapter in accordance with the following

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1480 procedures:

1481 (c) The office may approve or disapprove the plan ~~in its~~
 1482 ~~discretion~~, but ~~may it shall~~ not approve the plan unless it
 1483 finds that the savings bank will comply sufficiently with the
 1484 requirements of the financial institutions codes after
 1485 conversion to entitle it to become a savings bank operating
 1486 under the financial institutions codes and the rules of the
 1487 commission. The office may deny any application from a ~~any~~
 1488 federal savings bank that is subject to a ~~any~~ cease and desist
 1489 order or other supervisory restriction or order imposed by any
 1490 state or the federal supervisory authority, or insurer, or
 1491 guarantor or that has been convicted of, or pled guilty or nolo
 1492 contendere to, a violation of s. 655.50, relating to the ~~Florida~~
 1493 control of money laundering and terrorist financing in Financial
 1494 Institutions Act; chapter 896, relating to offenses related to
 1495 financial transactions; or ~~any~~ similar state or federal law.

1496 Section 31. Paragraph (a) of subsection (2) of section
 1497 667.008, Florida Statutes, is amended to read:

1498 667.008 Acquisition of assets of or control over a savings
 1499 bank.—

1500 (2) The office shall issue the certificate of approval only
 1501 after it has made an investigation and determined that:

1502 (a) The proposed new owner or owners of voting capital
 1503 stock are qualified by character, experience, and financial
 1504 responsibility to control the savings bank in a legal and proper
 1505 manner and none of the proposed new owners have been convicted
 1506 of, or pled guilty or nolo contendere to, a violation of s.
 1507 655.50, relating to the ~~Florida~~ control of money laundering and
 1508 terrorist financing in Financial Institutions Act; chapter 896,

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1509 relating to offenses related to financial transactions; or ~~any~~
1510 similar state or federal law.

1511 Section 32. This act shall take effect July 1, 2014.

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 Appropriations Subcommittee on Criminal and Civil Justice

BILL: CS/CS/SB 364

INTRODUCER: Criminal Justice Committee; Communications, Energy, and Public Utilities Committee;
and Senator Brandes

SUBJECT: Computer Crimes

DATE: March 11, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Telotte/Wiehle	Caldwell	CU	Fav/CS
2.	Cellon	Cannon	CJ	Fav/CS
3.	Clodfelter	Sadberry	ACJ	Pre-meeting
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 364 recognizes that advancements in technology have led to an increase in computer related crimes while greatly extending their reach. CS/CS/SB 364 addresses this increase in computer crimes by updating and expanding terminology used to define these crimes and creating additional offenses.

Three crimes are added to “offenses against users of computer networks and electronic devices”¹ including:

- Audio and video surveillance of an individual without that individual’s knowledge by accessing any inherent feature or component of a computer, computer system, computer network, or electronic device²;
- Intentionally interrupting the transmittal of data to or from, or gaining unauthorized access to a computer, computer system, computer network, or electronic device belonging to a mode of public or private transit;³ and

¹ s. 815.06, F.S.

² Punishable as a third degree felony which could result in 5 years imprisonment and a \$5,000 fine. ss. 775.082, 775.083, F.S.

³ A second degree felony punishable by up to 15 years imprisonment and a \$15,000 fine. ss. 775.082, 775.083, F.S.

- Disrupting a computer, computer system, computer network, or electronic device that affects medical equipment used in the direct administration of medical care or treatment to a person.⁴

“Offenses against public utilities” are created in the bill and two additional crimes are created, including:

- Gaining access to a computer, computer system, computer network, or electronic device owned, operated, or used by a public utility while knowing that such access is unauthorized, a third degree felony; and
- Physically tampering with, inserting software into, or otherwise transmitting commands or electronic communications to a computer, computer system, computer network, or electronic device which cause a disruption in any service delivered by a public utility, a second degree felony.

The Criminal Justice Impact Conference has determined the bill will have an insignificant impact on the need for prison beds.

II. Present Situation:

Offenses against intellectual property

Section 815.04, F.S., provides that a person commits an offense against intellectual property, punishable as a third degree felony, if he does one of the following:

- Willfully, knowingly, and without authorization modifies or destroys data, programs, or supporting documentation residing or existing internal or external to a computer, computer system, or computer network; or
- Willfully, knowingly, and without authorization discloses or takes data, programs, or supporting documentation which is a trade secret as defined in s. 812.081, F.S., or is confidential as provided by law, residing or existing internal or external to a computer, computer system, or computer network.

If the offense is committed for the purpose of devising or executing any scheme or artifice to defraud or to obtain any property, the offense is elevated to a second degree felony.

Offenses against computer users

Section 815.06, F.S., provides that it is an offense against computer users, punishable as a third degree felony, to willfully, knowingly, and without authorization:

- Access or cause to be accessed any computer, computer system, or computer network; or
- Disrupt or deny or cause denial of computer system services to an authorized user of such computer system services, which, in whole or part, is owned by, under contract to, or operated for, on behalf of, or in conjunction with another; or
- Destroy, take, injure, or damage equipment or supplies used or intended to be used in a computer, computer system, or computer network; or
- Destroy, injure, or damage any computer, computer system, or computer network; or

⁴ A first degree felony punishable by up to 30 years imprisonment and a fine of \$10,000. ss. 775.082, 775.083, F.S.

- Introduce any computer contaminant into any computer, computer system, or computer network.

It is a second degree felony to commit an offense against computer users and additionally do any of the following:

- Damage a computer, computer equipment, a computer system, or a computer network and the monetary damage or loss incurred as a result of the violation is \$5,000 or greater;
- Commit an offense for the purpose of devising or executing any scheme or artifice to defraud or obtain property; or
- Interrupt or impair a governmental operation or public communication, transportation, or supply of water, gas, or other public service.

Committing an offense against computer users in any manner which endangers a human life is punishable as a first degree felony.

III. Effect of Proposed Changes:

Section 1 amends s. 815.02, F.S., to add a statement of legislative intent to recognize “The proliferation of new technology has led to the integration of computer systems in most sectors of the marketplace through the creation of computer networks, greatly extending the reach of computer crime.”

Section 2 expands s. 815.03, F.S., to define the term “electronic devices” and include the devices in the definition of a “computer network.” A computer network is a system that provides a medium for communication between one or more computer systems or electronic devices, including communication with an input or output device such as a display terminal, printer, or other electronic equipment that is connected to the computer system or electronic devices by physical or wireless telecommunication facilities.

An “electronic device” is defined by the bill as a device that is capable of communicating across a computer network with other computers or devices for the purpose of transmitting, receiving, or storing data. These changes allow for devices other than the standard computer to be considered capable of being used to commit an offense.

Section 3 amends s. 815.04, F.S., to include the term “electronic devices” in the existing definition of offenses against intellectual property.

SB 366, a linked bill, amends the existing public records exemption regarding trade secrets in s. 815.04, F.S., and takes effect the same day as SB 364 if the bill is passed during the same legislative session and becomes law.

Section 4 amends s. 815.06, F.S., and renames these offenses “offenses against users of computer networks and electronic devices.”

The definition of the term “person” is expanded for use in this section, to include:

- An individual;

- A partnership, corporation, association, or other entity doing business in this state, or an officer, agent, or employee of such entity; or
- An officer, employee, or agent of the state or a county, municipality, special district, or other political subdivision whether executive, judicial, or legislative, including, but not limited to, a department, division, bureau, commission, authority, district, or agency thereof.

The bill creates a new third degree felony where a person willfully, knowingly, and without authorization engages in audio or video surveillance of an individual without the individual's authorization by accessing any inherent feature or component of a computer, computer system, computer network, or electronic device, including accessing the data or information of a computer, computer system, computer network, or electronic device that is stored by a third party.

Additionally, if a person commits an offense against users of computer networks and electronic devices and intentionally interrupts the transmittal of data to or from, or gains unauthorized access to, a computer, computer system, computer network, or electronic device belonging to any mode of public or private transit, as defined in s. 341.031, F.S., it is punishable as a second degree felony.

The bill also provides that it is a first degree felony for a person to commit an offense against users of a computer network and electronic devices and disrupt a computer, computer system, computer network, or electronic device that affects medical equipment used in the direct administration of medical care or treatment to a person.

As amended by the bill, revised s. 815.06, F.S., does not apply to a person who has acted pursuant to a search warrant or to an exception to a search warrant authorized by law or when acting within the scope of his or her employment.

Under s. 815.06, F.S., as amended by the bill, providers of the following services are exempt from liability:

- Interactive computer service;⁵
- Information service;⁶
- Communications services where the provider provides transmission, storage, or caching of electronic communications or messages of others;⁷

⁵ As defined in 47 U.S.C. 230(f)(2): The term "interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

⁶ The term "information service" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service. 47 U.S.C. 153(24).

⁷ "Communications services" means the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including video services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. The term includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice-over-Internet-protocol services or is

- Other related telecommunications or commercial mobile radio service; or
- Content provided by another person.

Section 5 creates s. 815.061, F.S., to define offenses against public utilities.

The term “public utility” in this section means:

- Each public utility and electric utility as those terms are defined in s. 366.02, F.S.;
- Each water and wastewater utility as defined in s. 367.021, F.S.;
- Each natural gas transmission company as defined in s. 368.103, F.S.;
- Each person, corporation, partnership, association, public agency, municipality, cooperative, gas district, or other legal entity and their lessees, trustees, or receivers, now or hereafter owning, operating, managing, or controlling gas transmission or distribution facilities or any other facility supplying or storing natural or manufactured gas or liquefied gas with air admixture or any similar gaseous substances by pipeline to or for the public within this state; and
- Any separate legal entity created under s. 163.01, F.S., and composed of any of the entities described in this subsection for the purpose of providing utility services in this state, including wholesale power and electric transmission services.

A person may not willfully, knowingly, and without authorization:

- Gain access to a computer network or other defined device owned, operated, or used by a public utility while knowing that such access is unauthorized, which is punishable as a third degree felony; or
- Physically tamper with, insert software into, or otherwise transmit commands or electronic communications to a computer, computer system, computer network, or electronic device which causes a disruption in any service delivered by a public utility, which is punishable as a second degree felony.

Technical and conforming changes are made throughout the bill.

Section 6 states that the bill takes effect October 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

classified by the Federal Communications Commission as enhanced or value-added. The term does not include: information services; installation or maintenance of wiring or equipment on a customer's premises; the sale or rental of tangible personal property; the sale of advertising, including, but not limited to, directory advertising; bad check charges; late payment charges; billing and collection services; or internet access service, electronic mail service, electronic bulletin board service, or similar online computer services. s. 202.11, F.S.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/CS/SB 364 may provide better protection against economic loss to owners and users of computers, computer systems, and electronic devices as well as the providers of services related to these devices.

C. Government Sector Impact:

The Criminal Justice Impact Conference has determined that the bill will have an insignificant impact on the need for prison beds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 815.06(2)(f), F.S., created in Section 4 of the bill, appears to be intended to prohibit a person from secretly surveilling another person by gaining control of cameras or other features of a computer or electronic device that is not their own. However, the provision could be construed to prevent private property owners from conducting surveillance on and around their property without first obtaining the authorization of any individual who is on the property. Although it is possible that authorization would be inferred from a person's presence in a location, this may not always be the case. For example, signs are posted in many retail establishments to notify persons that they are under surveillance while inside the store or even in the parking lot. Authorization may be inferred from the fact that the business owner gave notification of the surveillance and the customer chose to remain at the business. However, signs are not posted in every place where a person is under surveillance. For example, a homeowner who has a security camera to surveil his property may not post a sign to disclose that fact. If there is no notice to make a person who is on the property aware of the surveillance, it may be difficult to infer authorization simply by the person's presence on the property.

VIII. Statutes Affected:

CS/CS/SB 364 substantially amends the following sections of the Florida Statutes: 815.02, 815.03, 815.04, and 815.06.

This bill creates section 815.061 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Criminal Justice on February 17, 2014:

CS/CS/SB 364 amends s. 815.06, F.S., to exempt the providers of listed services from liability under any construction of the bill. It also requires a person's authorization, rather than knowledge, for audio or video surveillance of the person using the systems and devices listed in the bill.

CS by Communications, Energy, and Public Utilities on February 04, 2014:

The CS/SB 364 provides that the term "public utility" is not limited to the definition found in s. 366.02, F.S., but also includes additional types of utilities such as water and wastewater utilities, natural gas pipelines, natural gas storage, and supply facilities, or utilities under the direction of a governmental owned authority (Facilities that serve a public purpose and are necessary for the security and wellbeing of the public).

- B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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House

Appropriations Subcommittee on Criminal and Civil Justice
(Flores) recommended the following:

Senate Amendment (with title amendment)

Delete lines 76 - 181

and insert:

~~or~~ computer network, or electronic device to perform specified functions.

(6) "Computer services" include, but are not limited to, computer time; data processing or storage functions; or other uses of a computer, computer system, or computer network.



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10 (7) "Computer system" means a device or collection of
11 devices, including support devices and electronic devices, one
12 or more of which contain computer programs, electronic
13 instructions, or input data and output data, and which perform
14 functions, including, but not limited to, logic, arithmetic,
15 data storage, retrieval, communication, or control. The term
16 does not include calculators that are not programmable and that
17 are not capable of being used in conjunction with external
18 files.

19 (8) "Data" means a representation of information,
20 knowledge, facts, concepts, computer software, computer
21 programs, or instructions. Data may be in any form, in storage
22 media or stored in the memory of the computer, or in transit or
23 presented on a display device.

24 (9) "Electronic device" means a device that is capable of
25 communicating across a computer network with other computers or
26 devices for the purpose of transmitting, receiving, or storing
27 data, including, but not limited to, a cellular telephone,
28 tablet, or other portable device capable of communicating with
29 or across a computer network.

30 ~~(10)~~~~(9)~~ "Financial instrument" means any check, draft,
31 money order, certificate of deposit, letter of credit, bill of
32 exchange, credit card, or marketable security.

33 ~~(11)~~~~(10)~~ "Intellectual property" means data, including
34 programs.

35 ~~(12)~~~~(11)~~ "Property" means anything of value as defined in
36 s. 812.012 and includes, but is not limited to, financial
37 instruments, information, including electronically produced data
38 and computer software and programs in ~~either~~ machine-readable or



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39 human-readable form, and any other tangible or intangible item
40 of value.

41 Section 3. Section 815.04, Florida Statutes, is amended to
42 read:

43 815.04 Offenses against intellectual property; public
44 records exemption.—

45 (1) A person who ~~Whoever~~ willfully, knowingly, and without
46 authorization modifies data, programs, or supporting
47 documentation residing or existing internal or external to a
48 computer, computer system, ~~or~~ computer network, or electronic
49 device commits an offense against intellectual property.

50 (2) A person who ~~Whoever~~ willfully, knowingly, and without
51 authorization destroys data, programs, or supporting
52 documentation residing or existing internal or external to a
53 computer, computer system, ~~or~~ computer network, or electronic
54 device commits an offense against intellectual property.

55 (3) (a) Data, programs, or supporting documentation which is
56 a trade secret as defined in s. 812.081 which resides or exists
57 internal or external to a computer, computer system, ~~or~~ computer
58 network, or electronic device which is held by an agency as
59 defined in chapter 119 is confidential and exempt from the
60 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
61 Constitution.

62 (b) A person who ~~Whoever~~ willfully, knowingly, and without
63 authorization discloses or takes data, programs, or supporting
64 documentation which is a trade secret as defined in s. 812.081
65 or is confidential as provided by law residing or existing
66 internal or external to a computer, computer system, ~~or~~ computer
67 network, or electronic device commits an offense against



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68 intellectual property.

69 (4) (a) Except as otherwise provided in this subsection, an
70 offense against intellectual property is a felony of the third
71 degree, punishable as provided in s. 775.082, s. 775.083, or s.
72 775.084.

73 (b) If the offense is committed for the purpose of devising
74 or executing any scheme or artifice to defraud or to obtain any
75 property or personal information, ~~then~~ the person commits
76 ~~offender is guilty of~~ a felony of the second degree, punishable
77 as provided in s. 775.082, s. 775.083, or s. 775.084.

78 Section 4. Section 815.06, Florida Statutes, is amended to
79 read:

80 815.06 Offenses against ~~computer~~ users of computer networks
81 and electronic devices.-

82 (1) As used in this section, the term "person" means:

83 (a) An individual;

84 (b) A partnership, corporation, association, or other
85 entity doing business in this state, or an officer, agent, or
86 employee of such an entity; or

87 (c) An officer, employee, or agent of the state or a
88 county, municipality, special district, or other political
89 subdivision whether executive, judicial, or legislative,
90 including, but not limited to, a department, division, bureau,
91 commission, authority, district, or agency thereof.

92 (2) A person commits an offense against users of computer
93 networks or electronic devices if he or she ~~whoever~~ willfully,
94 knowingly, and without authorization:

95 (a) Accesses or causes to be accessed any computer,
96 computer system, ~~or~~ computer network, or electronic device with



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97 knowledge that such access is unauthorized;

98 (b) Disrupts or denies or causes the denial of the ability
99 to transmit data ~~computer system services~~ to or from an
100 authorized user of such computer system, computer network, or
101 electronic device services, which, in whole or in part, is owned
102 by, under contract to, or operated for, on behalf of, or in
103 conjunction with another;

104 (c) Destroys, takes, injures, or damages equipment or
105 supplies used or intended to be used in a computer, computer
106 system, ~~or~~ computer network, or electronic device;

107 (d) Destroys, injures, or damages any computer, computer
108 system, ~~or~~ computer network, or electronic device; ~~or~~

109 (e) Introduces any computer contaminant into any computer,
110 computer system, ~~or~~ computer network, or electronic device; or

111 (f) Gains unauthorized access to any inherent feature or
112 component of a computer, computer system, computer network, or
113 electronic device, including accessing the data or information
114 of a computer, computer system, computer network, or electronic
115 device which is stored by a third party, in order to engage in
116 audio, video, or other surveillance of an individual. This
117 paragraph does not apply to an employer who monitors employee
118 use of a business computer, computer system, computer network,
119 or electronic device or a parent who monitors his or her minor
120 child's use of a computer, computer system, computer network, or
121 electronic device.

122
123 ===== T I T L E A M E N D M E N T =====

124 And the title is amended as follows:

125 Delete lines 4 - 20



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126 and insert:

127 s. 815.03, F.S.; defining and redefining terms;
128 amending s. 815.04, F.S.; providing that a person who
129 willfully, knowingly, and without authorization
130 modifies or destroys data, programs, or supporting
131 documentation residing or existing internal or
132 external to an electronic device commits an offense
133 against intellectual property; providing that a person
134 who willfully, knowingly, and without authorization
135 discloses or takes data, programs, or supporting
136 documentation that is a trade secret or is
137 confidential and that is residing or existing internal
138 or external to an electronic device commits an offense
139 against intellectual property; providing criminal
140 penalties; providing that specified data, programs, or
141 supporting documentation that resides or exists
142 internal or external to an electronic device is
143 confidential and exempt from public records
144 requirements; providing a criminal penalty for
145 devising or executing a scheme to defraud or obtain
146 property or personal information; amending s. 815.06,
147 F.S.; defining terms; providing that a person who
148 willfully, knowingly, and without authorization
149 accesses a computer, computer system, computer
150 network, or electronic device, disrupts the ability to
151 transmit data to or from a computer, computer system,
152 computer network, or electronic device, damages a
153 computer, computer system, computer network, or
154 electronic device, or gains unauthorized access to a



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155 computer, computer system, computer network, or
156 electronic device in order to engage in specified
157 surveillance of an individual commits an offense
158 against the users

By the Committees on Criminal Justice; and Communications,
Energy, and Public Utilities; and Senator Brandes

591-01838-14

2014364c2

1 A bill to be entitled
2 An act relating to computer crimes; amending s.
3 815.02, F.S.; revising legislative findings; amending
4 s. 815.03, F.S.; defining terms; amending s. 815.04,
5 F.S.; providing that a person who willfully,
6 knowingly, and without authorization modifies or
7 destroys data, programs, or supporting documentation
8 residing or existing internal or external to a
9 computer network or electronic device commits an
10 offense against intellectual property; providing
11 criminal penalties; amending s. 815.06, F.S.; defining
12 terms; providing that a person who willfully,
13 knowingly, and without authorization accesses a
14 computer network or electronic device, disrupts the
15 ability to transmit data to or from a computer network
16 or electronic device, damages a computer network or
17 electronic device, or engages in the audio or video
18 surveillance of an individual without the individual's
19 authorization by accessing a computer network or
20 electronic device commits an offense against the users
21 of computer networks and electronic devices; providing
22 exceptions; providing applicability; providing
23 criminal penalties; creating s. 815.061, F.S.;
24 defining the term "public utility"; prohibiting a
25 person from willfully, knowingly, and without
26 authorization engaging in specified activities against
27 a computer, computer system, computer network, or
28 electronic device owned, operated, or used by a public
29 utility; providing criminal penalties; providing an

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30 effective date.
31
32 Be It Enacted by the Legislature of the State of Florida:
33
34 Section 1. Present subsection (4) of section 815.02,
35 Florida Statutes, is redesignated as subsection (5), and a new
36 subsection (4) is added to that section, to read:
37 815.02 Legislative intent.—The Legislature finds and
38 declares that:
39 (4) The proliferation of new technology has led to the
40 integration of computer systems in most sectors of the
41 marketplace through the creation of computer networks, greatly
42 extending the reach of computer crime.
43 Section 2. Section 815.03, Florida Statutes, is amended to
44 read:
45 815.03 Definitions.—As used in this chapter, unless the
46 context clearly indicates otherwise:
47 (1) "Access" means to approach, instruct, communicate with,
48 store data in, retrieve data from, or otherwise make use of any
49 resources of a computer, computer system, or computer network.
50 (2) "Computer" means an internally programmed, automatic
51 device that performs data processing.
52 (3) "Computer contaminant" means any set of computer
53 instructions designed to modify, damage, destroy, record, or
54 transmit information within a computer, computer system, or
55 computer network without the intent or permission of the owner
56 of the information. The term includes, but is not limited to, a
57 group of computer instructions, commonly called viruses or
58 worms, which are self-replicating or self-propagating and which

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59 are designed to contaminate other computer programs or computer
60 data; consume computer resources; modify, destroy, record, or
61 transmit data; or in some other fashion usurp the normal
62 operation of the computer, computer system, or computer network.

63 (4) "Computer network" means a system that provides a
64 medium for communication between one or more computer systems or
65 electronic devices, including communication with an input or
66 output device such as a display terminal, printer, or other
67 electronic equipment that is connected to the computer systems
68 or electronic devices by physical or wireless telecommunication
69 facilities any system that provides communications between one
70 or more computer systems and its input or output devices,
71 including, but not limited to, display terminals and printers
72 that are connected by telecommunication facilities.

73 (5) "Computer program or computer software" means a set of
74 instructions or statements and related data which, when executed
75 in actual or modified form, cause a computer, computer system,
76 or computer network to perform specified functions.

77 (6) "Computer services" include, but are not limited to,
78 computer time; data processing or storage functions; or other
79 uses of a computer, computer system, or computer network.

80 (7) "Computer system" means a device or collection of
81 devices, including support devices, one or more of which contain
82 computer programs, electronic instructions, or input data and
83 output data, and which perform functions, including, but not
84 limited to, logic, arithmetic, data storage, retrieval,
85 communication, or control. The term does not include calculators
86 that are not programmable and that are not capable of being used
87 in conjunction with external files.

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88 (8) "Data" means a representation of information,
89 knowledge, facts, concepts, computer software, computer
90 programs, or instructions. Data may be in any form, in storage
91 media or stored in the memory of the computer, or in transit or
92 presented on a display device.

93 (9) "Electronic device" means a device that is capable of
94 communicating across a computer network with other computers or
95 devices for the purpose of transmitting, receiving, or storing
96 data.

97 (10)~~(9)~~ "Financial instrument" means any check, draft,
98 money order, certificate of deposit, letter of credit, bill of
99 exchange, credit card, or marketable security.

100 (11)~~(10)~~ "Intellectual property" means data, including
101 programs.

102 (12)~~(11)~~ "Property" means anything of value as defined in
103 s. 812.012 and includes, but is not limited to, financial
104 instruments, information, including electronically produced data
105 and computer software and programs in ~~either~~ machine-readable or
106 human-readable form, and any other tangible or intangible item
107 of value.

108 Section 3. Section 815.04, Florida Statutes, is amended to
109 read:

110 815.04 Offenses against intellectual property; public
111 records exemption.-

112 (1) A person who ~~Whoever~~ willfully, knowingly, and without
113 authorization modifies data, programs, or supporting
114 documentation residing or existing internal or external to a
115 computer, computer system, ~~or~~ computer network, or electronic
116 device commits an offense against intellectual property.

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117 (2) A person who ~~Whoever~~ willfully, knowingly, and without
 118 authorization destroys data, programs, or supporting
 119 documentation residing or existing internal or external to a
 120 computer, computer system, ~~or~~ computer network, or electronic
 121 device commits an offense against intellectual property.

122 (3) (a) Data, programs, or supporting documentation which is
 123 a trade secret as defined in s. 812.081 which resides or exists
 124 internal or external to a computer, computer system, or computer
 125 network which is held by an agency as defined in chapter 119 is
 126 confidential and exempt from the provisions of s. 119.07(1) and
 127 s. 24(a), Art. I of the State Constitution.

128 (b) A person who ~~Whoever~~ willfully, knowingly, and without
 129 authorization discloses or takes data, programs, or supporting
 130 documentation which is a trade secret as defined in s. 812.081
 131 or is confidential as provided by law residing or existing
 132 internal or external to a computer, computer system, or computer
 133 network commits an offense against intellectual property.

134 (4) (a) Except as otherwise provided in this subsection, an
 135 offense against intellectual property is a felony of the third
 136 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 137 775.084.

138 (b) If the offense is committed for the purpose of devising
 139 or executing any scheme or artifice to defraud or to obtain any
 140 property, ~~then the person commits~~ offender is guilty of a felony
 141 of the second degree, punishable as provided in s. 775.082, s.
 142 775.083, or s. 775.084.

143 Section 4. Section 815.06, Florida Statutes, is amended to
 144 read:

145 815.06 Offenses against ~~computer~~ users of computer networks

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146 and electronic devices.-

147 (1) As used in this section, the term "person" means:

148 (a) An individual;

149 (b) A partnership, corporation, association, or other
 150 entity doing business in this state, or an officer, agent, or
 151 employee of such an entity; or

152 (c) An officer, employee, or agent of the state or a
 153 county, municipality, special district, or other political
 154 subdivision whether executive, judicial, or legislative,
 155 including, but not limited to, a department, division, bureau,
 156 commission, authority, district, or agency thereof.

157 (2) A person commits an offense against users of computer
 158 networks or electronic devices if he ~~Whoever~~ willfully,
 159 knowingly, and without authorization:

160 (a) Accesses or causes to be accessed any computer,
 161 computer system, ~~or~~ computer network, or electronic device with
 162 knowledge that such access is unauthorized;

163 (b) Disrupts or denies or causes the denial of the ability
 164 to transmit data ~~computer system services~~ to or from an
 165 authorized user of such computer system or computer network
 166 services, which, in whole or in part, is owned by, under
 167 contract to, or operated for, on behalf of, or in conjunction
 168 with another;

169 (c) Destroys, takes, injures, or damages equipment or
 170 supplies used or intended to be used in a computer, computer
 171 system, ~~or~~ computer network, or electronic device;

172 (d) Destroys, injures, or damages any computer, computer
 173 system, ~~or~~ computer network, or electronic device; ~~or~~

174 (e) Introduces any computer contaminant into any computer,

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175 computer system, ~~or~~ computer network, or electronic device; or
 176 (f) Engages in audio or video surveillance of an individual
 177 without that individual's authorization by accessing any
 178 inherent feature or component of a computer, computer system,
 179 computer network, or electronic device, including accessing the
 180 data or information of a computer, computer system, computer
 181 network, or electronic device that is stored by a third party.

182
 183 This section does not apply to a person who has acted pursuant
 184 to a search warrant or to an exception to a search warrant
 185 authorized by law or when acting within the scope of his or her
 186 lawful employment, and nothing in this act may be construed to
 187 impose liability on a provider of an interactive computer
 188 service as defined in 47 U.S.C. 230(f)(2), an information
 189 service as defined in 47 U.S.C. 153(24), or communications
 190 services as defined in s. 202.11 if the provider provides the
 191 transmission, storage, or caching of electronic communications
 192 or messages of others; other related telecommunications or
 193 commercial mobile radio service; or content provided by another
 194 person commits an offense against computer users.

195 (3)(2)(a) Except as provided in paragraphs (b) and (c), a
 196 person who ~~whoever~~ violates subsection (2) (1) commits a felony
 197 of the third degree, punishable as provided in s. 775.082, s.
 198 775.083, or s. 775.084.

199 (b) A person commits a felony of the second degree,
 200 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 201 if he or she ~~whoever~~ violates subsection (2) (1) and:

202 1. Damages a computer, computer equipment or supplies,
 203 ~~computer supplies,~~ a computer system, or a computer network, and

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204 the ~~monetary~~ damage or loss ~~incurred as a result of the~~
 205 ~~violation is at least \$5,000 or greater;~~

206 2. Commits the offense for the purpose of devising or
 207 executing any scheme or artifice to defraud or obtain property;

208 ~~or~~
 209 3. Interrupts or impairs a governmental operation or public
 210 communication, transportation, or supply of water, gas, or other
 211 public service; or

212 4. Intentionally interrupts the transmittal of data to or
 213 from, or gains unauthorized access to, a computer, computer
 214 system, computer network, or electronic device belonging to any
 215 mode of public or private transit, as defined in s. 341.031,

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

219 (c) A person who ~~whoever~~ violates subsection (2) (1) and
 220 the violation endangers human life commits a felony of the first
 221 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 222 775.084, if the violation:

223 1. Endangers human life; or

224 2. Disrupts a computer, computer system, computer network,
 225 or electronic device that affects medical equipment used in the
 226 direct administration of medical care or treatment to a person.

227 (4)(3) A person who ~~whoever~~ willfully, knowingly, and
 228 without authorization modifies equipment or supplies used or
 229 intended to be used in a computer, computer system, ~~or~~ computer
 230 network, or electronic device commits a misdemeanor of the first
 231 degree, punishable as provided in s. 775.082 or s. 775.083.

232 (5)(4)(a) In addition to any other civil remedy available,

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233 the owner or lessee of the computer, computer system, computer
234 network, computer program, computer equipment or supplies,
235 electronic device, ~~computer supplies,~~ or computer data may bring
236 a civil action against a ~~any~~ person convicted under this section
237 for compensatory damages.

238 (b) In ~~an any~~ action brought under this subsection, the
239 court may award reasonable attorney ~~attorney's~~ fees to the
240 prevailing party.

241 ~~(6)(5)~~ A ~~Any~~ computer, computer system, computer network,
242 computer software, ~~or~~ computer data, or electronic device owned
243 by a defendant which is used during the commission of a ~~any~~
244 violation of this section or a ~~any~~ computer or electronic device
245 owned by the defendant which is used as a repository for the
246 storage of software or data obtained in violation of this
247 section is subject to forfeiture as provided under ss. 932.701-
248 932.704.

249 ~~(7)(6)~~ This section does not apply to a ~~any~~ person who
250 accesses his or her employer's computer system, computer
251 network, computer program, ~~or~~ computer data, or electronic
252 device when acting within the scope of his or her lawful
253 employment.

254 ~~(8)(7)~~ For purposes of bringing a civil or criminal action
255 under this section, a person who causes, by any means, the
256 access to a computer, computer system, ~~or~~ computer network, or
257 electronic device in one jurisdiction from another jurisdiction
258 is deemed to have personally accessed the computer, computer
259 system, ~~or~~ computer network, or electronic device in both
260 jurisdictions.

261 Section 5. Section 815.061, Florida Statutes, is created to

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262 read:

263 815.061 Offenses against public utilities.—

264 (1) As used in this section, the term "public utility"
265 includes each public utility and electric utility as those terms
266 are defined in s. 366.02; each utility as defined in s. 367.021;
267 each natural gas transmission company as defined in s. 368.103;
268 each person, corporation, partnership, association, public
269 agency, municipality, cooperative, gas district, or other legal
270 entity and their lessees, trustees, or receivers, now or
271 hereafter owning, operating, managing, or controlling gas
272 transmission or distribution facilities or any other facility
273 supplying or storing natural or manufactured gas or liquefied
274 gas with air admixture or any similar gaseous substances by
275 pipeline to or for the public within this state; and any
276 separate legal entity created under s. 163.01 and composed of
277 any of the entities described in this subsection for the purpose
278 of providing utility services in this state, including wholesale
279 power and electric transmission services.

280 (2) A person may not willfully, knowingly, and without
281 authorization:

282 (a) Gain access to a computer, computer system, computer
283 network, or electronic device owned, operated, or used by a
284 public utility while knowing that such access is unauthorized.

285 (b) Physically tamper with, insert software into, or
286 otherwise transmit commands or electronic communications to a
287 computer, computer system, computer network, or electronic
288 device which cause a disruption in any service delivered by a
289 public utility.

290 (3) (a) A person who violates paragraph (2) (a) commits a

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291 felony of the third degree, punishable as provided in s.
292 775.082, s. 775.083, or s. 775.084.

293 (b) A person who violates paragraph (2) (b) commits a felony
294 of the second degree, punishable as provided in s. 775.082, s.
295 775.083, or s. 775.084.

296 Section 6. This act shall take effect October 1, 2014.

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 Appropriations Subcommittee on Criminal and Civil Justice

BILL: CS/SB 700

INTRODUCER: Judiciary Committee and Senator Bradley and others

SUBJECT: Department of Juvenile Justice

DATE: March 11, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Favorable
2.	Brown	Cibula	JU	Fav/CS
3.	Clodfelter	Sadberry	ACJ	Pre-meeting
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 700 amends chapter 985, F.S., which provides a framework for the juvenile justice system in Florida and delineates duties and responsibilities of the Department of Juvenile Justice (DJJ or department). Specifically, the bill enhances the state's focus on serious juvenile offenders, adopts measures to reduce recidivism, and increases care of juvenile offenders in the department's custody.

To provide an increased focus on serious cases and public safety, the bill:

- Requires the DJJ to notify a law enforcement agency and the victim of a juvenile offender who has escaped or absconded while in custody during commitment;
- Grants the court jurisdiction over a juvenile sex offender under THE DJJ supervision until he or she is 21 years old;
- Encourages the DJJ to develop evening-reporting centers to better support children in nonsecure detention;
- Authorizes the court to order juvenile offenders who commit technical violations of probation into a diversion program; and
- Waives fingerprinting requirements for children committing offenses that may only result in a civil citation.

To reduce recidivism through recognizing the special needs of children and the need for transitional services, the bill:

- Authorizes intake personnel to incorporate mental health, substance abuse, and psychosexual evaluations as part of the intake process;
- Establishes trauma-informed care as part of the DJJ model;
- Encourages placement of children in their home communities to facilitate family and community support;
- Enhances the transition-to-adult services offered and lifts the age restriction of youth clients eligible for service; and
- Requires the DJJ to focus on prevention services through providing academic and community support for at-risk youth.

To improve care to juveniles in the residential custody of the DJJ, the bill:

- Combines the commitment levels of low-risk and moderate-risk residential commitments into the newly-designated nonsecure residential commitment level and caps the number of beds authorized per facility at 90 beds, rather than the current cap of 165 beds;
- Creates a criminal offense of willful and malicious neglect, punishable as a third degree felony if the employee's lack of care does not result in harm to the juvenile offender in DJJ custody and as a second degree felony if great bodily harm results; and
- Allows for prosecution under the new criminal offense for any victim in commitment care, not just children under the age of 18.

To increase performance accountability, the bill requires the DJJ to adopt a system to measure performance based on recidivism rates of providers and programs, and to annually report findings to the Legislature.

The bill codifies a provision found in the 2013-2014 Implementing Bill for the General Appropriations Act which caps the allowable rate for hospital health services provided to juveniles at 110 percent of the Medicare allowable rate, with a cap of 125 percent in limited cases.

This bill grants the DJJ greater flexibility in the assessment process by allowing a DJJ employee other than a juvenile probation officer to participate in intake, screenings, and assessments.

The DJJ indicates that the bill will result in a small increase in costs which can be absorbed within existing resources. The Office of State Court Administrators also indicates it expects that it will not need additional resources for any increased workload in the court system. The new detention criteria may result in some children being held in secure detention who would not be held under current law, and some others being held for a longer period of time. This may have an indeterminate fiscal impact on local government expenditures for a share of detention costs.

II. Present Situation:

Department of Juvenile Justice/Department of Health and Human Services

In years past, the Department of Health and Rehabilitative Services (HRS) participated in all court proceedings relating to children, including dependency and delinquency cases.¹ In 1994, the Legislature created the Department of Juvenile Justice (DJJ), and assigned the DJJ responsibility for juvenile delinquency cases and children in need of services and families in need of services (CINS/FINS) cases. The HRS retained jurisdiction of dependency cases. Despite this bifurcation, laws governing delinquency and dependency remained together in ch. 39, F.S.²

In 1997, the Legislature transferred provisions relating to juvenile delinquency proceedings in ch. 39, F.S., into ch. 984, F.S., (relating to CINS/FINS) and ch. 985, F.S., (relating to juvenile delinquency cases).³ However, the legislation inadvertently included a handful of provisions relating to dependency in the transfer. Dependency duties are now the responsibility of the Department of Children and Families (DCF).⁴

Jurisdiction

Section 985.0301(1), F.S., provides that Florida's circuit courts have exclusive original jurisdiction in criminal proceedings in which a child is alleged to have committed a violation. Currently, the circuit court where the alleged violation occurred may transfer a case to the circuit court in which the child resides or will reside at the time of detention or placement.⁵ A child detainee must be transferred to the appropriate detention center or facility or other placement directed by the court receiving the case.⁶

The court retains jurisdiction over a child until the child:

- Is 19 years old, if the child's case has not been resolved;
- Is 19 years old, if the child is ordered to participate in a probation program, including participation in transition-to-adulthood services;
- Is 21 years old, if the child is committed to the DJJ;
- Is 22 years old, if the child is committed to the DJJ for placement in a juvenile prison or in a high-risk or maximum-risk residential commitment program;⁷
- Is 21 years old, if the child is committed to the DJJ for placement in an intensive residential treatment program for 10-13 year-old offenders, in the residential commitment program in a juvenile prison or in a residential sex offender program;
- Is 21 years old, if the child is committed to a juvenile correctional facility or a juvenile prison, specifically for the purpose of allowing the child to complete the program;

¹ Florida Department of Juvenile Justice, *History of the Juvenile Justice System in Florida*, <http://www.djj.state.fl.us/about-us/history> (last visited on February 21, 2014).

² *Id.*

³ *Id.*

⁴ Section 39.01(21), F.S.

⁵ Section 985.0301(4)(a), F.S.

⁶ *Id.*

⁷ This is solely for the child to complete a conditional release program. Section 985.0301(5)(d), F.S.

- Is 21 years old, if the child is a juvenile sexual offender who has been placed in a program or facility for juvenile sexual offenders, specifically to complete the program; or
- Completes payment of court-ordered restitution.⁸

Contempt of Court

Section 985.037, F.S., authorizes the court to punish a child for contempt for interfering with the court or court administration, or for violating a court order or ch. 985, F.S. Direct contempt results from conduct committed by the juvenile in the presence of the judge, while indirect contempt concerns conduct committed outside the judge's presence.⁹

A child charged with direct contempt may be sanctioned immediately.¹⁰ If a child is charged with indirect contempt, the court must hold a hearing within 24 hours to determine if the child committed indirect contempt.¹¹ In indirect contempt proceedings, the child is given specified due process rights.¹²

If a court finds that a child committed contempt of court, the court may order the child to serve an alternative sanction¹³ or order the placement of the child into a secure facility¹⁴ for a specified time.¹⁵ If a child is placed into a secure facility, the court must review the placement every 72 hours.¹⁶

Fingerprinting and Photographing

Section 985.11(1)(a), F.S., requires a child who is charged with or found to have committed specified offenses to be fingerprinted by the appropriate law enforcement agency, and requires the law enforcement agency to submit the fingerprints to the Florida Department of Law Enforcement (FDLE).

Intake Process

Every child under the age of 18 charged with a crime in Florida is referred to the DJJ.¹⁷ Intake and screening services for youth referred to the DJJ are performed at a Juvenile Assessment Center¹⁸ by a DJJ employee.¹⁹ Once brought into intake, the DJJ assigns the child a juvenile

⁸ Section 985.0301(5), F.S.

⁹ *Kelley v. Rice*, 800 So.2d 247, 251 (Fla. 2d DCA 2001); *E.T. v. State*, 587 So.2d 615, 616 (Fla. 1st DCA 1991).

¹⁰ Section 985.037(4)(a), F.S.

¹¹ Section 985.037(4)(b), F.S.

¹² *Id.*

¹³ Section 985.037(3), F.S. Each judicial circuit is required to have an alternative sanctions coordinator to coordinate and maintain a spectrum of contempt sanction alternatives. The alternative sanctions coordinator serves under the chief judge of the circuit. The court may immediately request that the alternative sanctions coordinator recommend the most appropriate sanctions placement.

¹⁴ A child may only be placed into a secure facility if alternative sanctions are unavailable or inappropriate. Section 985.037(1), F.S.

¹⁵ Five days for a first offense and 15 days for a second or subsequent offense of contempt. Section 985.037(2), F.S.

¹⁶ Section 985.037(4), F.S.

¹⁷ A referral is similar to an arrest in the adult criminal justice system.

¹⁸ Section 985.135(4), F.S.

¹⁹ Section 985.14(2), F.S.

probation officer, conducts an assessment, and recommends appropriate sanctions and services to the state attorney and the court.²⁰ The probation officer serves as the primary case manager responsible for managing, coordinating, and monitoring services provided to the child.²¹

Detention Care System

Detention care is the temporary care of children pursuant to an adjudication or order of the court.²² Children may be detained in one of three types of detention care: secure,²³ nonsecure,²⁴ and home detention²⁵ when specific statutory criteria are met.

Section 985.24, F.S., provides guidelines for the court to use in ordering detention care, including that the child:

- Presents a substantial risk of not appearing at a hearing;
- Presents a substantial risk of inflicting bodily harm on others as evidenced by recent behavior;
- Presents a history of committing a property offense prior to adjudication, disposition, or placement;
- Has committed contempt of court; or
- Requests protection from imminent bodily harm.

If a law enforcement agency takes a child into custody, the DJJ must accept custody of the child and review the facts in the arrest report to determine what, if any, detention care is necessary.²⁶ The probation officer makes an initial decision regarding detention care placement using the “Detention Risk Assessment Instrument.”²⁷ In certain instances, the probation officer does not have discretion and must place a child in secure detention (e.g., when a child is charged with possessing or discharging a firearm on school property).²⁸

A child may not be held in secure, nonsecure, or home detention for more than 24 hours without a detention hearing.²⁹ A detention hearing is conducted by a circuit judge who reviews the

²⁰ Section 985.14(1) and (2), F.S.

²¹ Section 985.145(1), F.S.

²² Section 985.03(18), F.S.

²³ Section 985.03(18)(a), F.S., defines “secure detention” as temporary custody of the child while the child is under the physical restriction of a detention center or facility pending adjudication, disposition, or placement.

²⁴ Section 985.03(18)(b), F.S., defines “nonsecure detention” as temporary custody of the child while the child is in a residential home in the community in a physically nonrestrictive environment under the supervision of the Department of Juvenile Justice pending adjudication, disposition, or placement. However, the DJJ reports that its current practice for detention is to only utilize secure or home detention; nonsecure detention has not been used for several years. Department of Juvenile Justice, *2014 Bill Analysis for SB 700* (2014) (on file with the Senate Judiciary Committee).

²⁵ Section 985.03(18)(c), F.S., defines “home detention” as temporary custody of the child while the child is released to the custody of the parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of department staff pending adjudication, disposition, or placement.

²⁶ Section 985.25(1), F.S.

²⁷ Sections 985.25(1)(b) and 985.245, F.S. Section 985.245, F.S., outlines with whom the Detention Risk Assessment Instrument must be developed, when and how it must be updated, and what factors the assessment instrument should identify when evaluating a child to determine whether detention placement is appropriate.

²⁸ Section 985.25(1)(b), F.S.

²⁹ Section 985.26(1), F.S. The child has the right to be represented at this hearing or can waive the right. Section 985.033, F.S.

assessment instrument to determine whether probable cause exists that the child committed the offense and the need for continued detention.³⁰ A court's detention order must include specific instructions for release of the child from detention (generally, a 21-day limit applies to secure, nonsecure, or home detention³¹).³²

If the child is a juvenile sex offender, detention staff must notify the appropriate law enforcement agency and school personnel of the child's release from secure detention or transfer to nonsecure detention.³³

Disposition

The state attorney formally charges a child with a criminal offense by filing a petition for delinquency.³⁴ Because a child may be detained if adjudicated delinquent, federal constitutional law requires many of the same due process safeguards afforded to adult criminal defendants³⁵ and that the case proceed to adjudicatory hearing (trial)³⁶ as quickly as possible. If the court finds that the child committed the violation of law, the court may either withhold adjudication of delinquency or adjudicate the child delinquent.³⁷

If the court finds that a child has committed an offense, the court must hold a disposition hearing to determine appropriate punishment. Before making a final disposition, the court reviews a pre-disposition report³⁸ prepared by the DJJ.³⁹ The pre-disposition report identifies appropriate educational and vocational goals, which include successful completion of vocational courses, and successful attendance and completion of the child's current grade. The court must then determine whether it is appropriate to commit the child to the DJJ or probation and community-based sanctions.⁴⁰

³⁰ Section 985.255(3), F.S.

³¹ Section 985.26(2), F.S. A child may be held up to 30 days if the child is charged with what would be, if committed by an adult, a capital felony, a life felony, a first degree felony, or a second degree felony offense.

³² Section 985.255(3)(c), F.S.

³³ Similarly, once a juvenile sex offender is released from a commitment program, the DJJ must notify the FDLE under ss. 985.481 and 985.4815, F.S. The DJJ has been required to provide this notification electronically since November 1, 2007.

³⁴ Section 985.318, F.S.

³⁵ Section 985.35(2)(a), (b), and (c), F.S., provides that the child is entitled to present evidence, cross examine witnesses, protect himself or herself from self-incrimination, and to not have evidence that was illegally seized or obtained presented to the court in the case against them. Facts must be established beyond a reasonable doubt and rules of evidence apply to the proceedings. Additionally, s. 985.033(1), F.S., provides that a child is entitled to legal counsel at all stages of any delinquency court proceeding.

³⁶ Section 985.03(2), F.S., defines an "adjudicatory hearing" as a hearing for the court to determine whether the facts support the allegations stated in the petition, as provided under s. 985.35, F.S. In an adjudicatory hearing, the judge decides both questions of fact and law. Section 985.35(2), F.S.

³⁷ Section 985.35, F.S. An adjudication of delinquency by a court is not considered a conviction.

³⁸ Section 985.433(6), F.S., requires the pre-disposition report to include a summary of the juvenile's present offense, a statement by the youth, background information regarding the familial and community environment, a narrative explaining the juvenile's employment or school history, psychological data, restitution information, criminal history, risk assessment, and the recommendations of DJJ concerning disposition of the case.

³⁹ Section 985.43, F.S.

⁴⁰ Section 985.433(6), F.S.

Probation or Postcommitment Probation (Probation)

A child's probation program must include both a penalty and a rehabilitative component.⁴¹ Each child is assigned a juvenile probation officer who monitors the child's compliance and helps the child connect with service providers.

If the child does not comply with terms of probation, the child may be brought before the court on a violation of probation. The violation may be a substantive violation for committing a new criminal offense or a technical violation for failure to comply with a condition of probation.⁴² If a child admits to the violation or is found by the court to have violated probation, the court must enter an order revoking, modifying, or continuing probation.⁴³ Specifically, the court may:

- Place the child into a consequence unit⁴⁴ for up to 15 days;
- Place the child on home detention with electronic monitoring;
- Modify or continue the child's probation; or
- Revoke probation and commit the child to the DJJ.⁴⁵

Commitment

The court may commit the child to a nonresidential or residential facility.⁴⁶ Commitment programs vary by "restrictiveness level," defined in s. 985.03(46), F.S., as "the level of programming and security provided by programs that service the supervision, custody, care, and treatment needs of committed children." Levels of commitment are:

- Minimum-risk nonresidential, a level 2 commitment program, where children remain in their community and participate at least 5 days a week in day treatment;
- Low-risk residential, a level 4 program, where children live in a residential program and have unsupervised access to their community;
- Moderate-risk residential, a level 6 program, where children are in a residential program and have supervised access to their community;
- High-risk residential, a level 8 program, where children are not allowed access to their community; and
- Maximum-risk residential, a level 10 long-term residential program, including juvenile correctional facilities or juvenile prisons that do not allow the children to have any access to their community.⁴⁷

Florida law caps the number of beds at residential facilities at 165 beds.⁴⁸

⁴¹ Section 985.435(2) and (3), F.S., give examples of what these components include.

⁴² See *Meeks v. State*, 754 So.2d 101, 103-104 (Fla. 1st DCA 2000); *Johnson v. State*, 678 So.2d 934, 934-935 (Fla. 3d DCA 1996).

⁴³ Section 985.439(4), F.S.

⁴⁴ Section 985.439(2), F.S., defines "consequence unit" as a secure facility specifically designated by the department for children who are taken into custody under s. 985.101, F.S., for violating probation or postcommitment probation, or who have been found by the court to have violated the conditions of probation or postcommitment probation.

⁴⁵ Section 985.439(4)(d), F.S.

⁴⁶ Section 985.441, F.S.

⁴⁷ Section 985.03(46)(e), F.S.

⁴⁸ Section 985.03(46), F.S.

If the court determines the child should be adjudicated delinquent and committed to the DJJ through court order,⁴⁹ the DJJ must recommend the restrictiveness level for the child. The court may commit the child at a different restrictiveness level but must set out findings for departure in the record based on a preponderance of the evidence.⁵⁰

Once the court enters a commitment order, the DJJ is responsible for determining placement in a specific residential program based on the child's identified risks and needs.⁵¹ Currently, the court must order a child to be placed in a specific restrictiveness level from level 2 through level 10 and the DJJ does not have the flexibility to move a child into a different restrictiveness level.

A child is committed to a residential program for an indeterminate length of time and must complete an individualized treatment plan.⁵² The goals of the plan are based on the child's rehabilitative needs and include educational and vocational service goals.⁵³ All residential programs provide medical, mental health, substance abuse, and developmental disability services.⁵⁴

Conditional Release and Transition-to-Adulthood Services

Conditional release is defined as the care, treatment, help, and supervision provided to a juvenile released from a residential commitment program. The purposes of conditional release are to protect the public, reduce recidivism, increase responsible productive behavior, and provide for a successful transition of the youth from the DJJ to the family.⁵⁵

The DJJ must assess each child placed into a residential commitment facility to determine the need for conditional release services upon release from the facility.⁵⁶ Children participating in conditional release services must participate in an educational program⁵⁷ if they are of compulsory school attendance age or noncompulsory school age and have not obtained a high school diploma or its equivalent.⁵⁸ A child who has received a diploma or equivalent, but is not employed, must attend college classes, other career education, or participate in workforce development.⁵⁹

The DJJ must also provide older⁶⁰ children with opportunities to participate in "transition-to-adulthood" services that build life skills and increase the ability to live independently and be

⁴⁹ Section 985.441(1), F.S.

⁵⁰ Section 985.441(2), F.S.

⁵¹ Department of Juvenile Justice, *Residential Services*, Comprehensive Accountability Report, Fiscal Year 2011-2012, <http://www.djj.state.fl.us/research/reports/car> (last visited February 24, 2014).

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ Section 985.03(12), F.S.

⁵⁶ Section 985.46(3), F.S.

⁵⁷ Pursuant to s. 1003.21(1)(a)1. and (2)(a), F.S.

⁵⁸ Section 985.46(5), F.S.

⁵⁹ *Id.*

⁶⁰ The term "older" in s. 985.461(2)(b), F.S., refers to children 17 years of age or older.

self-sufficient.⁶¹ The DJJ is authorized to engage in a variety of activities designed to support participation in transition-to-adulthood services.⁶²

Internal Agency Procedures

Administering the Juvenile Justice Continuum

Section 985.601, F.S., requires the Department of Juvenile Justice (DJJ) to develop or contract for diversified and innovative programs to provide rehabilitative treatment.

Quality Assurance and Cost-Effectiveness

Section 985.632, F.S., requires the DJJ to provide transparency to policy makers and the public about the costs and effectiveness of the programs that it operates. The DJJ is also required to develop an accountability system to assist in ensuring that children served receive the best services for their needs.

The DJJ is required to annually collect cost data for every program that it operates or contracts for and submit this data to the Legislature and the Governor.⁶³ The DJJ is also required to develop a cost-effectiveness model and apply the model to each commitment program. The cost-effectiveness model must compare program costs to client outcomes and program outputs, and include recidivism rates.⁶⁴ The DJJ must rank each commitment program based on the cost-effectiveness model and may terminate a program if the program has failed to achieve a minimum threshold of program effectiveness.

Departmental Contracting Powers; Personnel Standards and Screening

Section 985.644, F.S., requires DJJ employees and all personnel⁶⁵ of contract providers to complete a:

- Level 2 employment screening prior to employment (which requires fingerprinting);⁶⁶ and
- National criminal records check by the Federal Bureau of Investigation every 5 years following the date of the person's employment.

The DJJ must electronically submit fingerprint information of DJJ employees and contract personnel (other than law enforcement, correctional, and correctional probation officers) to the FDLE.

⁶¹ Section 985.461(1), F.S.

⁶² Section 985.461(4), F.S.

⁶³ Section 985.632(3), F.S.

⁶⁴ Section 985.632(4)(a), F.S.

⁶⁵ Section 985.644(3)(a), F.S., states that personnel includes all owners, operators, employees, persons who have access to confidential juvenile records, and volunteers of contract providers for any program for children.

⁶⁶ Section 435.04, F.S. Level 2 employment screenings require fingerprints to be processed through statewide criminal history records checks through FDLE and national criminal history records checks through the Federal Bureau of Investigation. The screenings may include local criminal records checks through local law enforcement agencies.

Juvenile Justice Training Academies

The DJJ is required to establish and oversee juvenile justice training academies.⁶⁷ The DJJ must develop, implement, and maintain the curriculum for the training academies, develop uniform minimum job-related training, and establish a certifiable program for juvenile justice training.⁶⁸

Section 985.66(3), F.S., requires the DJJ to provide specified components to the training programs for the juvenile justice program staff based upon a job-task analysis.⁶⁹ All department program staff and providers who deliver direct care services pursuant to contract with the DJJ must participate in and successfully complete the approved training programs relevant to their areas of employment.⁷⁰ Judges, state attorneys, public defenders, law enforcement officers, and school district personnel may also participate in these programs.

Juvenile Justice Circuit Advisory Boards

Section 985.664, F.S., authorizes juvenile justice circuit advisory boards (advisory boards) to be established in each of the 20 judicial circuits. The purpose of advisory boards is to advise the DJJ in the development and implementation of juvenile justice programs and policies related to at-risk youth.⁷¹ The duties of the advisory boards are enumerated in s. 985.664(2), F.S.

Direct-Support Organizations

Section 985.672, F.S., defines a direct support organization as a not-for-profit organization whose sole purpose is to support the juvenile justice system and which is:

- Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of moneys; acquire, receive, hold, invest, and administer in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the DJJ or the juvenile justice system operated by a county commission or a circuit board; and
- Determined by the DJJ to be consistent with the goals of the juvenile justice system, in the best interest of the state, and in accordance with the DJJ's adopted goals and mission.

The DJJ may permit a direct support organization to use fixed property and facilities of the juvenile justice system free of charge.⁷²

⁶⁷ Section 985.66(1), F.S.

⁶⁸ Section 985.66(1), (2), and (3), F.S.

⁶⁹ These components include designing, implementing, maintaining, evaluating, and revising a basic training program for the purpose of providing specified minimum employment training qualifications for all juvenile justice personnel, including a competency-based examination; an advanced training program intended to enhance knowledge, skills, and abilities related to job performance with competency-based examinations for each training course; a career development training program intended to prepare personnel for promotion with competency-based examinations for each training course; and juvenile justice training courses, entering into contracts for training courses intended to further safety and well-being of both citizens and juvenile offenders. Section 985.66(3), F.S.

⁷⁰ Section 985.66(3), F.S.

⁷¹ Section 985.664(1), F.S.

⁷² Section 985.672(4), F.S.

Siting of Facilities

Section 985.682, F.S., establishes procedures that must be followed when proposing a site for a juvenile justice facility. Currently, the DJJ is required to conduct a detailed statewide comprehensive study to determine current and future needs for all facility types for children committed to the DJJ.⁷³ The study must assess, rank, and designate appropriate sites based upon these needs.⁷⁴

One-Time Startup Funding for Juvenile Justice Purposes

Section 985.69, F.S., authorizes the DJJ to use funds from juvenile justice appropriations as one-time startup funding for juvenile justice purposes that include remodeling or renovation of existing facilities, construction and leasing costs, purchase of equipment and furniture, site development, and other necessary and reasonable costs associated with the startup of facilities or programs. The DJJ is currently funded for repair and maintenance of facilities through the General Appropriations Act.

Payment of Medical Expenses for Detained Youth

Medicare Rates

Medicare is the federal health insurance program for people who are 65 or older, certain younger people with disabilities, and people with End-Stage Renal Disease (permanent kidney failure requiring dialysis or a transplant).⁷⁵

Medicare reimburses providers based on the type of service they provide. The Centers for Medicare & Medicaid Services develops fee schedules for physicians, ambulance services, clinical laboratory services, and durable medical equipment, prosthetics, orthotics, and supplies.⁷⁶ Other Medicare providers are paid via a prospective payment system. The prospective payment system is a method of reimbursement in which Medicare payment is made based on a predetermined, fixed amount. The payment amount for a particular service is derived based on the classification system of that service (for example, diagnosis-related groups for inpatient hospital services).

The Department of Corrections and Medical Payment Caps

In 2008, the General Appropriations Implementing Bill⁷⁷ capped medical payment rates that the Department of Corrections (DOC) could pay to a hospital or a health care provider providing services at a hospital. Payments to providers for services were capped at 110 percent of the Medicare allowable rate for inmate medical care if no contract existed between the DOC and a hospital, or a provider providing services at a hospital. However, hospitals reporting an operating loss to the Agency for Health Care Administration (AHCA) were capped at 125 percent of the

⁷³ Section 985.682(1), F.S.

⁷⁴ Section 985.682(2), F.S.

⁷⁵ Centers for Medicare & Medicaid Services, *What is Medicare?*, <http://www.medicare.gov/sign-up-change-plans/decide-how-to-get-medicare/whats-medicare/what-is-medicare.html> (Last visited February 24, 2014).

⁷⁶ Centers for Medicare & Medicaid Services, *Fee Schedules – General Information*, <http://www.cms.gov/FeeScheduleGenInfo/> (Last visited on February 24, 2014).

⁷⁷ Section 11, Chapter 2008-153, L.O.F.

Medicare allowable rate. In 2009, s. 945.6041, F.S., codified the payment caps and made other medical service providers, defined in s. 766.105, F.S., and medical transportation services subject to the medical payment cap.⁷⁸

Similarly, the 2013 General Appropriations Implementing Bill capped medical payment rates that the DJJ could pay to a hospital or provider providing any health care services.⁷⁹

Offenses Committed Against Youth under the Jurisdiction of the DJJ

Sexual Misconduct by an Employee

Section 985.701, F.S., makes it a second degree felony⁸⁰ for a DJJ employee⁸¹ to engage in sexual misconduct⁸² with juvenile offenders “detained or supervised by, or committed to the custody, of the department.” The statute does not define the term “juvenile offender.”

Neglect of Youth Committed to the Department of Juvenile Justice

Section 985.02, F.S., provides that the children of the state must be provided with protection from abuse, neglect, and exploitation; as well as adequate nutrition, shelter, and clothing. In some instances, a DJJ employee has neglected or abused a juvenile offender resulting in harm to the juvenile offender.⁸³

Currently, ch. 985, F.S., does not provide sanctions against the neglect of a youth in the DJJ’s custody. As a result, prosecutors have looked outside of ch. 985, F.S., to prosecute cases involving abuse or neglect of a child in the care of the DJJ. One statute prosecutors have attempted to use to prosecute is s. 827.03, F.S., relating to criminal child neglect. However, the child neglect statute is not designed to prosecute neglect cases that arise within the unique framework of the juvenile justice environment, nor does it apply to youth in the DJJ’s custody who are 18 or older.⁸⁴

⁷⁸ Section 8, Chapter 2009-63, L.O.F.

⁷⁹ Section 12, Chapter 2013-41, L.O.F.

⁸⁰ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

⁸¹ Section 985.701(1)(a)1.b., F.S., defines “employee” as paid staff members, volunteers, and interns who work in a DJJ program or a program operated by a provider under a contract.

⁸² Section 985.701(1)(a)1.a., F.S., defines “sexual misconduct” as fondling the genital area, groin, inner thighs, buttocks, or breasts of a person; the oral, anal, or vaginal penetration by or union with the sexual organ of another; or the anal or vaginal penetration of another by any other object. The term does not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of duty by an employee of the DJJ or an employee of a provider under contract with the DJJ.

⁸³ *DJJ supervisor thought Eric Perez was “faking” as he dies in juvie lockup, officer testifies*, BROWARD/PALM BEACH NEW TIMES, http://blogs.browardpalmbeach.com/pulp/2012/03/djj_eric_perez_death_grand_jury_report.php; *Parents of teen who died at Palm Beach County juvenile center say they’ll sue DJJ*, THE PALM BEACH POST, <http://www.palmbeachpost.com/news/news/crime-law/parents-of-teen-who-died-at-palm-beach-county-ju-1/nLhcN/>.

⁸⁴ Section 827.01, F.S., defines a child as “any person under the age of 18 years.” While the majority of youth in DJJ’s custody are under 18 years old, DJJ has custody of persons 18 years old and older. Section 985.0301(5)(a), F.S., requires DJJ to retain jurisdiction over a child alleged to have committed a delinquent act until the child reaches 19 years old and authorizes DJJ to retain jurisdiction for an additional 365 days following the child’s 19th birthday if the child is participating in transition-to-adulthood services.

Diversion Programs/Expunction of Records

Section 943.0582, F.S., provides guidelines to the FDLE relating to the expunction of criminal history records of youth who have successfully completed a prearrest, postarrest, or teen court diversion program.

Prevention Services Programs and Providers

Section 985.605, F.S., requires the DJJ to monitor all state-funded programs, grants, appropriations, or activities designed to prevent juvenile delinquency.⁸⁵ The DJJ is authorized to expend funds to prevent juvenile delinquency as long as it maximizes public accountability and documents outcomes. Each entity that receives money from the state must design its programs to provide one of four specified strategies⁸⁶ and submit demographic information of participants to the DJJ for verification.⁸⁷

Section 985.606, F.S., requires each state agency or entity that receives or uses state money to fund juvenile delinquency prevention programs, grants, appropriations, or activities to submit performance data to the Governor and both houses of the Legislature by January 31st of each year for the preceding fiscal year.

Tours of State Correctional Facilities

Section 945.75, F.S., requires the DOC to develop programs in which a judge may order juveniles who have committed delinquent acts to be allowed to tour state correctional facilities under terms and conditions established by the DOC. The statute requires counties to develop similar programs involving county jails, commonly referred to as “scared straight programs.”⁸⁸ The goal of these programs is to modify the behavior of the juveniles by shocking, scaring, and thus deterring them from engaging in further delinquent activity.⁸⁹ The DJJ reports because it complies with the Federal Juvenile Justice and Delinquency Prevention Act of 2002 it receives between 2 million and 8 million dollars in federal funding.⁹⁰ The DJJ reports that it could lose two-thirds of its federal funding because the scared straight tours violate several portions of the Juvenile Justice and Delinquency Prevention Act.⁹¹

III. Effect of Proposed Changes:

This bill amends various provisions in law relating to juvenile delinquency, to enhance public safety, reduce recidivism, better measure performance outcomes, and improve care provided to juvenile offenders in the custody of the Department of Juvenile Justice (DJJ).

⁸⁵ Section 985.605(1), F.S.

⁸⁶ Section 985.605(2)(a), F.S.

⁸⁷ Section 985.605(2)(c), F.S.

⁸⁸ Virginia Department of Criminal Justice Services, *Scared Straight Programs*, www.dcjs.virginia.gov/juvenile/compliance; See also Department of Juvenile Justice, *Scared Straight Programs: Jail and Detention Tours*, www.djj.state.fl.us/docs/research2/scared_straight_booklet_version (last visited on February 12, 2014)

⁸⁹ *Id.*

⁹⁰ Department of Juvenile Justice, *2013 Agency Proposal, Juvenile Justice Reform, Jail Tours* (2013) (on file with Senate Criminal Justice Committee.)

⁹¹ *Id.*

Prevention

The bill creates s. 985.17, F.S., relating to prevention services. To reduce recidivism, protect public safety, and facilitate successful re-entry into the community, the bill requires the DJJ to:

- Engage faith- and community-based organizations;⁹²
- Establish volunteer coordinators in each circuit and encourage mentor recruitment;
- Encourage the recruitment of volunteers to serve as mentors for youth in DJJ services;
- Promote the “Invest in Children” license plate to help fund programs and services;⁹³
- Ensure prevention services address the multiple needs of youth at risk of becoming delinquent in order to decrease the prevalence of disproportionate minority representation in the juvenile justice system; and
- Expend prevention-related funds in a manner that maximizes accountability and ensures documentation of outcomes.

As a condition for receiving state funds, entities that receive or use state moneys to fund prevention services through contracts with the DJJ or grants from an entity will be required to:

- Design programs providing services to further one or more of the following strategies:
 - Encourage youth to attend and succeed in school;
 - Engage youth in productive and wholesome activities during non-school hours that build positive character, instill positive values, and enhance educational experiences;
 - Encourage youth to avoid the use of violence; and
 - Assist youth to acquire skills needed to find meaningful employment, including assistance in finding a suitable employer; and
- Provide the department with demographic information, dates of services, and the type of interventions received by each youth.

The bill requires the DJJ to monitor output and outcome measures for each program strategy and annually report this data in the Comprehensive Accountability Report. The DJJ also will be required to monitor all state-funded programs that receive or use state moneys to fund the juvenile delinquency prevention services through contracts or grants for compliance with contract and grant provisions.

Offenses Committed Against Youth under the Jurisdiction of the Department of Juvenile Justice

Sexual Misconduct by an Employee

The bill amends s. 985.701, F.S., to define “juvenile offender” as “any person of any age who is detained or supervised by, or committed to the custody of, the department.” This mirrors the definition used in s. 985.702, F.S.

⁹² The bill further provides that the voluntary programs and services include, but are not limited to, chaplaincy services, crisis intervention counseling, mentoring, and tutoring.

⁹³ The bill further requires the DJJ to allocate moneys for programs and services within each county based on that county’s proportionate share of the license plate annual use fee collected by the county, which is identical to how s. 320.08058(11), F.S., specifies the money should be allocated.

Neglect of Youth Committed to the Department of Juvenile Justice

Section 985.702, F.S., is created and establishes a new criminal offense relating to willful and malicious neglect of a juvenile offender. The bill makes it a third degree felony⁹⁴ for a DJJ employee to willfully and maliciously neglect a juvenile offender *without* causing great bodily harm, permanent disability, or permanent disfigurement. If the neglect does cause great bodily harm, permanent disability, or permanent disfigurement to the juvenile offender, the employee commits a second degree felony.⁹⁵

An “employee” is defined in the bill as a paid staff member, volunteer, or intern who works in a DJJ program or a program operated by a provider under contract with the DJJ. A “juvenile offender” is defined as “any person of any age who is detained by, or committed to the custody of, the department.” “Neglect” is defined as an employee’s:

- Failure or omission to provide a juvenile offender with the proper level of care, supervision, and services necessary to maintain the juvenile offender’s physical and mental health including, but not limited to, adequate food, nutrition, clothing, shelter, supervision, medicine, and medical services; or
- Failure to make a reasonable effort to protect a juvenile offender from abuse, neglect, or exploitation by another person.

If the Public Employees Relations Commission determines that a DJJ employee violates the newly created s. 985.702, F.S., the determination constitutes sufficient cause under s. 110.227, F.S.,⁹⁶ for dismissal from employment with the DJJ, and prohibits the employee from being employed in any capacity in the juvenile justice system.

The bill requires employees who witness the neglect of a juvenile offender to immediately report the incident to the DJJ’s incident hotline. The witness must also prepare an independent report specifically describing the incident, location and time, and persons involved. The report must be submitted to the witness’s supervisor or program director, who in turn must provide copies of the report to the inspector general and the circuit juvenile justice manager. The inspector general must immediately conduct an appropriate administrative investigation and, if probable cause exists, notify the state attorney in the circuit in which the incident occurred.

Any person required to prepare a report who knowingly or willfully fails to do so or prevents another person from filing a report commits a first degree misdemeanor.⁹⁷ In addition, any person who knowingly or willfully:

- Submits inaccurate, incomplete, or untruthful information on a report commits a first degree misdemeanor.
- Coerces or threatens another person with the intent to alter testimony or a written report commits a third degree felony.

⁹⁴ A third degree felony is punishable by up to five years imprisonment and a fine of up to \$5,000. Sections 775.082, 775.083, and 775.084, F.S.

⁹⁵ A second degree felony is punishable by up to 15 years imprisonment and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

⁹⁶ Section 110.227, F.S., relates to the suspension and dismissal of career service employees.

⁹⁷ A first degree misdemeanor is punishable by up to 1 year incarceration and a fine up to \$1,000. Sections 775.082, F.S. and 775.083, F.S.

Trauma-informed Care as a Component of the Department of Juvenile Justice Model

The bill requires the DJJ to implement trauma-informed care in its model of response and delivery of services to juvenile offenders. “Trauma-informed care” is defined to mean providing services to children with a history of trauma, which recognizes the symptoms of trauma and acknowledges the role the trauma has played in the child’s life. Trauma may include, but is not limited to, community and school violence, physical or sexual abuse, neglect, medical difficulties, and domestic violence.

Family Support

The bill recognizes the importance of placing facilities close to the home communities of children they house in facilitating family involvement in the treatment process and encourages the use of customized treatment plans to prepare a child for a successful transition back to his or her family and community support system.

Detention Care System

The definition of “detention care” found in s. 985.03, F.S., is revised to remove “home detention,” thereby limiting the definition to “secure” and “nonsecure” detention. The bill amends the definition of “nonsecure detention” to mean:

Temporary nonsecure custody of the child while the child is released to the custody of the parent, guardian, or custodian in a physically nonrestrictive home environment under the supervision of department staff pending adjudication, disposition, or placement. Forms of nonsecure detention may include, but are not limited, to home detention, electronic monitoring, day reporting centers, evening reporting centers, nonsecure shelters, and may include other requirements imposed by the court.

The bill authorizes the DJJ to develop evening reporting centers (centers), which are included in the definition of “nonsecure detention.” These centers serve as an alternative to placing a child in secure detention and may be co-located with a juvenile assessment center. Centers must serve children and families who are awaiting a child’s court hearing and must operate at a minimum during the afternoon and evening hours to provide a highly structured program of supervision. Centers may also provide academic tutoring, counseling, family engagement programs, and other activities.

The term “juvenile probation officer” is replaced with the term “department” throughout many of the detention-related statutes, which will allow the DJJ greater flexibility to use employees other than probation officers in initial detention placement. The bill specifies a child’s “illegal possession of a firearm” can be considered as a basis for ordering detention or continued detention and requires secure detention for any child who has been taken into custody on three or more separate occasions within a 60-day period.

The bill requires detention staff to notify the appropriate law enforcement agency, school personnel, and victim when a child charged with any of the following offenses is released from secure detention or transferred to nonsecure detention:

- Murder, under s. 782.04, F.S.;
- Sexual battery, under ch. 794, F.S.;
- Stalking, under s. 784.048, F.S.; or
- Domestic violence, as defined in s. 741.28, F.S.

In some respects, the notice requirement expands notice by not limiting notice to juvenile sex offenses. In other respects, this provision limits notice, as notice is only required for sexual battery, not all of the currently-included offenses that qualify a child as a juvenile sex offender.

In instances where a detained child is transferred to a jail or other facility used to detain adults,⁹⁸ the bill requires physical observation and documented checks of the child every 10 minutes. Existing law requires observations every 15 minutes.

The court must place in detention care all children who are adjudicated and awaiting placement in a commitment program. In such instances, the bill requires, rather than permits, a child who has been committed to a high-risk or maximum risk residential facility to be held in secure detention until placement.

Jurisdiction

The bill amends s. 985.0301, F.S., to authorize, rather than require, the court to transfer a detained child to a detention center in the circuit in which the child resides or will reside at the time of detention. The bill restricts transfers to only these two circumstances, which means the receiving court will no longer be able to direct where the detained child may be placed when a case is being transferred.

The bill simplifies statutory jurisdictional criteria. As a result, the court will retain jurisdiction over a child until the child:

- Is 19 years old, generally, or if the child is in a probation program;
- Is 21 years old, if the child is committed to the DJJ in any type of commitment program, specifically for the purpose of allowing the child to complete the commitment program, including conditional release supervision;
- Is 21 years old, if the child is a juvenile sexual offender who has been placed on community-based treatment alternative with supervision, or in a program or facility for juvenile sexual offenders, specifically for the purpose of completing the program; or
- Satisfies restitution ordered in the case.

Contempt of Court

The bill requires the court to hold a hearing to determine if a child committed direct contempt of court and affords the child specified due process rights at this hearing. The bill also clarifies if a

⁹⁸ Section 985.265(5), F.S., sets forth instances in which a child may be detained in a jail or other facility used to detain adults.

judge places a child into a secure facility for contempt, the facility must be a detention facility. In these instances, the court needs to review the placement only upon motion by the defense attorney or state attorney. Under existing law, the court must review the placement every 72 hours.

Fingerprinting and Photographing

The bill excludes a child from fingerprint requirements if the child is issued a civil citation. This provision may better focus resources on more serious juvenile offenders by waiving fingerprinting requirements of children charged with nonserious delinquent acts.

Intake Process

Section 985.14, F.S., is amended to allow both the DJJ and juvenile assessment center personnel to perform the intake process, which may provide for a more efficient intake process in counties that operate their own juvenile assessment centers. The bill also:

- Clarifies that the intake assessment process consists of an initial assessment that may be followed by a full mental health, substance abuse, and/or psychosexual evaluation, which may help decision makers better target successful treatment and reduce recidivism; and
- Requires children to be screened to determine career or technical education problems (rather than just vocational problems), which provides more options for children in pursuing a successful career.

Disposition

Predisposition Reports

The bill requires the predisposition report prepared by the DJJ to assist the court in determining whether a child is committed is to identify appropriate educational and career (rather than vocational) goals for the child, which include:

- Successful completion of career and technical education courses (rather than vocational courses); and
- Successful completion of the child's current grade or recovery of credits or classes the child previously failed.

Probation or Postcommitment Probation (Probation)

A court is authorized by the bill to impose an alternative consequence for juveniles on probation who commit relatively minor violations (technical violations). If so, the judge must approve specific consequences for specific future violations of the conditions of probation. Alternative consequence programs:

- Must be established at the local level in coordination with law enforcement agencies, the Chief Judge of the circuit, the State Attorney, and the Public Defender; and
- May be operated by a law enforcement agency, the DJJ, a juvenile assessment center, or another entity selected by DJJ.

Commitment

The term “juvenile probation officer” is replaced with the term “department” throughout many of the commitment-related statutes, which will allow the DJJ to use employees other than probation officers to perform commitment-related duties.

The “restrictiveness levels” in s. 985.03(46), F.S., of low-risk residential (level 4) and moderate-risk residential (level 6) are combined into a single “nonsecure residential” group. This will allow the DJJ to place a child whose risk is currently low into a program that caters to children with slightly higher risk levels to ensure the child access to other needs and services.

The current cap on residential beds per facility is reduced to 90 beds from 165 beds. This reduction in the number of residential beds authorized per facility may increase efficiency of facilities in meeting the goals of commitment and reducing recidivism.

Certain youth⁹⁹ will be allowed to be committed to nonsecure residential placement under this bill if the child has:

- Previously been adjudicated or *had an adjudication withheld* for a felony offense; or
- *Previously* been adjudicated or had adjudication withheld for three or more misdemeanor offenses *within the last 18 months*.

The amendments to s. 985.275, F.S., requires the DJJ to notify a law enforcement agency and, if the offense requires victim notification under ch. 960, F.S., the victim, any time a child in the custody of the DJJ:

- Escapes from a residential commitment program or from being transported to or from one; or
- Absconds from a nonresidential commitment facility.

The DJJ also will be required by the bill to make every reasonable effort to locate the child.

Conditional Release and Transition-to-Adulthood Services

The bill amends s. 985.46, F.S., to clarify conditional release includes the provision of transition-to-adulthood services. The bill also requires a child of noncompulsory school age on conditional release supervision to participate in the education program or career and technical education courses.

The application of transition-to-adulthood services is expanded by the bill by removing the limitation that these services only be provided to “older children.” As a result, any child who is under the supervision of the DJJ may be provided transition-to-adulthood services as part of his or her treatment plan.

The activities the DJJ is authorized to engage in to support participation in transition-to-adulthood services are expanded. Specifically, the DJJ may:

- Employ community re-entry teams to assist in developing a list of age appropriate activities and responsibilities to be incorporated in the child’s case plan. Community re-entry teams

⁹⁹ This includes youth whose offense is a misdemeanor as well as youth who are on probation for a misdemeanor and who commit a technical violation. Section 985.441(2), F.S.

include representatives from school districts, law enforcement, workforce development services, community based service providers, and the child's family.

- Assist the child in building a portfolio of educational and vocational accomplishments, necessary identification, and resumes and cover letters to enhance the child's employability; and
- Collaborate with school district contacts to facilitate appropriate educational services based on the child's identified needs.

Internal Agency Procedures

Quality Assurance and Cost-Effectiveness

The bill amends s. 985.632, F.S. to:

- Require the annual report to collect and analyze available statistical data for the purpose of ongoing evaluation of all programs;
- Delete the terms "client" and "program effectiveness" and adds the following definitions:
 - "Program," which means any facility or service for youth that is operated by the DJJ or by a provider under contract with the DJJ; and
 - "Program group," which means a collection of programs with sufficient similarity of functions, services, and youth to permit appropriate comparison among programs within the group;
- Codify the Comprehensive Accountability Report (CAR),¹⁰⁰ and requires the DJJ to work with the Office of Economic and Demographic Research to develop a standard methodology for measuring and reporting program outputs and youth outcomes;
- Require the standard methodology used in the CAR to include certain terminology for measuring performance, to specify program outputs, and to specify desired child outcomes and methods to measure child outcomes; and
- Require the cost-effectiveness model to include a comparison of program costs to expected and actual child recidivism rates, rather than client outcomes and program outputs; and requires the DJJ to rank commitment programs based on performance measures and adherence to quality improvement standards.

Departmental Contracting Powers; Personnel Standards and Screening

The bill provides that law enforcement, correctional, or correctional probation officers certified pursuant to s. 943.13, F.S., are not required to submit to level 2 screenings if they are currently employed by a law enforcement agency or correctional facility.

Juvenile Justice Training Academies

Section 985.66, F.S., is amended to:

- Remove references to "academies" when referring to juvenile justice training programs;
- Require the DJJ to designate the *number* of (not just the location of) training programs and courses; and

¹⁰⁰ The CAR, in its current form, has been published by the DJJ since 2006. It includes all of the information required to be reported under s. 985.632, F.S., as well as additional information. See *Comprehensive Accountability Reports*, <http://www.djj.state.fl.us/research/reports/car> (last visited on February 12, 2014).

- Authorize all employees of contract providers who provide services or care for youth under the responsibility of the DJJ to participate in the certifiable training program.

Juvenile Justice Circuit Advisory Boards

The bill removes obsolete language and specifies the chair of a board serves at the pleasure of the DJJ's Secretary.

Direct-Support Organizations

Current law does not address whether the DJJ may authorize direct support organizations to use personnel services of the juvenile justice system. The bill authorizes the DJJ to permit a direct support organization to use its personnel services. Personnel services include full-time or part-time personnel, as well as payroll processing services.

One-Time Startup Funding for Juvenile Justice Purposes

The bill changes references to "startup" funding and costs in s. 985.69, F.S., to refer to "repair and maintenance" funding and costs. This allows these funds to be used for the continuing repair and maintenance of the DJJ facilities.

Payment for Medical Expenses for Detained Youth (Section 33)

The bill codifies a provision contained in the 2013-2014 Implementing Bill for the General Appropriations Act.¹⁰¹ This provision requires, if there is no contract between the DJJ and the hospital or provider providing health care services (services) at a hospital, payments to a provider may not exceed 110 percent of the Medicare allowable rate for any services provided. The DJJ may continue to make payments for services to a provider at the current contracted rates through the current term of an executed contract.¹⁰² However, once that contract expires, payments may not exceed 110 percent of the Medicare allowable rate.

If a contract is executed on or after July 1, 2014, payments to providers for services may not exceed 110 percent of the Medicare allowable rate, unless the services are performed at a hospital that reports a negative operating margin for the previous fiscal year to the AHCA through hospital-audited financial data. In that instance, the DJJ may pay up to 125 percent of the Medicare allowable rate.

Repeal of Provisions

The bill removes obsolete provisions, including definitions in ch. 985, F.S., relating to dependency proceedings. Dependency proceedings are within the jurisdiction of the DCF and are addressed in ch. 39, F.S.

¹⁰¹ Similar provisions have been included annually in the Implementing Bill since the 2010-2011 fiscal year. See, Ch. 2010-153, s. 11, Laws of Fla., Ch. 2011-47, s. 19, Laws of Fla., Ch. 2012-119, s. 16, Laws of Fla.; and Ch. 2013-41, s. 41, Laws of Fla.

¹⁰² The bill allows for contracts to be renewed during the 2013-2014 fiscal year.

The bill repeals s. 945.75, F.S., relating to state correctional facility tours by juvenile offenders which violate federal law. This repeal will prevent the federal funding allocated to state juvenile justice programs from being compromised.

Effective Date

The bill takes effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Families currently financially unable to access various services may have increased access to services, such as tutoring and counseling, as a result of the establishment of evening reporting centers.

Children currently subject to placement in secure detention for technical violations of probation may not be required to go into secure detention because CS/SB 700 creates an alternative consequence option to handle noncompliance with the technical conditions of probation. This could assist these children with maintaining employment they currently have.

C. Government Sector Impact:

Department of Juvenile Justice

The bill caps the maximum bed number for all residential facilities at 90 beds, instead of the maximum bed number of 165 in current law. The DJJ currently has two residential facilities over the 90 bed limit, Riverside Academy which has 165 beds and Avon Park

Youth Academy which has 144 beds.¹⁰³ The DJJ reports the procurement process is already underway to place the excess beds at other facilities.¹⁰⁴

The bill amends s. 985.25, F.S., to require any child taken into custody on three or more separate occasions within a 60-day period to be placed in secure detention care until the detention hearing. The DJJ reports that 1,500 youth met this criteria in the last fiscal year, at a cost (clothing and food) per youth of \$5.16 per day. This change is estimated to cost an additional \$7,740 a year and could vary depending on how many nights each youth stays at a detention center. The DJJ indicates they can absorb this increased cost within existing resources.¹⁰⁵

The bill allows the DJJ to pay expenses in support of innovative programs and activities that address identified needs and the well-being of children in the DJJ's care or under its supervision. These are new expenses that the department is currently not paying. The DJJ indicates that these new expenses can be paid from existing resources.¹⁰⁶

The bill allows the DJJ to permit direct support organizations to use the DJJ personnel services, which may have a fiscal impact on the DJJ. However, the DJJ indicates any new expenses will be absorbed within existing resources.¹⁰⁷

The bill adds new detention criteria which may result in some children being held in secure detention who would not otherwise have been detained, or being detained for longer periods of time. This will have an indeterminate impact on local government expenditures.

The DJJ may realize a positive fiscal impact from reduced recidivism rates as a result of the technical violation diversion program and increased supervision.

Office of State Courts Administrator (OSCA)

The OSCA indicates the following provisions of the bill will affect court operations:

- Requiring the courts to hold a hearing and ensure due process for juvenile offenders in direct contempt;
- Requiring the courts to provide a release date for offenders currently in detention; and
- Authorizing the courts to place children in alternative consequence programs for technical violations of probation.

Although the OSCA cannot accurately determine fiscal impact due to the unavailability of data needed to quantify the increase in judicial workload, the OSCA indicates they expect to be able to absorb additional workload with existing resources.¹⁰⁸

¹⁰³ Electronic mail from Jon Menendez, dated February 10, 2014 (on file with the Senate Judiciary Committee).

¹⁰⁴ *Id.*

¹⁰⁵ The DJJ, *2014 DJJ Bill Analysis for SB 700*.

¹⁰⁶ Electronic mail from Jon Menendez, dated February 12, 2014 (on file with the Senate Judiciary Committee).

¹⁰⁷ *Id.*

¹⁰⁸ Office of the State Courts Administrator, *2014 Judicial Impact Statement for SB 700* (February 25, 2014) (on file with the Senate Judiciary Committee).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 985.01, 985.02, 985.03, 985.0301, 985.037, 985.045, 985.11, 985.14, 985.145, 985.24, 985.245, 985.25, 985.255, 985.26, 985.265, 985.27, 985.275, 985.433, 985.435, 985.439, 985.441, 985.46, 985.461, 985.481, 985.4815, 985.601, 985.632, 985.644, 985.66, 985.664, 985.672, 985.682, 985.69, 985.701, 985.721, 943.0582, and 121.0515.

This bill creates the following sections of the Florida Statutes: 985.17, 985.6441, and 985.702.

This bill repeals the following sections of the Florida Statutes: 985.105, 985.605, 985.606, 985.61, 985.694, and 945.75.

IX. Additional Information:

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

CS by Judiciary on March 4, 2014:

The committee substitute:

- Makes three technical corrections which do not change the substance of the bill.
- Provides legislative intent that the purpose of the juvenile justice system is to increase public safety and to place low and moderate-risk children in nonresidential programs.

- B. Amendments:

None.

By the Committee on Judiciary; and Senators Bradley and Detert

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1 A bill to be entitled
 2 An act relating to the Department of Juvenile Justice;
 3 amending s. 985.01, F.S.; revising the purposes of ch.
 4 985, F.S., relating to juvenile justice; amending s.
 5 985.02, F.S.; revising the legislative intent and
 6 findings relating to the juvenile justice system;
 7 amending s. 985.03, F.S.; defining and redefining
 8 terms; amending s. 985.0301, F.S.; allowing a child
 9 who has been detained to be transferred to the
 10 detention center or facility in the circuit in which
 11 the child resides or will reside at the time of
 12 detention; deleting provisions relating to the
 13 retention of jurisdiction by the court of a child
 14 under certain circumstances; conforming provisions to
 15 changes made by the act; amending s. 985.037, F.S.;
 16 requiring the court to hold a hearing if a child is
 17 charged with direct contempt of court and to afford
 18 the child due process at such hearing; requiring the
 19 court to review the placement of a child in a secure
 20 detention facility upon motion by the defense or state
 21 attorney; conforming provisions to changes made by the
 22 act; repealing s. 985.105, F.S., relating to youth
 23 custody officers; amending s. 985.11, F.S.; providing
 24 that a child's fingerprints do not need to be
 25 submitted to the Department of Law Enforcement under
 26 certain circumstances; amending s. 985.14, F.S.;
 27 authorizing juvenile assessment center personnel to
 28 perform the intake process for children in custody of
 29 the Department of Juvenile Justice; providing

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30 requirements for the intake process; amending s.
 31 985.145, F.S.; transferring responsibilities relating
 32 to the intake process from the juvenile probation
 33 officer to the department; creating s. 985.17, F.S.;
 34 providing goals for the department's prevention
 35 services; requiring the department to engage with
 36 certain faith-based and community-based organizations;
 37 requiring the department to establish volunteer
 38 coordinators; requiring the department to promote a
 39 specified license plate; providing for the use of
 40 funds related to prevention services; amending s.
 41 985.24, F.S.; requiring that a determination or court
 42 order regarding the use of detention care include any
 43 findings that the child illegally possessed a firearm;
 44 authorizing the department to develop evening-
 45 reporting centers; providing requirements for such
 46 centers; conforming provisions to changes made by the
 47 act; amending s. 985.245, F.S.; conforming provisions
 48 to changes made by the act; amending s. 985.25, F.S.;
 49 transferring the responsibility for detention intake
 50 from the juvenile probation officer to the department;
 51 requiring that a child be placed in secure detention
 52 care until the child's detention hearing under certain
 53 circumstances; conforming provisions to changes made
 54 by the act; amending s. 985.255, F.S.; requiring that
 55 a child taken into custody and placed into secure or
 56 nonsecure detention care be given a hearing within a
 57 certain timeframe; authorizing the court to order
 58 continued detention under certain circumstances;

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59 requiring that, if the initial order placing the youth
60 on detention care does not include a release date, a
61 release date be requested of the court on the same
62 date the youth is placed on detention care; requiring
63 that, if a subsequent hearing is needed to provide
64 additional information to the court for safety
65 planning, the initial order reflect the date of the
66 next detention review hearing, which must be within 3
67 calendar days after the child's initial detention
68 placement; conforming provisions to changes made by
69 the act; amending s. 985.26, F.S.; conforming
70 provisions to changes made by the act; amending s.
71 985.265, F.S.; requiring that detention staff
72 immediately notify law enforcement, school personnel,
73 and the victim, when a juvenile charged with a
74 specified crime is released from secure detention or
75 transferred to nonsecure detention; conforming
76 provisions to changes made by the act; amending s.
77 985.27, F.S.; conforming provisions to changes made by
78 the act; amending s. 985.275, F.S.; requiring an
79 authorized agent of the department to notify law
80 enforcement and attempt to locate a child who has
81 escaped from a residential commitment facility;
82 requiring that the victim be notified under certain
83 circumstances; amending s. 985.433, F.S.; revising
84 provisions relating to educational goals of a child in
85 a predisposition report; requiring the department,
86 rather than the juvenile probation officer, to
87 recommend to the court the most appropriate treatment

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88 and placement plan; amending s. 985.435, F.S.;
89 authorizing a probation program to include an
90 alternative consequence component; providing
91 requirements for such component; requiring that the
92 department provide an evaluation of the youth's risk
93 to reoffend; conforming provisions to changes made by
94 the act; amending s. 985.439, F.S.; providing that the
95 section applies to children on probation or
96 postcommitment probation, regardless of adjudication;
97 authorizing the department to establish programs to
98 provide alternative consequences for certain probation
99 violations; providing requirements for such programs;
100 conforming provisions to changes made by the act;
101 amending s. 985.441, F.S.; providing that the court
102 may commit a child who is on probation for a
103 misdemeanor or a certain probation violation only at a
104 specified restrictiveness level; authorizing the court
105 to commit such child to a nonsecure residential
106 placement in certain circumstances; conforming
107 provisions to changes made by the act; amending s.
108 985.46, F.S.; providing that conditional release
109 includes transition-to-adulthood services; requiring
110 certain students to participate in an educational or
111 career education program; amending s. 985.461, F.S.;
112 authorizing the department to provide transition-to-
113 adulthood services under certain circumstances;
114 authorizing the department to use community reentry
115 teams composed of certain individuals and entities for
116 certain purposes; removing age restrictions for youth

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117 who receive transition-to-adulthood services;
 118 requiring the department to assist youth in developing
 119 a portfolio of certain accomplishments and to
 120 collaborate with school districts to facilitate
 121 certain educational services; amending ss. 985.481 and
 122 985.4815, F.S.; deleting obsolete provisions; amending
 123 s. 985.601, F.S.; providing legislative intent;
 124 requiring the department to contract for programs to
 125 provide trauma-informed care, family engagement
 126 resources, and gender-specific programming;
 127 authorizing the department to pay expenses in support
 128 of certain programs; repealing s. 985.605, F.S.,
 129 relating to prevention service programs, monitoring,
 130 and uniform performance measures; repealing s.
 131 985.606, F.S., relating to prevention services
 132 providers, performance data collection, and reporting;
 133 repealing s. 985.61, F.S., relating to early
 134 delinquency intervention programs; amending s.
 135 985.632, F.S.; revising legislative intent to include
 136 that the department establish a performance
 137 accountability system for certain providers that
 138 contract with the department; providing requirements
 139 for such contracts; requiring that the department's
 140 Bureau of Research and Planning submit a report to the
 141 Legislature; providing requirements for the report;
 142 defining terms; requiring that the department develop,
 143 in consultation with specified entities, a standard
 144 methodology for measuring, evaluating, and reporting;
 145 providing requirements for the methodology; deleting

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146 reporting requirements related to cost data; revising
 147 the requirements of the department's cost-
 148 effectiveness model; requiring the department to
 149 establish a quality improvement system rather than a
 150 quality assurance system; conforming provisions to
 151 changes made by the act; amending s. 985.644, F.S.;
 152 providing that specified individuals are not required
 153 to submit to certain screenings under certain
 154 circumstances; creating s. 985.6441, F.S.; defining
 155 the terms "hospital" and "health care provider";
 156 limiting the department's compensation of health care
 157 providers; amending s. 985.66, F.S.; revising the
 158 purpose of juvenile justice programs and courses;
 159 revising the duties of the department for staff
 160 development and training; providing that employees of
 161 certain contract providers may participate in the
 162 training program; amending s. 985.664, F.S.; requiring
 163 the juvenile justice circuit advisory board, rather
 164 than the secretary of the department, to appoint a new
 165 chair to that board; providing that the chair serves
 166 at the pleasure of the secretary; amending s. 985.672,
 167 F.S.; redefining the term "direct-support
 168 organization"; authorizing the department to allow the
 169 use of personnel services of the juvenile justice
 170 system by a direct-support organization; amending s.
 171 985.682, F.S.; deleting provisions relating to a
 172 statewide study; conforming provisions to changes made
 173 by the act; amending s. 985.69, F.S.; providing for
 174 repair and maintenance funding for juvenile justice

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175 purposes; repealing s. 985.694, F.S., relating to the
 176 Juvenile Care and Maintenance Trust Fund; amending s.
 177 985.701, F.S.; defining the term "juvenile offender";
 178 removing the requirement that the juvenile be detained
 179 by, supervised by, or committed to the custody of the
 180 department for the purposes of charging sexual
 181 misconduct by an employee of the department; creating
 182 s. 985.702, F.S.; defining terms; prohibiting an
 183 employee from willfully and maliciously neglecting a
 184 juvenile offender; providing criminal penalties;
 185 providing for dismissal from employment with the
 186 department; requiring an employee to report certain
 187 information; requiring the department's inspector
 188 general to conduct an appropriate administrative
 189 investigation; requiring that the inspector general
 190 notify the state attorney under certain circumstances;
 191 amending s. 943.0582, F.S.; requiring that the
 192 department expunge the nonjudicial arrest record of
 193 certain minors under certain circumstances; repealing
 194 s. 945.75, F.S., relating to tours of state
 195 correctional facilities for juveniles; amending s.
 196 121.0515, F.S.; conforming provisions to changes made
 197 by the act; amending ss. 985.045 and 985.721, F.S.;
 198 conforming cross-references; providing an effective
 199 date.

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

203 Section 1. Section 985.01, Florida Statutes, is amended to

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204 read:

205 985.01 Purposes and intent.—

206 (1) The purposes of this chapter are:

207 (a) To increase public safety by reducing juvenile
 208 delinquency through effective prevention, intervention, and
 209 treatment services that strengthen and reform the lives of
 210 children.

211 ~~(b)(a)~~ To provide judicial and other procedures to assure
 212 due process through which children, victims, and other
 213 interested parties are assured fair hearings by a respectful and
 214 respected court or other tribunal and the recognition,
 215 protection, and enforcement of their constitutional and other
 216 legal rights, while ensuring that public safety interests and
 217 the authority and dignity of the courts are adequately
 218 protected.

219 ~~(c)(b)~~ To provide ~~for the care, safety, and protection of~~
 220 ~~children in~~ an environment that fosters healthy social,
 221 emotional, intellectual, educational, and physical development;
 222 to ensure secure and safe custody; and to promote the health and
 223 well-being of all children under the state's care.

224 ~~(d)(e)~~ To ensure the protection of society, by providing
 225 for a comprehensive standardized assessment of the child's needs
 226 so that the most appropriate control, discipline, punishment,
 227 and treatment can be administered consistent with the
 228 seriousness of the act committed, the community's long-term need
 229 for public safety, the prior record of the child, and the
 230 specific rehabilitation needs of the child, while also
 231 providing, whenever possible, restitution to the victim of the
 232 offense.

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233 (e)~~(d)~~ To preserve and strengthen the child's family ties,
 234 whenever possible, by providing for removal of the child from
 235 the physical custody of a parent ~~parental custody~~ only when his
 236 or her welfare or the safety and protection of the public cannot
 237 be adequately safeguarded without such removal; and, when the
 238 child is removed from his or her own family, to secure custody,
 239 care, and discipline for the child as nearly as possible
 240 equivalent to that which should have been given by the parents,
 241 ~~and to assure, in all cases in which a child must be permanently~~
 242 ~~removed from parental custody, that the child be placed in an~~
 243 ~~approved family home, adoptive home, independent living program,~~
 244 ~~or other placement that provides the most stable and permanent~~
 245 ~~living arrangement for the child, as determined by the court.~~

246 (f)~~(e)~~1. To assure that the adjudication and disposition of
 247 a child alleged or found to have committed a violation of
 248 Florida law be exercised with appropriate discretion and in
 249 keeping with the seriousness of the offense and the need for
 250 treatment services, and that all findings made under this
 251 chapter be based upon facts presented at a hearing that meets
 252 the constitutional standards of fundamental fairness and due
 253 process.

254 2. To assure that the sentencing and placement of a child
 255 tried as an adult be appropriate and in keeping with the
 256 seriousness of the offense and the child's need for
 257 rehabilitative services, and that the proceedings and procedures
 258 applicable to such sentencing and placement be applied within
 259 the full framework of constitutional standards of fundamental
 260 fairness and due process.

261 (g)~~(f)~~ To provide children committed to the department with

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262 training in life skills, including career and technical
 263 education, if appropriate.

264 (h) To care for children in the least restrictive and most
 265 appropriate service environments.

266 (i) To allocate resources for the most effective programs,
 267 services, and treatments to ensure that children, their
 268 families, and their community support systems are connected with
 269 these programs, services, and treatments at the most impactful
 270 points along the juvenile justice continuum.

271 (2) It is the intent of the Legislature that this chapter
 272 be liberally interpreted and construed in conformity with its
 273 declared purposes.

274 Section 2. Section 985.02, Florida Statutes, is amended to
 275 read:

276 985.02 Legislative intent for the juvenile justice system.-

277 (1) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of
 278 the Legislature that the children of this state be provided with
 279 the following protections:

280 (a) Protection from abuse, neglect, and exploitation.

281 (b) A permanent and stable home.

282 (c) A safe and nurturing environment that ~~which~~ will
 283 preserve a sense of personal dignity and integrity.

284 (d) Adequate nutrition, shelter, and clothing.

285 (e) Effective treatment to address physical, social, and
 286 emotional needs, regardless of geographical location.

287 (f) Equal opportunity and access to quality and effective
 288 education, which will meet the individual needs of each child,
 289 and to recreation and other community resources to develop
 290 individual abilities.

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291 (g) Access to preventive services.

292 ~~(h) An independent, trained advocate when intervention is~~
 293 ~~necessary, and a skilled guardian or caretaker in a safe~~
 294 ~~environment when alternative placement is necessary.~~

295 ~~(h) (i)~~ Gender-specific programming and gender-specific
 296 program models and services that comprehensively address the
 297 needs of a targeted gender group.

298 (2) SUBSTANCE ABUSE SERVICES.—The Legislature finds that
 299 children in the care of the state's ~~dependency and delinquency~~
 300 system systems need appropriate health care services, that the
 301 impact of substance abuse on health indicates the need for
 302 health care services to include substance abuse services where
 303 appropriate, and that it is in the state's best interest that
 304 such children be provided the services they need to enable them
 305 to become and remain independent of state care. In order to
 306 provide these services, the state's ~~dependency and delinquency~~
 307 system systems must have the ability to identify and provide
 308 appropriate intervention and treatment for children with
 309 personal or family-related substance abuse problems. It is
 310 therefore the purpose of the Legislature to provide authority
 311 for the state to contract with community substance abuse
 312 treatment providers for the development and operation of
 313 specialized support and overlay services for the ~~dependency and~~
 314 delinquency system systems, which will be fully implemented and
 315 used utilized as resources permit.

316 (3) JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—It is the
 317 policy of the state with respect to juvenile justice and
 318 delinquency prevention to first protect the public from acts of
 319 delinquency. In addition, it is the policy of the state to:

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320 (a) Develop and implement effective methods of preventing
 321 and reducing acts of delinquency, with a focus on maintaining
 322 and strengthening the family as a whole so that children may
 323 remain in their homes or communities.

324 (b) Develop and implement effective programs to prevent
 325 delinquency, to divert children from the traditional juvenile
 326 justice system, to intervene at an early stage of delinquency,
 327 and to provide critically needed alternatives to
 328 institutionalization and deep-end commitment.

329 (c) Provide well-trained personnel, high-quality services,
 330 and cost-effective programs within the juvenile justice system.

331 (d) Increase the capacity of local governments and public
 332 and private agencies to conduct rehabilitative treatment
 333 programs and to provide research, evaluation, and training
 334 services in the field of juvenile delinquency prevention.

335
 336 ~~The Legislature intends that detention care, in addition to~~
 337 ~~providing secure and safe custody, will promote the health and~~
 338 ~~well-being of the children committed thereto and provide an~~
 339 ~~environment that fosters their social, emotional, intellectual,~~
 340 ~~and physical development.~~

341 (4) DETENTION.—

342 (a) The Legislature finds that there is a need for a secure
 343 placement for certain children alleged to have committed a
 344 delinquent act. The Legislature finds that detention should be
 345 used only when less restrictive interim placement alternatives
 346 before prior to adjudication and disposition are not
 347 appropriate. The Legislature further finds that decisions to
 348 detain should be based in part on a prudent assessment of risk

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349 and be limited to situations where there is clear and convincing
 350 evidence that a child presents a risk of failing to appear or
 351 presents a substantial risk of inflicting bodily harm on others
 352 as evidenced by recent behavior; presents a history of
 353 committing a serious property offense prior to adjudication,
 354 disposition, or placement; has acted in direct or indirect
 355 contempt of court; or requests protection from imminent bodily
 356 harm.

357 (b) The Legislature intends that a juvenile found to have
 358 committed a delinquent act understands the consequences and the
 359 serious nature of such behavior. Therefore, the Legislature
 360 finds that secure detention is appropriate to provide punishment
 361 for juveniles who pose a threat to public safety that
 362 ~~discourages further delinquent behavior.~~ The Legislature also
 363 finds that certain juveniles have committed a sufficient number
 364 of criminal acts, including acts involving violence to persons,
 365 to represent sufficient danger to the community to warrant
 366 sentencing and placement within the adult system. It is the
 367 intent of the Legislature to establish clear criteria in order
 368 to identify these juveniles and remove them from the juvenile
 369 justice system.

370 (5) SITING OF FACILITIES.—

371 (a) The Legislature finds that timely siting and
 372 development of needed residential facilities for juvenile
 373 offenders is critical to the public safety of the citizens of
 374 this state and to the effective rehabilitation of juvenile
 375 offenders.

376 (b) It is the purpose of the Legislature to guarantee that
 377 such facilities are sited and developed within reasonable

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378 timeframes after they are legislatively authorized and
 379 appropriated.

380 (c) The Legislature further finds that such facilities must
 381 be located in areas of the state close to the home communities
 382 of the children they house in order to ensure the most effective
 383 rehabilitation efforts, ~~and the most intensive~~ postrelease
 384 supervision, and case management. The placement of facilities
 385 close to the home communities of the children they house is also
 386 intended to facilitate family involvement in the treatment
 387 process. Residential facilities may not shall have ~~no~~ more than
 388 90 165 beds each, including campus-style programs, unless those
 389 campus-style programs include more than one ~~level of~~
 390 ~~restrictiveness, provide multilevel education and treatment~~
 391 program programs using different treatment protocols, and have
 392 facilities that coexist separately in distinct locations on the
 393 same property.

394 (d) It is the intent of the Legislature that all other
 395 departments and agencies of the state ~~shall~~ cooperate fully with
 396 the Department of Juvenile Justice to accomplish the siting of
 397 facilities for juvenile offenders.

398 The supervision, counseling, and rehabilitative treatment, ~~and~~
 399 ~~punitive~~ efforts of the juvenile justice system should avoid the
 400 inappropriate use of correctional programs and large
 401 institutions. ~~The Legislature finds that detention services~~
 402 ~~should exceed the primary goal of providing safe and secure~~
 403 ~~custody pending adjudication and disposition.~~

404 (6) PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.—

405 Parents, custodians, and guardians are deemed by the state to be
 406

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407 responsible for providing their children with sufficient
 408 support, guidance, and supervision to deter their participation
 409 in delinquent acts. The state further recognizes that the
 410 ability of parents, custodians, and guardians to fulfill those
 411 responsibilities can be greatly impaired by economic, social,
 412 behavioral, emotional, and related problems. It is therefore the
 413 policy of the Legislature that it is the state's responsibility
 414 to ensure that factors impeding the ability of caretakers to
 415 fulfill their responsibilities are identified through the
 416 delinquency intake process and that appropriate recommendations
 417 to address those problems are considered in any judicial or
 418 nonjudicial proceeding. Nonetheless, as it is also the intent of
 419 the Legislature to preserve and strengthen the child's family
 420 ties, it is the policy of the Legislature that the emotional,
 421 legal, and financial responsibilities of the caretaker with
 422 regard to the care, custody, and support of the child continue
 423 while the child is in the physical or legal custody of the
 424 department.

425 (7) GENDER-SPECIFIC PROGRAMMING.—

426 (a) The Legislature finds that the prevention, treatment,
 427 and rehabilitation needs of children ~~youth~~ served by the
 428 juvenile justice system are gender specific ~~gender-specific~~.

429 (b) Gender-specific programming refers to unique program
 430 models and services that comprehensively address the needs of a
 431 targeted gender group. Gender-specific services require the
 432 adherence to the principle of equity to ensure that the
 433 different interests of young women and men are recognized and
 434 varying needs are met, with equality as the desired outcome.
 435 Gender-specific programming focuses on the differences between

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436 young females' and young males' roles and responsibilities,
 437 positions in society, access to and use of resources, and social
 438 codes governing behavior. Gender-specific programs increase the
 439 effectiveness of programs by making interventions more
 440 appropriate to the specific needs of young women and men and
 441 ensuring that these programs do not unknowingly create,
 442 maintain, or reinforce gender roles or relations that may be
 443 damaging.

444 (8) TRAUMA-INFORMED CARE.—The Legislature finds that the
 445 department should use trauma-informed care as an approach to
 446 treating children with histories of trauma. Trauma-informed care
 447 assists service providers in recognizing the symptoms of trauma
 448 and acknowledges the role trauma has played in the child's life.
 449 Services for children should be based on an understanding of the
 450 vulnerabilities and triggers of trauma survivors which
 451 traditional service delivery approaches may exacerbate so that
 452 these services and programs can be more supportive and avoid re-
 453 traumatization. The department should use trauma-specific
 454 interventions that are designed to address the consequences of
 455 trauma in the child and to facilitate healing.

456 (9) FAMILY AND COMMUNITY ENGAGEMENT.—The Legislature finds
 457 that families and community support systems are critical to the
 458 success of children and to ensure that they are nondelinquent.
 459 Therefore, if appropriate, children who can be held accountable
 460 safely through serving and treating them in their homes and
 461 communities should be diverted from more restrictive placements
 462 within the juvenile justice system. The Legislature also finds
 463 that there should be an emphasis on strengthening the family and
 464 immersing them in their community support system. The department

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465 should develop customized plans that acknowledge the importance
 466 of family and community support systems. The customized plans
 467 should recognize a child's individual needs, capitalize on his
 468 or her strengths, reduce risk to the child, and prepare the
 469 child for a successful transition to, and unification with, his
 470 or her family and community support system. The child's family
 471 shall be included in the department's process of assessing the
 472 needs, services and treatment, and community connections of the
 473 children who are involved with the juvenile justice system or in
 474 danger of becoming so involved.

475 Section 3. Section 985.03, Florida Statutes, is reordered
 476 and amended to read:

477 985.03 Definitions.—As used in this chapter, the term:

478 (1) "Abscond" means to hide, conceal, or absent oneself
 479 from the jurisdiction of the court or supervision of the
 480 department to avoid prosecution or supervision.

481 (2)(1) "Addictions receiving facility" means a substance
 482 abuse service provider as defined in chapter 397.

483 (3)(2) "Adjudicatory hearing" means a hearing for the court
 484 to determine whether or not the facts support the allegations
 485 stated in the petition, as is provided for under s. 985.35 in
 486 delinquency cases.

487 (4)(3) "Adult" means any natural person other than a child.

488 (5)(4) "Arbitration" means a process whereby a neutral
 489 third person or panel, called an arbitrator or an arbitration
 490 panel, considers the facts and arguments presented by the
 491 parties and renders a decision, which may be binding or
 492 nonbinding.

493 (6)(5) "Authorized agent" or "designee" of the department

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494 means a person or agency assigned or designated by the
 495 department ~~or the Department of Children and Family Services, as~~
 496 ~~appropriate,~~ to perform duties or exercise powers under this
 497 chapter. ~~The term and~~ includes contract providers and their
 498 employees ~~for purposes of providing services to and managing~~
 499 ~~cases of children in need of services and families in need of~~
 500 ~~services.~~

501 (7)(6) "Child," or "juvenile," or "youth" means any
 502 unmarried person younger than under the age of 18 years of age
 503 who has not been emancipated by order of the court and who has
 504 been found or alleged to be dependent, in need of services, or
 505 from a family in need of services; or any married or unmarried
 506 person who is alleged to have committed charged with a violation
 507 of law occurring before prior to the time that person reaches
 508 reached the age of 18 years of age.

509 (8)(7) "Child in need of services" has the same meaning as
 510 provided in s. 984.03 means a child for whom there is no pending
 511 investigation into an allegation or suspicion of abuse, neglect,
 512 or abandonment; no pending referral alleging the child is
 513 delinquent; or no current supervision by the department or the
 514 Department of Children and Family Services for an adjudication
 515 of dependency or delinquency. The child must also, under this
 516 chapter, be found by the court:

517 ~~(a) To have persistently run away from the child's parents~~
 518 ~~or legal custodians despite reasonable efforts of the child, the~~
 519 ~~parents or legal custodians, and appropriate agencies to remedy~~
 520 ~~the conditions contributing to the behavior. Reasonable efforts~~
 521 ~~shall include voluntary participation by the child's parents or~~
 522 ~~legal custodians and the child in family mediation, services,~~

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523 and treatment offered by the department or the Department of
524 Children and Family Services;

525 ~~(b) To be habitually truant from school, while subject to~~
526 ~~compulsory school attendance, despite reasonable efforts to~~
527 ~~remedy the situation under ss. 1003.26 and 1003.27 and through~~
528 ~~voluntary participation by the child's parents or legal~~
529 ~~custodians and by the child in family mediation, services, and~~
530 ~~treatment offered by the Department of Juvenile Justice or the~~
531 ~~Department of Children and Family Services; or~~

532 ~~(c) To have persistently disobeyed the reasonable and~~
533 ~~lawful demands of the child's parents or legal custodians, and~~
534 ~~to be beyond their control despite efforts by the child's~~
535 ~~parents or legal custodians and appropriate agencies to remedy~~
536 ~~the conditions contributing to the behavior. Reasonable efforts~~
537 ~~may include such things as good faith participation in family or~~
538 ~~individual counseling.~~

539 (9)(8) "Child who has been found to have committed a
540 delinquent act" means a child who, under this chapter, is found
541 by a court to have committed a violation of law or to be in
542 direct or indirect contempt of court. The term, except that this
543 definition does not include a child who commits an act
544 constituting contempt of court arising out of a dependency
545 proceeding or a proceeding concerning a child or family in need
546 of services.

547 ~~(9) "Child support" means a court-ordered obligation,~~
548 ~~enforced under chapter 61 and ss. 409.2551-409.2597, for~~
549 ~~monetary support for the care, maintenance, training, and~~
550 ~~education of a child.~~

551 (10) "Circuit" means any of the 20 judicial circuits as set

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552 forth in s. 26.021.

553 (11) "Comprehensive assessment" or "assessment" means the
554 gathering of information for the evaluation of a juvenile
555 offender's or a child's physical, psychological, educational,
556 career and technical educational ~~vocational~~, and social
557 condition and family environment as they relate to the child's
558 need for rehabilitative and treatment services, including
559 substance abuse treatment ~~services~~, mental health ~~services~~,
560 developmental ~~services~~, literacy ~~services~~, medical ~~services~~,
561 family ~~services~~, and other specialized services, as appropriate.

562 (12) "Conditional release" means the care, treatment, help,
563 transition-to-adulthood services, and supervision provided to a
564 juvenile released from a residential commitment program which is
565 intended to promote rehabilitation and prevent recidivism. The
566 purpose of conditional release is to protect the public, reduce
567 recidivism, increase responsible productive behavior, and
568 provide for a successful transition of the youth from the
569 department to his or her ~~the~~ family. Conditional release
570 includes, but is not limited to, nonresidential community-based
571 programs.

572 (13) "Court," ~~unless otherwise expressly stated,~~ means the
573 circuit court assigned to exercise jurisdiction under this
574 chapter, unless otherwise expressly stated.

575 (14) "Day treatment" means a nonresidential, community-
576 based program designed to provide therapeutic intervention to
577 youth served by the department or who are placed on probation or
578 conditional release or are committed to the minimum-risk
579 nonresidential level. A day-treatment ~~day treatment~~ program may
580 provide educational and career and technical educational

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581 ~~vocational~~ services and shall provide case management services;
 582 individual, group, and family counseling; training designed to
 583 address delinquency risk factors; and monitoring of a youth's
 584 compliance with, and facilitation of a youth's completion of,
 585 sanctions if ordered by the court. Program types may include,
 586 but are not limited to, career programs, marine programs,
 587 juvenile justice alternative schools, training and
 588 rehabilitation programs, and gender-specific programs.

589 (15) (a) "Delinquency program" means any intake, probation,
 590 or similar program; regional detention center or facility; or
 591 community-based program, whether owned and operated by or
 592 contracted by the department, or institution-owned institution
 593 owned and operated by or contracted by the department, which
 594 provides intake, supervision, or custody and care of children
 595 who are alleged to be or who have been found to be delinquent
 596 under this chapter.

597 (b) "Delinquency program staff" means supervisory and
 598 direct care staff of a delinquency program as well as support
 599 staff who have direct contact with children in a delinquency
 600 program.

601 ~~(c) "Delinquency prevention programs" means programs~~
 602 ~~designed for the purpose of reducing the occurrence of~~
 603 ~~delinquency, including criminal gang activity, and juvenile~~
 604 ~~arrests. The term excludes arbitration, diversionary or~~
 605 ~~mediation programs, and community service work or other~~
 606 ~~treatment available subsequent to a child committing a~~
 607 ~~delinquent act.~~

608 (16) "Department" means the Department of Juvenile Justice.

609 (17) "Designated facility" or "designated treatment

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610 facility" means any facility designated by the department to
 611 provide treatment to juvenile offenders.

612 (18) "Detention care" means the temporary care of a child
 613 in secure ~~or~~, nonsecure, ~~or home~~ detention, pending a court
 614 adjudication or disposition or execution of a court order. There
 615 are two ~~three~~ types of detention care, as follows:

616 (a) "Secure detention" means temporary custody of the child
 617 while the child is under the physical restriction of a secure
 618 detention center or facility pending adjudication, disposition,
 619 or placement.

620 (b) "Nonsecure detention" ~~means temporary custody of the~~
 621 ~~child while the child is in a residential home in the community~~
 622 ~~in a physically nonrestrictive environment under the supervision~~
 623 ~~of the Department of Juvenile Justice pending adjudication,~~
 624 ~~disposition, or placement.~~

625 (c) ~~"Home detention"~~ means temporary nonsecure detention
 626 custody of the child while the child is released to the custody
 627 of the parent, guardian, or custodian in a physically
 628 nonrestrictive environment under the supervision of ~~the~~
 629 department staff pending adjudication, disposition, or
 630 placement. Forms of nonsecure detention include, but are not
 631 limited to, home detention, electronic monitoring, day-reporting
 632 centers, evening-reporting centers, and nonsecure shelters.
 633 Nonsecure detention may include other requirements imposed by
 634 the court.

635 (19) "Detention center or facility" means a facility used
 636 pending court adjudication or disposition or execution of court
 637 order for the temporary care of a child alleged or found to have
 638 committed a violation of law. A detention center or facility

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639 ~~provides may provide~~ secure ~~or nonsecure~~ custody. A facility
640 used for the commitment of adjudicated delinquents is shall not
641 ~~be~~ considered a detention center or facility.

642 (20) "Detention hearing" means a hearing for the court to
643 determine if a child should be placed in temporary custody, as
644 provided for under part V in delinquency cases.

645 (21) "Disposition hearing" means a hearing in which the
646 court determines the most appropriate dispositional services in
647 the least restrictive available setting provided for under part
648 VII, in delinquency cases.

649 (22) "Family" means a collective of persons, consisting of
650 a child and a parent, guardian, adult custodian, or adult
651 relative, in which:

652 (a) The persons reside in the same house or living unit; or

653 (b) The parent, guardian, adult custodian, or adult
654 relative has a legal responsibility by blood, marriage, or court
655 order to support or care for the child.

656 (23) "Family in need of services" has the same meaning as
657 provided in s. 984.03 means a family that has a child for whom
658 ~~there is no pending investigation into an allegation of abuse,~~
659 ~~neglect, or abandonment or no current supervision by the~~
660 ~~department or the Department of Children and Family Services for~~
661 ~~an adjudication of dependency or delinquency. The child must~~
662 ~~also have been referred to a law enforcement agency or the~~
663 ~~department for:~~

664 ~~(a) Running away from parents or legal custodians;~~

665 ~~(b) Persistently disobeying reasonable and lawful demands~~
666 ~~of parents or legal custodians, and being beyond their control;~~
667 ~~or~~

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668 ~~(c) Habitual truancy from school.~~

669 ~~(24) "Foster care" means care provided a child in a foster~~
670 ~~family or boarding home, group home, agency boarding home, child~~
671 ~~care institution, or any combination thereof.~~

672 ~~(25) "Habitually truant" means that:~~

673 ~~(a) The child has 15 unexcused absences within 90 calendar~~
674 ~~days with or without the knowledge or justifiable consent of the~~
675 ~~child's parent or legal guardian, is subject to compulsory~~
676 ~~school attendance under s. 1003.21(1) and (2)(a), and is not~~
677 ~~exempt under s. 1003.21(3), s. 1003.24, or any other exemptions~~
678 ~~specified by law or the rules of the State Board of Education.~~

679 ~~(b) Escalating activities to determine the cause, and to~~
680 ~~attempt the remediation, of the child's truant behavior under~~
681 ~~ss. 1003.26 and 1003.27 have been completed.~~

682
683 ~~If a child who is subject to compulsory school attendance is~~
684 ~~responsive to the interventions described in ss. 1003.26 and~~
685 ~~1003.27 and has completed the necessary requirements to pass the~~
686 ~~current grade as indicated in the district pupil progression~~
687 ~~plan, the child shall not be determined to be habitually truant~~
688 ~~and shall be passed. If a child within the compulsory school~~
689 ~~attendance age has 15 unexcused absences within 90 calendar days~~
690 ~~or fails to enroll in school, the state attorney may file a~~
691 ~~child-in-need-of-services petition. Before filing a petition,~~
692 ~~the child must be referred to the appropriate agency for~~
693 ~~evaluation. After consulting with the evaluating agency, the~~
694 ~~state attorney may elect to file a child-in-need-of-services~~
695 ~~petition.~~

696 ~~(c) A school representative, designated according to school~~

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697 ~~board policy, and a juvenile probation officer of the department~~
 698 ~~have jointly investigated the truancy problem or, if that was~~
 699 ~~not feasible, have performed separate investigations to identify~~
 700 ~~conditions that could be contributing to the truant behavior;~~
 701 ~~and if, after a joint staffing of the case to determine the~~
 702 ~~necessity for services, such services were determined to be~~
 703 ~~needed, the persons who performed the investigations met jointly~~
 704 ~~with the family and child to discuss any referral to appropriate~~
 705 ~~community agencies for economic services, family or individual~~
 706 ~~counseling, or other services required to remedy the conditions~~
 707 ~~that are contributing to the truant behavior.~~

708 ~~(d) The failure or refusal of the parent or legal guardian~~
 709 ~~or the child to participate, or make a good faith effort to~~
 710 ~~participate, in the activities prescribed to remedy the truant~~
 711 ~~behavior, or the failure or refusal of the child to return to~~
 712 ~~school after participation in activities required by this~~
 713 ~~subsection, or the failure of the child to stop the truant~~
 714 ~~behavior after the school administration and the department have~~
 715 ~~worked with the child as described in s. 1003.27(3) shall be~~
 716 ~~handled as prescribed in s. 1003.27.~~

717 ~~(26) "Halfway house" means a community-based residential~~
 718 ~~program for 10 or more committed delinquents at the moderate-~~
 719 ~~risk commitment level which is operated or contracted by the~~
 720 ~~department.~~

721 ~~(24)(27) "Intake" means the initial acceptance and~~
 722 ~~screening by the department or juvenile assessment center~~
 723 ~~personnel of a complaint or a law enforcement report or probable~~
 724 ~~cause affidavit of delinquency, family in need of services, or~~
 725 ~~child in need of services to determine the recommendation to be~~

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726 taken in the best interests of the child, the family, and the
 727 community. The emphasis of intake is on diversion and the least
 728 restrictive available services ~~and. Consequently, intake~~
 729 ~~includes such alternatives such as:~~

730 (a) The disposition of the complaint, report, or probable
 731 cause affidavit without court or public agency action or
 732 judicial handling, if when appropriate.

733 (b) The referral of the child to another public or private
 734 agency, if when appropriate.

735 (c) The recommendation by the department juvenile probation
 736 ~~officer~~ of judicial handling, if when appropriate and warranted.

737 ~~(25)(28) "Judge" means the circuit judge exercising~~
 738 ~~jurisdiction pursuant to this chapter.~~

739 ~~(26)(29) "Juvenile justice continuum" includes, but is not~~
 740 ~~limited to, delinquency prevention programs and services~~
 741 ~~designed for the purpose of preventing or reducing delinquent~~
 742 ~~acts, including criminal activity by criminal gangs, and~~
 743 ~~juvenile arrests, as well as programs and services targeted at~~
 744 ~~children who have committed delinquent acts, and children who~~
 745 ~~have previously been committed to residential treatment programs~~
 746 ~~for delinquents. The term includes children-in-need-of-services~~
 747 ~~and families-in-need-of-services programs under chapter 984;~~
 748 ~~conditional release; substance abuse and mental health programs;~~
 749 ~~educational and career programs; recreational programs;~~
 750 ~~community services programs; community service work programs;~~
 751 ~~mother-infant programs; and alternative dispute resolution~~
 752 ~~programs serving children at risk of delinquency and their~~
 753 ~~families, whether offered or delivered by state or local~~
 754 ~~governmental entities, public or private for-profit or not-for-~~

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755 profit organizations, or religious or charitable organizations.

756 ~~(27)-(30)~~ "Juvenile probation officer" means the authorized
757 agent of the department who performs ~~the~~ intake, case
758 management, or supervision functions.

759 ~~(28)-(31)~~ "Legal custody or guardian" means a legal status
760 created by court order or letter of guardianship which vests in
761 a custodian of the person or guardian, whether an agency or an
762 individual, the right to have physical custody of the child and
763 the right and duty to protect, train, and discipline the child
764 and to provide him or her with food, shelter, education, and
765 ordinary medical, dental, psychiatric, and psychological care.

766 ~~(29)-(32)~~ "Licensed child-caring agency" means a person,
767 society, association, or agency licensed by the Department of
768 Children and Families ~~Family Services~~ to care for, receive, and
769 board children.

770 ~~(30)-(33)~~ "Licensed health care professional" means a
771 physician licensed under chapter 458, an osteopathic physician
772 licensed under chapter 459, a nurse licensed under part I of
773 chapter 464, a physician assistant licensed under chapter 458 or
774 chapter 459, or a dentist licensed under chapter 466.

775 ~~(31)-(34)~~ "Likely to injure oneself" means that, as
776 evidenced by violent or other actively self-destructive
777 behavior, it is more likely than not that within a 24-hour
778 period the child will attempt to commit suicide or inflict
779 serious bodily harm on himself or herself.

780 ~~(32)-(35)~~ "Likely to injure others" means that it is more
781 likely than not that within a 24-hour period the child will
782 inflict serious and unjustified bodily harm on another person.

783 ~~(33)-(36)~~ "Mediation" means a process whereby a neutral

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784 third person called a mediator acts to encourage and facilitate
785 the resolution of a dispute between two or more parties. It is
786 an informal and nonadversarial process with the objective of
787 helping the disputing parties reach a mutually acceptable and
788 voluntary agreement. In mediation, decisionmaking authority
789 rests with the parties. The role of the mediator includes, but
790 is not limited to, assisting the parties in identifying issues,
791 fostering joint problem solving, and exploring settlement
792 alternatives.

793 ~~(34)-(37)~~ "Mother-infant program" means a residential
794 program designed to serve the needs of juvenile mothers or
795 expectant juvenile mothers who are committed as delinquents,
796 which is operated or contracted by the department. A mother-
797 infant program facility must be licensed as a child care
798 facility under s. 402.308 and must provide the services and
799 support necessary to enable each juvenile mother committed to
800 the facility to provide for the needs of her infant ~~infants~~ who,
801 upon agreement of the mother, may accompany her in the program.

802 ~~(35)-(38)~~ "Necessary medical treatment" means care that
803 ~~which~~ is necessary within a reasonable degree of medical
804 certainty to prevent the deterioration of a child's condition or
805 to alleviate immediate pain of a child.

806 ~~(36)-(39)~~ "Next of kin" means an adult relative of a child
807 who is the child's brother, sister, grandparent, aunt, uncle, or
808 first cousin.

809 ~~(37)-(40)~~ "Ordinary medical care" means medical procedures
810 that are administered or performed on a routine basis and
811 includes, but is include, but are not limited to, inoculations,
812 physical examinations, remedial treatment for minor illnesses

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813 and injuries, preventive services, medication management,
814 chronic disease detection and treatment, and other medical
815 procedures that are administered or performed on a routine basis
816 and that do not involve hospitalization, surgery, the use of
817 general anesthesia, or the provision of psychotropic
818 medications.

819 ~~(38)(41)~~ "Parent" means a woman who gives birth to a child
820 and a man whose consent to the adoption of the child would be
821 required under s. 63.062(1). If a child has been legally
822 adopted, the term "parent" means the adoptive mother or father
823 of the child. The term does not include an individual whose
824 parental relationship to a ~~the~~ child has been legally
825 terminated, or an alleged or prospective parent, unless the
826 parental status falls within the terms of ~~either~~ s. 39.503(1) or
827 s. 63.062(1).

828 ~~(39)(42)~~ "Preliminary screening" means the gathering of
829 preliminary information to be used in determining a child's need
830 for further evaluation or assessment or for referral for other
831 substance abuse services through means such as psychosocial
832 interviews, r urine and breathalyzer screenings, r and reviews of
833 available educational, delinquency, and dependency records of
834 the child.

835 (40) "Prevention" means programs, strategies, initiatives,
836 and networks designed to keep children from making initial or
837 further contact with the juvenile justice system.

838 ~~(43) "Preventive services" means social services and other~~
839 ~~supportive and rehabilitative services provided to the parent of~~
840 ~~the child, the legal guardian of the child, or the custodian of~~
841 ~~the child and to the child for the purpose of averting the~~

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842 ~~removal of the child from the home or disruption of a family~~
843 ~~which will or could result in the placement of a child in foster~~
844 ~~care. Social services and other supportive and rehabilitative~~
845 ~~services shall promote the child's need for a safe, continuous,~~
846 ~~stable living environment and shall promote family autonomy and~~
847 ~~shall strengthen family life as the first priority whenever~~
848 ~~possible.~~

849 ~~(41)(44)~~ "Probation" means the legal status of probation
850 created by law and court order in cases involving a child who
851 has been found to have committed a delinquent act. Probation is
852 an individualized program in which the freedom of the child is
853 limited and the child is restricted to noninstitutional quarters
854 or restricted to the child's home in lieu of commitment to the
855 custody of the department. Youth on probation may be assessed
856 and classified for placement in day-treatment probation programs
857 designed for youth who represent a minimum risk to themselves
858 and public safety and who do not require placement and services
859 in a residential setting.

860 ~~(42)(45)~~ "Relative" means a grandparent, great-grandparent,
861 sibling, first cousin, aunt, uncle, great-aunt, great-uncle,
862 niece, or nephew, whether related by ~~the~~ whole or half blood, by
863 affinity, or by adoption. The term does not include a
864 stepparent.

865 ~~(43)(46)~~ "Restrictiveness level" means the level of
866 programming and security provided by programs that service the
867 supervision, custody, care, and treatment needs of committed
868 children. Sections 985.601(10) and 985.721 apply to children
869 placed in programs at any residential commitment level. The
870 restrictiveness levels of commitment are as follows:

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871 (a) Minimum-risk nonresidential.—Programs or program models
 872 at this commitment level work with youth who remain in the
 873 community and participate at least 5 days per week in a day-
 874 treatment day treatment program. Youth assessed and classified
 875 for programs at this commitment level represent a minimum risk
 876 to themselves and public safety and do not require placement and
 877 services in residential settings. Youth in this level have full
 878 access to, and reside in, the community. Youth who have been
 879 found to have committed delinquent acts that involve firearms,
 880 that are sexual offenses, or that would be life felonies or
 881 first-degree first-degree felonies if committed by an adult may
 882 not be committed to a program at this level.

883 ~~(b) Low risk residential. Programs or program models at
 884 this commitment level are residential but may allow youth to
 885 have unsupervised access to the community. Residential
 886 facilities shall have no more than 165 beds each, including
 887 campus-style programs, unless those campus-style programs
 888 include more than one level of restrictiveness, provide
 889 multilevel education and treatment programs using different
 890 treatment protocols, and have facilities that coexist separately
 891 in distinct locations on the same property. Youth assessed and
 892 classified for placement in programs at this commitment level
 893 represent a low risk to themselves and public safety but do
 894 require placement and services in residential settings. Children
 895 who have been found to have committed delinquent acts that
 896 involve firearms, delinquent acts that are sexual offenses, or
 897 delinquent acts that would be life felonies or first degree
 898 felonies if committed by an adult shall not be committed to a
 899 program at this level.~~

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900 ~~(b)(e) Nonsecure Moderate-risk residential.~~—Programs or
 901 program models at this commitment level are residential but may
 902 allow youth to have supervised access to the community.
 903 Facilities at this commitment level are either environmentally
 904 secure ~~or~~, staff secure, or are hardware secure ~~hardware secure~~
 905 with walls, fencing, or locking doors. Residential facilities at
 906 this commitment level may shall have up to 90 no more than 165
 907 beds each, including campus-style programs, unless those campus-
 908 style programs include more than one ~~level of restrictiveness,~~
 909 ~~provide multilevel education and treatment program programs~~
 910 using different treatment protocols, and have facilities that
 911 coexist separately in distinct locations on the same property.
 912 Facilities at this commitment level shall provide 24-hour awake
 913 supervision, custody, care, and treatment of residents. Youth
 914 assessed and classified for placement in programs at this
 915 commitment level represent a low or moderate risk to public
 916 safety and require close supervision. The staff at a facility at
 917 this commitment level may seclude a child who is a physical
 918 threat to himself, ~~or~~ herself, or others. Mechanical restraint
 919 may also be used when necessary.

920 ~~(c)(d) High-risk residential.~~—Programs or program models at
 921 this commitment level are residential and do not allow youth to
 922 have access to the community, except that temporary release
 923 providing community access for up to 72 continuous hours may be
 924 approved by a court for a youth who has made successful progress
 925 in his or her program so that in order for the youth may respond
 926 to ~~attend~~ a family emergency or, during the final 60 days of his
 927 or her placement, ~~to~~ visit his or her home, enroll in school or
 928 a career and technical education vocational program, complete a

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929 job interview, or participate in a community service project.
 930 High-risk residential facilities are hardware secure ~~hardware-~~
 931 ~~secure~~ with perimeter fencing and locking doors. Residential
 932 facilities at this commitment level may shall have up to 90 no
 933 ~~more than 165~~ beds each, including campus-style programs, unless
 934 those campus-style programs include more than one level of
 935 ~~restrictiveness, provide multilevel education and treatment~~
 936 program programs using different treatment protocols, and have
 937 facilities that coexist separately in distinct locations on the
 938 same property. Facilities at this commitment level shall provide
 939 24-hour awake supervision, custody, care, and treatment of
 940 residents. Youth assessed and classified for this level of
 941 placement require close supervision in a structured residential
 942 setting. Placement in programs at this level is prompted by a
 943 concern for public safety which that outweighs placement in
 944 programs at lower commitment levels. The staff at a facility at
 945 this commitment level may seclude a child who is a physical
 946 threat to himself, ~~or~~ herself, or others. Mechanical restraint
 947 may also be used when necessary. The facility shall may provide
 948 for single cell occupancy, except that youth may be housed
 949 together during prerelease transition.

950 ~~(d)(e)~~ *Maximum-risk residential.*—Programs or program models
 951 at this commitment level include juvenile correctional
 952 facilities and juvenile prisons. The programs at this commitment
 953 level are long-term residential and do not allow youth to have
 954 access to the community. Facilities at this commitment level are
 955 maximum-custody and hardware secure, hardware secure with
 956 perimeter security fencing and locking doors. Residential
 957 facilities at this commitment level may shall have up to 90 no

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958 ~~more than 165~~ beds each, including campus-style programs, unless
 959 those campus-style programs include more than one level of
 960 ~~restrictiveness, provide multilevel education and treatment~~
 961 program programs using different treatment protocols, and have
 962 facilities that coexist separately in distinct locations on the
 963 same property. Facilities at this commitment level shall provide
 964 24-hour awake supervision, custody, care, and treatment of
 965 residents. The staff at a facility at this commitment level may
 966 seclude a child who is a physical threat to himself, ~~or~~ herself,
 967 or others. Mechanical restraint may also be used when necessary.
 968 Facilities at this commitment level ~~The facility~~ shall provide
 969 for single cell occupancy, except that youth may be housed
 970 together during prerelease transition. Youth assessed and
 971 classified for this level of placement require close supervision
 972 in a maximum security residential setting. Placement in a
 973 program at this level is prompted by a demonstrated need to
 974 protect the public.

975 ~~(44)(47)~~ "Respite" means a placement that is available for
 976 the care, custody, and placement of a youth charged with
 977 domestic violence as an alternative to secure detention or for
 978 placement of a youth when a shelter bed for a child in need of
 979 services or a family in need of services is unavailable.

980 ~~(45)(48)~~ "Secure detention center or facility" means a
 981 physically restricting facility for the temporary care of
 982 children, pending adjudication, disposition, or placement.

983 ~~(46)(49)~~ "Shelter" means a place for the temporary care of
 984 a child who is alleged to be or who has been found to be
 985 delinquent.

986 ~~(50)~~ "Shelter hearing" means a hearing provided for under

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987 ~~s. 984.14 in family-in-need-of-services cases or child-in-need-~~
 988 ~~of-services cases.~~

989 ~~(51) "Staff-secure shelter" means a facility in which a~~
 990 ~~child is supervised 24 hours a day by staff members who are~~
 991 ~~awake while on duty. The facility is for the temporary care and~~
 992 ~~assessment of a child who has been found to be dependent, who~~
 993 ~~has violated a court order and been found in contempt of court,~~
 994 ~~or whom the Department of Children and Family Services is unable~~
 995 ~~to properly assess or place for assistance within the continuum~~
 996 ~~of services provided for dependent children.~~

997 ~~(47)(52)~~ "Substance abuse" means using, without medical
 998 reason, any psychoactive or mood-altering drug, including
 999 alcohol, in such a manner as to induce impairment resulting in
 1000 dysfunctional social behavior.

1001 ~~(48)(53)~~ "Taken into custody" means the status of a child
 1002 immediately when temporary physical control over the child is
 1003 attained by a person authorized by law, pending the child's
 1004 release, detention, placement, or other disposition as
 1005 authorized by law.

1006 ~~(49)(54)~~ "Temporary legal custody" means the relationship
 1007 that a juvenile court creates between a child and an adult
 1008 relative of the child, adult nonrelative approved by the court,
 1009 or other person until a more permanent arrangement is ordered.
 1010 Temporary legal custody confers upon the custodian the right to
 1011 have temporary physical custody of the child and the right and
 1012 duty to protect, train, and discipline the child and to provide
 1013 the child with food, shelter, and education, and ordinary
 1014 medical, dental, psychiatric, and psychological care, unless
 1015 these rights and duties are otherwise enlarged or limited by the

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1016 court order establishing the temporary legal custody
 1017 relationship.

1018 ~~(50)(55)~~ "Temporary release" means the terms and conditions
 1019 under which a child is temporarily released from a residential
 1020 commitment facility or allowed home visits. If the temporary
 1021 release is from a nonsecure ~~moderate-risk~~ residential facility,
 1022 a high-risk residential facility, or a maximum-risk residential
 1023 facility, the terms and conditions of the temporary release must
 1024 be approved by the child, the court, and the facility. ~~The term~~
 1025 ~~includes periods during which the child is supervised pursuant~~
 1026 ~~to a conditional release program or a period during which the~~
 1027 ~~child is supervised by a juvenile probation officer or other~~
 1028 ~~nonresidential staff of the department or staff employed by an~~
 1029 ~~entity under contract with the department.~~

1030 ~~(51)(56)~~ "Transition-to-adulthood services" means services
 1031 that are provided for youth in the custody of the department or
 1032 under the supervision of the department and that have the
 1033 objective of instilling the knowledge, skills, and aptitudes
 1034 essential to a socially integrated, self-supporting adult life.
 1035 The services may include, but are not limited to:

1036 (a) Assessment of the youth's ability and readiness for
 1037 adult life.

1038 (b) A plan for the youth to acquire the knowledge,
 1039 information, and counseling necessary to make a successful
 1040 transition to adulthood.

1041 (c) Services that have proven effective toward achieving
 1042 the transition to adulthood.

1043 (52) "Trauma-informed care" means the provision of services
 1044 to children with a history of trauma in a manner that recognizes

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1045 the symptoms and acknowledges the role the trauma has played in
 1046 the child's life. Trauma may include, but is not limited to,
 1047 community and school violence, physical or sexual abuse,
 1048 neglect, medical difficulties, and domestic violence.

1049 ~~(53)(57)~~ "Violation of law" or "delinquent act" means a
 1050 violation of any law of this state, the United States, or any
 1051 other state which is a misdemeanor or a felony or a violation of
 1052 a county or municipal ordinance which would be punishable by
 1053 incarceration if the violation were committed by an adult.

1054 ~~(54)(58)~~ "Waiver hearing" means a hearing provided for
 1055 under s. 985.556(4).

1056 Section 4. Subsections (4) and (5) of section 985.0301,
 1057 Florida Statutes, are amended to read:

1058 985.0301 Jurisdiction.—

1059 (4)(a) Petitions alleging delinquency shall be filed in the
 1060 county where the delinquent act or violation of law occurred,
 1061 ~~but~~ The circuit court for that county may transfer the case to
 1062 the circuit court of the circuit in which the child resides or
 1063 will reside at the time of detention or placement for
 1064 dispositional purposes. A child who has been detained may shall
 1065 be transferred to the ~~appropriate~~ detention center or facility
 1066 in the circuit in which the child resides or will reside at the
 1067 time of detention or other placement directed by the receiving
 1068 court.

1069 (b) The jurisdiction to be exercised by the court when a
 1070 child is taken into custody before the filing of a petition
 1071 under subsection (2) shall be exercised by the circuit court for
 1072 the county in which the child is taken into custody, and such
 1073 court has ~~which court shall have~~ personal jurisdiction of the

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1074 child and the child's parent or legal guardian. If the child has
 1075 been detained, upon the filing of a petition in the appropriate
 1076 circuit court, the court that is exercising initial personal
 1077 jurisdiction of the person of the child shall, ~~if the child has~~
 1078 ~~been detained,~~ immediately order the child to be transferred to
 1079 the detention center or facility or other placement as ordered
 1080 by the court having subject matter jurisdiction of the case.

1081 (5) (a) Notwithstanding s. 743.07, ~~ss. 743.07, 985.43,~~
 1082 ~~985.433, 985.435, 985.439, and 985.441,~~ and except as provided
 1083 in paragraphs (b) and (c) ~~ss. 985.461 and 985.465 and paragraph~~
 1084 ~~(f),~~ when the jurisdiction of a any child who is alleged to have
 1085 committed a delinquent act or violation of law is obtained, the
 1086 court retains shall retain jurisdiction to dispose the case,
 1087 unless relinquished by its order, until the child reaches 19
 1088 years of age, with the same power over the child which the court
 1089 had before the child became an adult. ~~For the purposes of s.~~
 1090 ~~985.461, the court may retain jurisdiction for an additional 365~~
 1091 ~~days following the child's 19th birthday if the child is~~
 1092 ~~participating in transition to adulthood services. The~~
 1093 ~~additional services do not extend involuntary court-sanctioned~~
 1094 ~~residential commitment and therefore require voluntary~~
 1095 ~~participation by the affected youth.~~

1096 (b) Unless relinquished by its own order, the court retains
 1097 jurisdiction over a child on probation until the child reaches
 1098 19 years of age ~~Notwithstanding ss. 743.07 and 985.455(3), the~~
 1099 ~~term of any order placing a child in a probation program must be~~
 1100 ~~until the child's 19th birthday unless he or she is released by~~
 1101 ~~the court on the motion of an interested party or on his or her~~
 1102 ~~own motion.~~

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1103 (c) Unless relinquished by its own order, the court retains
 1104 jurisdiction over a child committed to the department until the
 1105 child reaches 21 years of age, specifically for the purpose of
 1106 allowing the child to complete the department's commitment
 1107 program, including conditional release supervision.

1108 (d) The court retains jurisdiction over a juvenile sex
 1109 offender as defined in s. 985.475 who has been placed in a
 1110 community-based treatment alternative program with supervision
 1111 or in a program or facility for juvenile sex offenders pursuant
 1112 to s. 985.48 until the juvenile sex offender reaches 21 years of
 1113 age, specifically for the purpose of completing the program.

1114 ~~(c) Notwithstanding ss. 743.07 and 985.455(3), the term of~~
 1115 ~~the commitment must be until the child is discharged by the~~
 1116 ~~department or until he or she reaches the age of 21 years.~~
 1117 ~~Notwithstanding ss. 743.07, 985.435, 985.437, 985.439, 985.441,~~
 1118 ~~985.455, and 985.513, and except as provided in this section, a~~
 1119 ~~child may not be held under a commitment from a court under s.~~
 1120 ~~985.439, s. 985.441(1)(a) or (b), or s. 985.455 after becoming~~
 1121 ~~21 years of age.~~

1122 ~~(d) The court may retain jurisdiction over a child~~
 1123 ~~committed to the department for placement in a juvenile prison~~
 1124 ~~or in a high-risk or maximum-risk residential commitment program~~
 1125 ~~to allow the child to participate in a juvenile conditional~~
 1126 ~~release program pursuant to s. 985.46. The jurisdiction of the~~
 1127 ~~court may not be retained after the child's 22nd birthday.~~
 1128 ~~However, if the child is not successful in the conditional~~
 1129 ~~release program, the department may use the transfer procedure~~
 1130 ~~under s. 985.441(4).~~

1131 ~~(e) The court may retain jurisdiction over a child~~

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1132 ~~committed to the department for placement in an intensive~~
 1133 ~~residential treatment program for 10-year-old to 13-year-old~~
 1134 ~~offenders, in the residential commitment program in a juvenile~~
 1135 ~~prison or in a residential sex offender program until the child~~
 1136 ~~reaches the age of 21. If the court exercises this jurisdiction~~
 1137 ~~retention, it shall do so solely for the purpose of the child~~
 1138 ~~completing the intensive residential treatment program for 10-~~
 1139 ~~year-old to 13-year-old offenders, in the residential commitment~~
 1140 ~~program in a juvenile prison, or in a residential sex offender~~
 1141 ~~program. Such jurisdiction retention does not apply for other~~
 1142 ~~programs, other purposes, or new offenses.~~

1143 ~~(f) The court may retain jurisdiction over a child~~
 1144 ~~committed to a juvenile correctional facility or a juvenile~~
 1145 ~~prison until the child reaches the age of 21 years, specifically~~
 1146 ~~for the purpose of allowing the child to complete such program.~~

1147 ~~(g) The court may retain jurisdiction over a juvenile~~
 1148 ~~sexual offender who has been placed in a program or facility for~~
 1149 ~~juvenile sexual offenders until the juvenile sexual offender~~
 1150 ~~reaches the age of 21, specifically for the purpose of~~
 1151 ~~completing the program.~~

1152 ~~(e)(h)~~ (e) The court may retain jurisdiction over a child and
 1153 the child's parent or legal guardian whom the court has ordered
 1154 to pay restitution until the restitution order is satisfied. To
 1155 retain jurisdiction, the court shall enter a restitution order,
 1156 which is separate from any disposition or order of commitment,
 1157 on or before ~~prior to~~ the date that the court's jurisdiction
 1158 would cease under this section. The contents of the restitution
 1159 order are ~~shall be~~ limited to the child's name and address, the
 1160 name and address of the parent or legal guardian, the name and

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1161 address of the payee, the case number, the date and amount of
 1162 restitution ordered, any amount of restitution paid, the amount
 1163 of restitution due and owing, and a notation that costs,
 1164 interest, penalties, and attorney fees may also be due and
 1165 owing. The terms of the restitution order are subject to s.
 1166 775.089(5).

1167 ~~(f)~~~~(i)~~ This subsection does not prevent the exercise of
 1168 jurisdiction by any court having jurisdiction of the child if
 1169 the child, after becoming an adult, commits a violation of law.

1170 Section 5. Subsections (2) and (4) of section 985.037,
 1171 Florida Statutes, are amended to read:

1172 985.037 Punishment for contempt of court; alternative
 1173 sanctions.—

1174 (2) PLACEMENT IN A SECURE DETENTION FACILITY.—A child may
 1175 be placed in a secure detention facility for purposes of
 1176 punishment for contempt of court if alternative sanctions are
 1177 unavailable or inappropriate, or if the child has already been
 1178 ordered to serve an alternative sanction but failed to comply
 1179 with the sanction. A delinquent child who has been held in
 1180 direct or indirect contempt may be placed in a secure detention
 1181 facility for up to not to exceed 5 days for a first offense and
 1182 up to not to exceed 15 days for a second or subsequent offense.

1183 (4) CONTEMPT OF COURT SANCTIONS; PROCEDURE AND DUE
 1184 PROCESS.—

1185 (a) If a child is charged with direct contempt of court,
 1186 including traffic court, the court may impose an authorized
 1187 sanction immediately. The court must hold a hearing to determine
 1188 if the child committed direct contempt. Due process must be
 1189 afforded to the child during such hearing.

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1190 (b) If a child is charged with indirect contempt of court,
 1191 the court must hold a hearing within 24 hours to determine
 1192 whether the child committed indirect contempt of a valid court
 1193 order. At the hearing, the following due process rights must be
 1194 provided to the child:

1195 1. Right to a copy of the order to show cause alleging
 1196 facts supporting the contempt charge.

1197 2. Right to an explanation of the nature and the
 1198 consequences of the proceedings.

1199 3. Right to legal counsel and the right to have legal
 1200 counsel appointed by the court if the juvenile is indigent,
 1201 under s. 985.033.

1202 4. Right to confront witnesses.

1203 5. Right to present witnesses.

1204 6. Right to have a transcript or record of the proceeding.

1205 7. Right to appeal to an appropriate court.

1206
 1207 The child's parent or guardian may address the court regarding
 1208 the due process rights of the child. Upon motion by the defense
 1209 or state attorney, the court shall review the placement of the
 1210 child ~~every 72 hours~~ to determine whether it is appropriate for
 1211 the child to remain in the facility.

1212 (c) The court may not order that a child be placed in a
 1213 secure detention facility ~~as for~~ punishment for contempt unless
 1214 the court determines that an alternative sanction is
 1215 inappropriate or unavailable or that the child was initially
 1216 ordered to an alternative sanction and did not comply with the
 1217 alternative sanction. The court is encouraged to order a child
 1218 to perform community service, up to the maximum number of hours,

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1219 ~~if where~~ appropriate before ordering that the child be placed in
1220 a secure detention facility as punishment for contempt of court.

1221 (d) In addition to any other sanction imposed under this
1222 section, the court may direct the Department of Highway Safety
1223 and Motor Vehicles to withhold issuance of, or suspend, a
1224 child's driver ~~driver's~~ license or driving privilege. The court
1225 may order that a child's driver ~~driver's~~ license or driving
1226 privilege be withheld or suspended for up to 1 year for a first
1227 offense of contempt and up to 2 years for a second or subsequent
1228 offense. If the child's driver ~~driver's~~ license or driving
1229 privilege is suspended or revoked for any reason at the time the
1230 sanction for contempt is imposed, the court shall extend the
1231 period of suspension or revocation by the additional period
1232 ordered under this paragraph. If the child's driver ~~driver's~~
1233 license is being withheld at the time the sanction for contempt
1234 is imposed, the period of suspension or revocation ordered under
1235 this paragraph shall begin on the date on which the child is
1236 otherwise eligible to drive.

1237 Section 6. Section 985.105, Florida Statutes, is repealed.

1238 Section 7. Subsection (1) of section 985.11, Florida
1239 Statutes, is amended to read:

1240 985.11 Fingerprinting and photographing.—

1241 (1) (a) A child who is charged with or found to have
1242 committed an offense that would be a felony if committed by an
1243 adult shall be fingerprinted, and the fingerprints shall ~~must~~ be
1244 submitted to the Department of Law Enforcement as provided in s.
1245 943.051(3) (a).

1246 (b) Unless the child is issued a civil citation or
1247 participating in a similar diversion program pursuant to s.

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1248 985.12, a child who is charged with or found to have committed
1249 one of the following offenses shall be fingerprinted, and the
1250 fingerprints shall be submitted to the Department of Law
1251 Enforcement as provided in s. 943.051(3) (b):
1252 1. Assault~~7~~ as defined in s. 784.011.
1253 2. Battery~~7~~ as defined in s. 784.03.
1254 3. Carrying a concealed weapon~~7~~ as defined in s. 790.01(1).
1255 4. Unlawful use of destructive devices or bombs~~7~~ as defined
1256 in s. 790.1615(1).
1257 5. Neglect of a child~~7~~ as defined in s. 827.03(1) (e).
1258 6. Assault on a law enforcement officer, a firefighter, or
1259 other specified officers~~7~~ as defined in s. 784.07(2) (a).
1260 7. Open carrying of a weapon~~7~~ as defined in s. 790.053.
1261 8. Exposure of sexual organs~~7~~ as defined in s. 800.03.
1262 9. Unlawful possession of a firearm~~7~~ as defined in s.
1263 790.22(5).
1264 10. Petit theft~~7~~ as defined in s. 812.014.
1265 11. Cruelty to animals~~7~~ as defined in s. 828.12(1).
1266 12. Arson~~7~~ resulting in bodily harm to a firefighter~~7~~ as
1267 defined in s. 806.031(1).
1268 13. Unlawful possession or discharge of a weapon or firearm
1269 at a school-sponsored event or on school property as defined in
1270 s. 790.115.

1271
1272 A law enforcement agency may fingerprint and photograph a child
1273 taken into custody upon probable cause that such child has
1274 committed any other violation of law, as the agency deems
1275 appropriate. Such fingerprint records and photographs shall be
1276 retained by the law enforcement agency in a separate file, and

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1277 these records and all copies thereof must be marked "Juvenile
 1278 Confidential." These records are not available for public
 1279 disclosure and inspection under s. 119.07(1) except as provided
 1280 in ss. 943.053 and 985.04(2), but ~~are shall be~~ available to
 1281 other law enforcement agencies, criminal justice agencies, state
 1282 attorneys, the courts, the child, the parents or legal
 1283 custodians of the child, their attorneys, and any other person
 1284 authorized by the court to have access to such records. In
 1285 addition, such records may be submitted to the Department of Law
 1286 Enforcement for inclusion in the state criminal history records
 1287 and used by criminal justice agencies for criminal justice
 1288 purposes. These records may, in the discretion of the court, be
 1289 open to inspection by anyone upon a showing of cause. The
 1290 fingerprint and photograph records shall be produced in the
 1291 court whenever directed by the court. Any photograph taken
 1292 pursuant to this section may be shown by a law enforcement
 1293 officer to any victim or witness of a crime for the purpose of
 1294 identifying the person who committed such crime.

1295 (c) The court ~~is shall be~~ responsible for the
 1296 fingerprinting of a any child at the disposition hearing if the
 1297 child has been adjudicated or had adjudication withheld for any
 1298 felony in the case currently before the court.

1299 Section 8. Subsection (2) of section 985.14, Florida
 1300 Statutes, is amended to read:

1301 985.14 Intake and case management system.—

1302 (2) The intake process shall be performed by the department
 1303 or juvenile assessment center personnel through a case
 1304 management system. The purpose of the intake process is to
 1305 assess the child's needs and risks and to determine the most

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1306 appropriate treatment plan and setting for the child's
 1307 programmatic needs and risks. The intake process consists of an
 1308 initial assessment and may be followed by a full mental health,
 1309 substance abuse, or psychosexual evaluation. The intake process
 1310 shall result in choosing the most appropriate services through a
 1311 balancing of the interests and needs of the child with those of
 1312 the family and the community public. The juvenile probation
 1313 officer shall ~~make be responsible for making~~ informed decisions
 1314 and recommendations to other agencies, the state attorney, and
 1315 the courts so that the child and family may receive the least
 1316 intrusive service alternative throughout the judicial process.
 1317 The department shall establish uniform procedures through which
 1318 ~~for~~ the juvenile probation officer may ~~to~~ provide a preliminary
 1319 screening of the child and family for substance abuse and mental
 1320 health services before ~~prior to~~ the filing of a petition or as
 1321 soon as possible thereafter and before ~~prior to~~ a disposition
 1322 hearing.

1323 Section 9. Section 985.145, Florida Statutes, is amended to
 1324 read:

1325 985.145 Responsibilities of the department juvenile
 1326 ~~probation officer~~ during intake; screenings and assessments.—

1327 (1) The department juvenile probation officer shall serve
 1328 as the primary case manager for the purpose of managing,
 1329 coordinating, and monitoring the services provided to the child.
 1330 Each program administrator within the Department of Children and
 1331 Families ~~Family Services~~ shall cooperate with the primary case
 1332 manager in carrying out the duties and responsibilities
 1333 described in this section. In addition to duties specified in
 1334 other sections and through departmental rules, the department

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1335 ~~assigned juvenile probation officer~~ shall be responsible for the
1336 following:

1337 (a) *Reviewing probable cause affidavit.*—The department
1338 ~~juvenile probation officer~~ shall make a preliminary
1339 determination as to whether the report, affidavit, or complaint
1340 is complete, consulting with the state attorney as ~~may be~~
1341 necessary. A report, affidavit, or complaint alleging that a
1342 child has committed a delinquent act or violation of law shall
1343 be made to the intake office operating in the county in which
1344 the child is found or in which the delinquent act or violation
1345 of law occurred. Any person or agency having knowledge of the
1346 facts may make such a written report, affidavit, or complaint
1347 and shall furnish to the intake office facts sufficient to
1348 establish the jurisdiction of the court and to support a finding
1349 by the court that the child has committed a delinquent act or
1350 violation of law.

1351 (b) *Notification concerning apparent insufficiencies in*
1352 *probable cause affidavit.*—In any case where the department
1353 ~~juvenile probation officer~~ or the state attorney finds that the
1354 report, affidavit, or complaint is insufficient by the standards
1355 for a probable cause affidavit, the department juvenile
1356 ~~probation officer~~ or state attorney shall return the report,
1357 affidavit, or complaint, without delay, to the person or agency
1358 originating the report, affidavit, or complaint or having
1359 knowledge of the facts or to the appropriate law enforcement
1360 agency having investigative jurisdiction of the offense, and
1361 shall request, and the person or agency shall promptly furnish,
1362 additional information in order to comply with the standards for
1363 a probable cause affidavit.

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1364 (c) *Screening.*—During the intake process, the department
1365 ~~juvenile probation officer~~ shall screen each child or shall
1366 cause each child to be screened in order to determine:

1367 1. Appropriateness for release; referral to a diversionary
1368 program, including, but not limited to, a teen court program;
1369 referral for community arbitration; or referral to some other
1370 program or agency for the purpose of nonofficial or nonjudicial
1371 handling.

1372 2. The presence of medical, psychiatric, psychological,
1373 substance abuse, educational, or career and technical education
1374 ~~vocational~~ problems, or other conditions that may have caused
1375 the child to come to the attention of law enforcement or the
1376 department. The child shall also be screened to determine
1377 whether the child poses a danger to himself or herself or others
1378 in the community. The results of this screening shall be made
1379 available to the court and to court officers. In cases where
1380 such conditions are identified and a nonjudicial handling of the
1381 case is chosen, the department juvenile probation officer shall
1382 attempt to refer the child to a program or agency, together with
1383 all available and relevant assessment information concerning the
1384 child's precipitating condition.

1385 (d) *Completing risk assessment instrument.*—The department
1386 ~~juvenile probation officer~~ shall ensure that a risk assessment
1387 instrument establishing the child's eligibility for detention
1388 has been accurately completed and that the appropriate
1389 recommendation was made to the court.

1390 (e) *Rights.*—The department juvenile probation officer shall
1391 inquire as to whether the child understands his or her rights to
1392 counsel and against self-incrimination.

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1393 (f) *Multidisciplinary assessment.*—The department juvenile
 1394 ~~probation officer~~ shall coordinate the multidisciplinary
 1395 assessment when required, which includes the classification and
 1396 placement process that determines the child's priority needs,
 1397 risk classification, and treatment plan. ~~If when~~ sufficient
 1398 evidence exists to warrant a comprehensive assessment and the
 1399 child fails to voluntarily participate in the assessment
 1400 efforts, the department juvenile probation officer shall inform
 1401 the court of the need for the assessment and the refusal of the
 1402 child to participate in such assessment. This assessment,
 1403 classification, and placement process shall develop into the
 1404 predisposition report.

1405 (g) *Comprehensive assessment.* ~~The juvenile probation~~
 1406 ~~officer~~, Pursuant to uniform procedures established by the
 1407 department and upon determining that the report, affidavit, or
 1408 complaint is complete, the department shall:

1409 1. Perform the preliminary screening and make referrals for
 1410 a comprehensive assessment regarding the child's need for
 1411 substance abuse treatment services, mental health services,
 1412 intellectual disability services, literacy services, or other
 1413 educational or treatment services.

1414 2. If indicated by the preliminary screening, provide for a
 1415 comprehensive assessment of the child and family for substance
 1416 abuse problems, using community-based licensed programs with
 1417 clinical expertise and experience in the assessment of substance
 1418 abuse problems.

1419 3. If indicated by the preliminary screening, provide for a
 1420 comprehensive assessment of the child and family for mental
 1421 health problems, using community-based psychologists,

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1422 psychiatrists, or other licensed mental health professionals who
 1423 have clinical expertise and experience in the assessment of
 1424 mental health problems.

1425 (h) *Referrals for services.*—The department juvenile
 1426 ~~probation officer~~ shall make recommendations for services and
 1427 facilitate the delivery of those services to the child,
 1428 including any mental health services, educational services,
 1429 family counseling services, family assistance services, and
 1430 substance abuse services.

1431 (i) *Recommendation concerning a petition.*—Upon determining
 1432 that the report, affidavit, or complaint complies with the
 1433 standards of a probable cause affidavit and that the interests
 1434 of the child and the public will be best served, the department
 1435 ~~juvenile probation officer~~ may recommend that a delinquency
 1436 petition not be filed. If such a recommendation is made, the
 1437 department juvenile probation officer shall advise in writing
 1438 the person or agency making the report, affidavit, or complaint,
 1439 the victim, if any, and the law enforcement agency having
 1440 investigative jurisdiction over the offense of the
 1441 recommendation; the reasons therefor; and that the person or
 1442 agency may submit, within 10 days after the receipt of such
 1443 notice, the report, affidavit, or complaint to the state
 1444 attorney for special review. The state attorney, upon receiving
 1445 a request for special review, shall consider the facts presented
 1446 by the report, affidavit, or complaint, and by the department
 1447 ~~juvenile probation officer who made the recommendation that no~~
 1448 ~~petition be filed~~, before making a final decision as to whether
 1449 a petition or information should or should not be filed.

1450 (j) *Completing intake report.*—Subject to the interagency

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1451 agreement authorized under this paragraph, the department the
 1452 ~~juvenile probation officer for each case in which a child is~~
 1453 ~~alleged to have committed a violation of law or delinquent act~~
 1454 ~~and is not detained~~ shall submit a written report to the state
 1455 attorney for each case in which a child is alleged to have
 1456 committed a violation of law or delinquent act and is not
 1457 detained. The report shall be submitted within 20 days after the
 1458 date the child is taken into custody and must include, including
 1459 the original police report, complaint, or affidavit, or a copy
 1460 thereof, and including a copy of the child's prior juvenile
 1461 record, ~~within 20 days after the date the child is taken into~~
 1462 ~~custody~~. In cases in which the child is in detention, the intake
 1463 office report must be submitted within 24 hours after the child
 1464 is placed into detention. The intake office report may include a
 1465 recommendation that a petition or information be filed or that
 1466 no petition or information be filed and may set forth reasons
 1467 for the recommendation. The state attorney and the department
 1468 may, on a district-by-district basis, enter into interagency
 1469 agreements denoting the cases that will require a recommendation
 1470 and those for which a recommendation is unnecessary.

1471 (2) ~~Before~~ Prior to requesting that a delinquency petition
 1472 be filed or ~~before~~ prior to filing a dependency petition, the
 1473 ~~department juvenile probation officer~~ may request the parent or
 1474 legal guardian of the child to attend a course of instruction in
 1475 parenting skills, training in conflict resolution, and the
 1476 practice of nonviolence; to accept counseling; or to receive
 1477 other assistance from any agency in the community which notifies
 1478 the clerk of the court of the availability of its services. If
 1479 ~~where~~ appropriate, the ~~department juvenile probation officer~~

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1480 shall request both parents or guardians to receive such parental
 1481 assistance. The ~~department juvenile probation officer~~ may, in
 1482 determining whether to request that a delinquency petition be
 1483 filed, take into consideration the willingness of the parent or
 1484 legal guardian to comply with such request. The parent or
 1485 guardian must provide the ~~department juvenile probation officer~~
 1486 with identifying information, including the parent's or
 1487 guardian's name, address, date of birth, social security number,
 1488 and driver ~~driver's~~ license number or identification card number
 1489 in order to comply with s. 985.039.

1490 (3) If ~~When~~ indicated by the comprehensive assessment, the
 1491 department is authorized to contract within appropriated funds
 1492 for services with a local nonprofit community mental health or
 1493 substance abuse agency licensed or authorized under chapter 394
 1494 or chapter 397 or other authorized nonprofit social service
 1495 agency providing related services. The determination of mental
 1496 health or substance abuse services shall be conducted in
 1497 coordination with existing programs providing mental health or
 1498 substance abuse services in conjunction with the intake office.

1499 (4) Client information resulting from the screening and
 1500 evaluation shall be documented under rules of the department and
 1501 shall serve to assist the ~~department juvenile probation officer~~
 1502 in providing the most appropriate services and recommendations
 1503 in the least intrusive manner. Such client information shall be
 1504 used in the multidisciplinary assessment and classification of
 1505 the child, but such information, and any information obtained
 1506 directly or indirectly through the assessment process, is
 1507 inadmissible in court ~~before~~ prior to the disposition hearing,
 1508 unless the child's written consent is obtained. At the

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1509 disposition hearing, documented client information shall serve
 1510 to assist the court in making the most appropriate custody,
 1511 adjudicatory, and dispositional decision.

1512 (5) If the screening and assessment indicate that the
 1513 interests of the child and the public will be best served, the
 1514 ~~department juvenile probation officer~~, with the approval of the
 1515 state attorney, may refer the child for care, diagnostic, and
 1516 evaluation services; substance abuse treatment services; mental
 1517 health services; intellectual disability services; a
 1518 diversionary, arbitration, or mediation program; community
 1519 service work; or other programs or treatment services
 1520 voluntarily accepted by the child and the child's parents or
 1521 legal guardian. If a child volunteers to participate in any work
 1522 program under this chapter or volunteers to work in a specified
 1523 state, county, municipal, or community service organization
 1524 supervised work program or to work for the victim, the child is
 1525 considered an employee of the state for the purposes of
 1526 liability. In determining the child's average weekly wage,
 1527 unless otherwise determined by a specific funding program, all
 1528 remuneration received from the employer is considered a
 1529 gratuity, and the child is not entitled to any benefits
 1530 otherwise payable under s. 440.15 regardless of whether the
 1531 child may be receiving wages and remuneration from other
 1532 employment with another employer and regardless of the child's
 1533 future wage-earning capacity.

1534 (6) The victim, if any, and the law enforcement agency that
 1535 investigated the offense shall be notified immediately by the
 1536 state attorney of the action taken under subsection (5).

1537 Section 10. Section 985.17, Florida Statutes, is created to

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1538 read:

1539 985.17 Prevention services.—

1540 (1) Prevention services decrease recidivism by addressing
 1541 the needs of at-risk youth and their families, preventing
 1542 further involvement in the juvenile justice system, protecting
 1543 public safety, and facilitating successful reentry into the
 1544 community. To assist in decreasing recidivism, the department's
 1545 prevention services should strengthen protective factors, reduce
 1546 risk factors, and use tested and effective approaches.

1547 (2) A primary focus of the department's prevention services
 1548 is to develop capacity for local communities to serve their
 1549 youth.

1550 (a) The department shall engage faith-based and community-
 1551 based organizations to provide a full range of voluntary
 1552 programs and services to prevent and reduce juvenile
 1553 delinquency, including, but not limited to, chaplaincy services,
 1554 crisis intervention counseling, mentoring, and tutoring.

1555 (b) The department shall establish volunteer coordinators
 1556 in each circuit and encourage the recruitment of volunteers to
 1557 serve as mentors for youth in department services.

1558 (c) The department shall promote the Invest In Children
 1559 license plate developed pursuant to s. 320.08058(11) to help
 1560 fund programs and services to prevent juvenile delinquency. The
 1561 department shall allocate moneys for programs and services
 1562 within each county based on that county's proportionate share of
 1563 the license plate annual use fee collected by the county
 1564 pursuant to s. 320.08058(11).

1565 (3) The department's prevention services for youth at risk
 1566 of becoming delinquent should focus on preventing initial or

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1567 further involvement in the juvenile justice system by including
 1568 services such as literacy services, gender-specific programming,
 1569 and recreational and after-school services and should include
 1570 targeted services to troubled, truant, ungovernable, abused,
 1571 trafficked, or runaway youth. To decrease the likelihood that a
 1572 youth will commit a delinquent act, the department may provide
 1573 specialized services addressing the strengthening of families,
 1574 job training, and substance abuse.

1575 (4) In an effort to decrease the prevalence of
 1576 disproportionate minority representation in the juvenile justice
 1577 system, the department's prevention services should address the
 1578 multiple needs of minority youth at risk of becoming delinquent.

1579 (5) The department shall expend funds related to prevention
 1580 services in a manner consistent with the policies expressed in
 1581 ss. 984.02 and 985.01. The department shall expend such funds in
 1582 a manner that maximizes accountability to the public and ensures
 1583 the documentation of outcomes.

1584 (a) As a condition of the receipt of state funds, entities
 1585 that receive or use state moneys to fund prevention services
 1586 through contracts with the department or grants from any entity
 1587 dispersed by the department shall:

1588 1. Design the programs providing such services to further
 1589 one or more of the following strategies:

1590 a. Encouraging youth to attend and succeed in school, which
 1591 may include special assistance and tutoring to address
 1592 deficiencies in academic performance and collecting outcome data
 1593 to reveal the number of days youth attended school while
 1594 participating in the program.

1595 b. Engaging youth in productive and wholesome activities

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1596 during nonschool hours which build positive character, instill
 1597 positive values, and enhance educational experiences.

1598 c. Encouraging youth to avoid the use of violence.

1599 d. Assisting youth in acquiring the skills needed to find
 1600 meaningful employment, which may include assistance in finding a
 1601 suitable employer for the youth.

1602 2. Provide the department with demographic information,
 1603 dates of services, and the type of interventions received by
 1604 each youth.

1605 (b) The department shall monitor output and outcome
 1606 measures for each program strategy in paragraph (a) and include
 1607 them in the annual Comprehensive Accountability Report published
 1608 pursuant to s. 985.632.

1609 (c) The department shall monitor all programs that receive
 1610 or use state moneys to fund juvenile delinquency prevention
 1611 services through contracts or grants with the department for
 1612 compliance with all provisions in the contracts or grants.

1613 Section 11. Section 985.24, Florida Statutes, is amended to
 1614 read:

1615 985.24 Use of detention; prohibitions.—

1616 (1) All determinations and court orders regarding the use
 1617 of ~~secure, nonsecure, or home~~ detention care must shall be based
 1618 primarily upon findings that the child:

1619 (a) Presents a substantial risk of not appearing at a
 1620 subsequent hearing;

1621 (b) Presents a substantial risk of inflicting bodily harm
 1622 on others as evidenced by recent behavior, including the illegal
 1623 possession of a firearm;

1624 (c) Presents a history of committing a property offense

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1625 ~~before~~ ~~prior to~~ adjudication, disposition, or placement;

1626 (d) Has committed contempt of court by:

1627 1. Intentionally disrupting the administration of the

1628 court;

1629 2. Intentionally disobeying a court order; or

1630 3. Engaging in a punishable act or speech in the court's

1631 presence which shows disrespect for the authority and dignity of

1632 the court; or

1633 (e) Requests protection from imminent bodily harm.

1634 (2) A child alleged to have committed a delinquent act or

1635 violation of law may not be placed into secure ~~or~~, nonsecure, ~~or~~

1636 ~~home~~ detention care for any of the following reasons:

1637 (a) To allow a parent to avoid his or her legal

1638 responsibility.

1639 (b) To permit more convenient administrative access to the

1640 child.

1641 (c) To facilitate further interrogation or investigation.

1642 (d) Due to a lack of more appropriate facilities.

1643 (3) A child alleged to be dependent under chapter 39 may

1644 not, under any circumstances, be placed into secure detention

1645 care.

1646 (4) The department may develop nonsecure, nonresidential

1647 evening-reporting centers as an alternative to placing a child

1648 in secure detention to serve children and families while

1649 awaiting court hearings. Evening-reporting centers may be

1650 collocated with the juvenile assessment center. At a minimum,

1651 evening-reporting centers shall be operated during the afternoon

1652 and evening hours and provide a highly structured program of

1653 supervision. Evening-reporting centers may also provide academic

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1654 tutoring, counseling, family engagement programs, and other

1655 activities.

1656 ~~(5)-(4)~~ The department shall continue to identify

1657 alternatives to secure detention care and shall develop such

1658 alternatives and annually submit them to the Legislature for

1659 authorization and appropriation.

1660 Section 12. Paragraph (b) of subsection (2) and subsection

1661 (4) of section 985.245, Florida Statutes, are amended to read:

1662 985.245 Risk assessment instrument.—

1663 (2)

1664 (b) The risk assessment instrument, at a minimum, shall

1665 consider ~~take into consideration~~, ~~but need not be limited to~~,

1666 prior history of failure to appear, prior offenses, offenses

1667 committed pending adjudication, any unlawful possession of a

1668 firearm, theft of a motor vehicle or possession of a stolen

1669 motor vehicle, and probation status at the time the child is

1670 taken into custody. The risk assessment instrument shall also

1671 consider ~~take into consideration~~ appropriate aggravating and

1672 mitigating circumstances, ~~and~~ shall be designed to target a

1673 narrower population of children than s. 985.255, ~~and~~. ~~The risk~~

1674 ~~assessment instrument~~ shall also include any information

1675 concerning the child's history of abuse and neglect. The risk

1676 assessment shall indicate whether detention care is warranted,

1677 and, if detention care is warranted, whether the child should be

1678 placed into secure ~~or~~, nonsecure, ~~or~~ ~~home~~ detention care.

1679 (4) If ~~For~~ a child who is under the supervision of the

1680 department through probation, ~~home detention~~, nonsecure

1681 detention, conditional release, postcommitment probation, or

1682 commitment ~~and who~~ is charged with committing a new offense, the

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1683 risk assessment instrument may be completed and scored based on
1684 the underlying charge for which the child was placed under the
1685 supervision of the department and the new offense.

1686 Section 13. Subsection (1) of section 985.25, Florida
1687 Statutes, is amended to read:

1688 985.25 Detention intake.—

1689 (1) The ~~department juvenile probation officer~~ shall receive
1690 custody of a child who has been taken into custody from the law
1691 enforcement agency or court and shall review the facts in the
1692 law enforcement report or probable cause affidavit and make such
1693 further inquiry as may be necessary to determine whether
1694 detention care is appropriate required.

1695 (a) During the period of time from the taking of the child
1696 into custody to the date of the detention hearing, the initial
1697 decision as to the child's placement into secure detention care
1698 ~~or, nonsecure detention care, or home detention care~~ shall be
1699 made by the ~~department juvenile probation officer~~ under ss.
1700 985.24 and 985.245(1).

1701 (b) The ~~department juvenile probation officer~~ shall base
1702 ~~its the~~ decision as to whether ~~or not~~ to place the child into
1703 ~~secure detention care, home detention care,~~ or nonsecure
1704 detention care on an assessment of risk in accordance with the
1705 risk assessment instrument and procedures developed by the
1706 department under s. 985.245. However, a child charged with
1707 possessing or discharging a firearm on school property in
1708 violation of s. 790.115 shall be placed in secure detention
1709 care. A child who has been taken into custody on three or more
1710 separate occasions within a 60-day period shall be placed in
1711 secure detention care until the child's detention hearing.

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1712 (c) If the child's final score on the risk assessment
1713 instrument indicates that juvenile probation officer determines
1714 ~~that a child who is eligible for detention care is appropriate,~~
1715 ~~but the department otherwise determines he or she based upon the~~
1716 ~~results of the risk assessment instrument~~ should be released,
1717 the ~~department juvenile probation officer~~ shall contact the
1718 state attorney, who may authorize release.

1719 (d) If the child's final score on the risk assessment
1720 instrument indicates that detention is not appropriate
1721 authorized, the child may be released by the ~~department juvenile~~
1722 ~~probation officer~~ in accordance with ss. 985.115 and 985.13.

1723
1724 ~~Under no circumstances shall~~ The ~~department, juvenile probation~~
1725 ~~officer or~~ the state attorney, or a law enforcement officer may
1726 not authorize the detention of any child in a jail or other
1727 facility intended or used for the detention of adults, without
1728 an order of the court.

1729 Section 14. Section 985.255, Florida Statutes, is amended
1730 to read:

1731 985.255 Detention criteria; detention hearing.—

1732 (1) Subject to s. 985.25(1), a child taken into custody and
1733 placed into nonsecure or secure home detention care shall be
1734 given a hearing within 24 hours after being taken into custody.
1735 At the hearing, the court may order continued detention or
1736 ~~detained in secure detention care prior to a detention hearing~~
1737 ~~may continue to be detained by the court~~ if:

1738 (a) The child is alleged to be an escapee from a
1739 residential commitment program, or an absconder from a
1740 nonresidential commitment program, a probation program, or

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1741 conditional release supervision~~or~~ or is alleged to have escaped
1742 while being lawfully transported to or from a residential
1743 commitment program.

1744 (b) The child is wanted in another jurisdiction for an
1745 offense ~~that which~~, if committed by an adult, would be a felony.

1746 (c) The child is charged with a delinquent act or violation
1747 of law and requests in writing through legal counsel to be
1748 detained for protection from an imminent physical threat to his
1749 or her personal safety.

1750 (d) The child is charged with committing an offense of
1751 domestic violence as defined in s. 741.28 and is detained as
1752 provided in subsection (2).

1753 (e) The child is charged with possession or discharging a
1754 firearm on school property in violation of s. 790.115 or the
1755 illegal possession of a firearm.

1756 (f) The child is charged with a capital felony, a life
1757 felony, a felony of the first degree, a felony of the second
1758 degree ~~which that~~ does not involve a violation of chapter 893,
1759 or a felony of the third degree ~~which that~~ is also a crime of
1760 violence, including any such offense involving the use or
1761 possession of a firearm.

1762 (g) The child is charged with a felony of the any second
1763 degree or a felony of the third degree felony involving a
1764 violation of chapter 893 or a felony of the any third degree
1765 ~~which felony that~~ is not also a crime of violence, and the
1766 child:

1767 1. Has a record of failure to appear at court hearings
1768 after being properly notified in accordance with the Rules of
1769 Juvenile Procedure;

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1770 2. Has a record of law violations before ~~prior to~~ court
1771 hearings;

1772 3. Has already been detained or has been released and is
1773 awaiting final disposition of the case;

1774 4. Has a record of violent conduct resulting in physical
1775 injury to others; or

1776 5. Is found to have been in possession of a firearm.

1777 (h) The child is alleged to have violated the conditions of
1778 the child's probation or conditional release supervision.
1779 However, a child detained under this paragraph may be held only
1780 in a consequence unit as provided in s. 985.439. If a
1781 consequence unit is not available, the child shall be placed on
1782 nonsecure home detention with electronic monitoring.

1783 (i) The child is detained on a judicial order for failure
1784 to appear and has previously willfully failed to appear, after
1785 proper notice;~~r~~

1786 1. For an adjudicatory hearing on the same case regardless
1787 of the results of the risk assessment instrument; or

1788 2. At two or more court hearings of any nature on the same
1789 case, regardless of the results of the risk assessment
1790 instrument.

1791 A child may be held in secure detention for up to 72 hours in
1792 advance of the next scheduled court hearing pursuant to this
1793 paragraph. The child's failure to keep the clerk of court and
1794 defense counsel informed of a current and valid mailing address
1795 where the child will receive notice to appear at court
1796 proceedings does not provide an adequate ground for excusal of
1797 the child's nonappearance at the hearings.
1798

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1799 ~~(j) The child is detained on a judicial order for failure~~
 1800 ~~to appear and has previously willfully failed to appear, after~~
 1801 ~~proper notice, at two or more court hearings of any nature on~~
 1802 ~~the same case regardless of the results of the risk assessment~~
 1803 ~~instrument. A child may be held in secure detention for up to 72~~
 1804 ~~hours in advance of the next scheduled court hearing pursuant to~~
 1805 ~~this paragraph. The child's failure to keep the clerk of court~~
 1806 ~~and defense counsel informed of a current and valid mailing~~
 1807 ~~address where the child will receive notice to appear at court~~
 1808 ~~proceedings does not provide an adequate ground for excusal of~~
 1809 ~~the child's nonappearance at the hearings.~~

1810 (2) A child who is charged with committing an offense
 1811 classified as ~~of~~ domestic violence as defined in s. 741.28 and
 1812 whose risk assessment indicates secure detention is not
 1813 appropriate ~~who does not meet detention criteria~~ may be held in
 1814 secure detention if the court makes specific written findings
 1815 that:

1816 (a) Respite care for the child is not available; or—
 1817 (b) It is necessary to place the child in secure detention
 1818 in order to protect the victim from injury.

1819
 1820 The child may not be held in secure detention under this
 1821 subsection for more than 48 hours unless ordered by the court.
 1822 After 48 hours, the court shall hold a hearing if the state
 1823 attorney or victim requests that secure detention be continued.
 1824 The child may continue to be held in detention care if the court
 1825 makes a specific, written finding that respite care is
 1826 unavailable or it ~~detention care~~ is necessary to protect the
 1827 victim from injury. However, the child may not be held in

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1828 detention care beyond the time limits provided set forth in this
 1829 section or s. 985.26.

1830 (3) (a) ~~A child who meets any of the criteria in subsection~~
 1831 ~~(1) and who is ordered to be detained under that subsection~~
 1832 ~~shall be given a hearing within 24 hours after being taken into~~
 1833 ~~eustody.~~ The purpose of the detention hearing required under
 1834 subsection (1) is to determine the existence of probable cause
 1835 that the child has committed the delinquent act or violation of
 1836 law that he or she is charged with and the need for continued
 1837 detention. Unless a child is detained under paragraph (1) (d) or
 1838 paragraph (1) (e), the court shall use the results of the risk
 1839 assessment performed by the department juvenile probation
 1840 officer and, based on the criteria in subsection (1), shall
 1841 determine the need for continued detention. ~~A child placed into~~
 1842 ~~secure, nonsecure, or home detention care may continue to be so~~
 1843 ~~detained by the court.~~

1844 (b) If the court orders a placement more restrictive than
 1845 indicated by the results of the risk assessment instrument, the
 1846 court shall state, in writing, clear and convincing reasons for
 1847 such placement.

1848 (c) Except as provided in s. 790.22(8) or ~~in~~ s. 985.27,
 1849 when a child is placed into secure or nonsecure detention care,
 1850 or into a respite home or other placement pursuant to a court
 1851 order following a hearing, the court order must include specific
 1852 instructions that direct the release of the child from such
 1853 placement by no later than 5 p.m. on the last day of the
 1854 detention period specified in s. 985.26 or s. 985.27, whichever
 1855 is applicable, unless the requirements of such applicable
 1856 provision have been met or an order of continuance has been

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1857 granted under s. 985.26(4). If the court order does not include
 1858 a date of release, the release date must be requested of the
 1859 court on the same date the youth was placed on detention care.
 1860 If a subsequent hearing is needed to provide additional
 1861 information to the court for safety planning, the initial order
 1862 placing the youth on detention care must reflect the next
 1863 detention review hearing, which should be held within 3 calendar
 1864 days after the child's initial detention placement.

1865 Section 15. Subsections (1) through (3) of section 985.26,
 1866 Florida Statutes, are amended to read:

1867 985.26 Length of detention.—

1868 (1) A child may not be placed into or held in secure or
 1869 nonsecure, or home detention care for more longer than 24 hours
 1870 unless the court orders such detention care, and the order
 1871 includes specific instructions that direct the release of the
 1872 child from such detention care, in accordance with s. 985.255.
 1873 The order shall be a final order, reviewable by appeal under s.
 1874 985.534 and the Florida Rules of Appellate Procedure. Appeals of
 1875 such orders ~~shall~~ take precedence over other appeals and other
 1876 pending matters.

1877 (2) A child may not be held in secure or, nonsecure, ~~or~~
 1878 ~~home~~ detention care under a special detention order for more
 1879 than 21 days unless an adjudicatory hearing for the case has
 1880 been commenced in good faith by the court. However, upon good
 1881 cause being shown that the nature of the charge requires
 1882 additional time for the prosecution or defense of the case, the
 1883 court may extend the length of detention for an additional 9
 1884 days if the child is charged with an offense that would be, if
 1885 committed by an adult, a capital felony, a life felony, a felony

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1886 of the first degree, or a felony of the second degree involving
 1887 violence against any individual.

1888 (3) Except as provided in subsection (2), a child may not
 1889 be held in secure or, nonsecure, ~~or home~~ detention care for more
 1890 than 15 days following the entry of an order of adjudication.

1891 Section 16. Section 985.265, Florida Statutes, is amended
 1892 to read:

1893 985.265 Detention transfer and release; education; adult
 1894 jails.—

1895 (1) If a child is detained under this part, the department
 1896 may transfer the child from nonsecure ~~or home~~ detention care to
 1897 secure detention care only if significantly changed
 1898 circumstances warrant such transfer.

1899 (2) If a child is on release status and not detained under
 1900 this part, the child may be placed into secure or, nonsecure, ~~or~~
 1901 ~~home~~ detention care only pursuant to a court hearing in which
 1902 the original risk assessment instrument and the, rescored based
 1903 ~~on~~ newly discovered evidence or changed circumstances are
 1904 introduced into evidence with a rescored risk assessment
 1905 instrument with the results recommending detention, is
 1906 introduced into evidence.

1907 (3) (a) ~~If when~~ a juvenile sexual offender is placed in
 1908 detention, detention staff shall provide appropriate monitoring
 1909 and supervision to ensure the safety of other children in the
 1910 facility.

1911 (b) ~~If when~~ a juvenile charged with murder under s. 782.04,
 1912 sexual battery under chapter 794, stalking under s. 784.048, or
 1913 domestic violence as defined in s. 741.28, or an attempt to
 1914 commit any of these offenses ~~sexual offender, under this~~

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1915 ~~subsection,~~ is released from secure detention or transferred to
 1916 ~~home detention or~~ nonsecure detention, detention staff shall
 1917 immediately notify the appropriate law enforcement agency, and
 1918 school personnel, and the victim.

1919 (4) (a) While a child who is currently enrolled in school is
 1920 in nonsecure ~~or home~~ detention care, the child shall continue to
 1921 attend school unless otherwise ordered by the court.

1922 (b) While a child is in secure detention care, the child
 1923 shall receive education commensurate with his or her grade level
 1924 and educational ability.

1925 (5) The court shall order the delivery of a child to a jail
 1926 or other facility intended or used for the detention of adults:

1927 (a) If ~~When~~ the child has been transferred or indicted for
 1928 criminal prosecution as an adult under part X., ~~except that~~ The
 1929 court may not order or allow a child alleged to have committed a
 1930 misdemeanor who is being transferred for criminal prosecution
 1931 pursuant to either s. 985.556 or s. 985.557 to be detained or
 1932 held in a jail or other facility intended or used for the
 1933 detention of adults; however, such child may be held temporarily
 1934 in a detention facility; or

1935 (b) If ~~When~~ a child taken into custody in this state is
 1936 wanted by another jurisdiction for prosecution as an adult.

1937 A The child shall be housed separately from adult inmates to
 1938 prohibit the a child from having regular contact with
 1939 incarcerated adults, including trustees. As used in this
 1940 subsection, the term "regular contact" means sight and sound
 1941 contact. Separation of children from adults may not allow shall
 1942 ~~permit no~~ more than haphazard or accidental contact. The

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1944 receiving jail or other facility shall provide ~~contain~~ a
 1945 separate section for children and shall have an ~~adequate~~ adequate staff
 1946 adequate to supervise and monitor the child's activities at all
 1947 times. Supervision and monitoring of children includes physical
 1948 observation and documented checks by jail or receiving facility
 1949 supervisory personnel at intervals not to exceed 10 ~~15~~ minutes.
 1950 This subsection does not prohibit placing two or more children
 1951 in the same cell. ~~Under no circumstances shall~~ A child may not
 1952 be placed in a ~~the same~~ cell with an adult.

1953 Section 17. Section 985.27, Florida Statutes, is amended to
 1954 read:

1955 985.27 Postadjudication ~~Postcommitment~~ detention while
 1956 awaiting commitment placement.-

1957 (1) The court must place all children who are adjudicated
 1958 and awaiting placement in a commitment program in detention
 1959 care. Children who are in ~~home detention care or~~ nonsecure
 1960 detention care may be placed on electronic monitoring.

1961 (a) ~~A child who is awaiting placement in a low-risk~~
 1962 ~~residential program must be removed from detention within 5~~
 1963 ~~days, excluding Saturdays, Sundays, and legal holidays. Any~~
 1964 ~~child held in secure detention during the 5 days must meet~~
 1965 ~~detention admission criteria under this part. A child who is~~
 1966 ~~placed in home detention care, nonsecure detention care, or home~~
 1967 ~~or nonsecure detention care with electronic monitoring, while~~
 1968 ~~awaiting placement in a minimum-risk or low-risk program, may be~~
 1969 ~~held in secure detention care for 5 days, if the child violates~~
 1970 ~~the conditions of the home detention care, the nonsecure~~
 1971 ~~detention care, or the electronic monitoring agreement. For any~~
 1972 ~~subsequent violation, the court may impose an additional 5 days~~

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1973 ~~in secure detention care.~~

1974 ~~(b)~~ A child who is awaiting placement in a nonsecure
 1975 ~~moderate-risk~~ residential program must be removed from detention
 1976 within 5 days, excluding Saturdays, Sundays, and legal holidays.
 1977 ~~A~~ ~~any~~ child held in secure detention during the 5 days must meet
 1978 detention admission criteria under this part. The department may
 1979 seek an order from the court authorizing continued detention for
 1980 a specific period of time necessary for the appropriate
 1981 residential placement of the child. However, such continued
 1982 detention in secure detention care may not exceed 15 days after
 1983 entry of the commitment order, excluding Saturdays, Sundays, and
 1984 legal holidays, and except as otherwise provided in this
 1985 section. A child who is placed in ~~home detention care~~, nonsecure
 1986 detention care, ~~or home or~~ nonsecure detention care with
 1987 electronic monitoring, ~~while awaiting placement in a nonsecure~~
 1988 residential moderate-risk program, may be held in secure
 1989 detention care for 5 days, ~~if the child violates the conditions~~
 1990 ~~of the home detention care~~, the nonsecure detention care, ~~or the~~
 1991 electronic monitoring agreement. For any subsequent violation,
 1992 the court may impose an additional 5 days in secure detention
 1993 care.

1994 ~~(b)(e)~~ If the child is committed to a high-risk residential
 1995 program, the child must be held in secure detention care until
 1996 placement or commitment is accomplished.

1997 ~~(c)(d)~~ If the child is committed to a maximum-risk
 1998 residential program, the child must be held in secure detention
 1999 care until placement or commitment is accomplished.

2000 (2) Regardless of detention status, a child being
 2001 transported by the department to a residential commitment

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2002 facility of the department may be placed in secure detention for
 2003 up to 24 hours overnight, ~~not to exceed a 24-hour period~~, for
 2004 the specific purpose of ensuring the safe delivery of the child
 2005 to his or her residential commitment program, court,
 2006 appointment, transfer, or release.

2007 Section 18. Subsection (1) of section 985.275, Florida
 2008 Statutes, is amended to read:

2009 985.275 Detention of escapee or absconder on authority of
 2010 the department.—

2011 (1) If an authorized agent of the department has reasonable
 2012 grounds to believe that a ~~any~~ delinquent child committed to the
 2013 department has escaped from a residential commitment facility or
 2014 in the course of lawful transportation to or from such facility
 2015 ~~from being lawfully transported thereto or therefrom~~, or has
 2016 absconded from a nonresidential commitment facility, the agent
 2017 shall notify law enforcement and, if the offense qualifies under
 2018 chapter 960, notify the victim, and make every reasonable effort
 2019 to locate the delinquent child. The child may be returned ~~take~~
 2020 ~~the child into active custody and may deliver the child to the~~
 2021 facility or, if it is closer, to a detention center for return
 2022 to the facility. However, a child may not be held in detention
 2023 ~~more longer~~ than 24 hours, excluding Saturdays, Sundays, and
 2024 legal holidays, unless a special order so directing is made by
 2025 the judge after a detention hearing resulting in a finding that
 2026 detention is required based on the criteria in s. 985.255. The
 2027 order ~~must shall~~ state the reasons for such finding. The reasons
 2028 are shall be reviewable by appeal or in habeas corpus
 2029 proceedings in the district court of appeal.

2030 Section 19. Paragraph (b) of subsection (4), paragraph (h)

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2031 of subsection (6), and paragraph (a) of subsection (7) of
2032 section 985.433, Florida Statutes, are amended to read:

2033 985.433 Disposition hearings in delinquency cases.—When a
2034 child has been found to have committed a delinquent act, the
2035 following procedures shall be applicable to the disposition of
2036 the case:

2037 (4) Before the court determines and announces the
2038 disposition to be imposed, it shall:

2039 (b) Discuss with the child his or her compliance with any
2040 predisposition ~~home~~ release plan or other plan imposed since the
2041 date of the offense.

2042 (6) The first determination to be made by the court is a
2043 determination of the suitability or nonsuitability for
2044 adjudication and commitment of the child to the department. This
2045 determination shall include consideration of the recommendations
2046 of the department, which may include a predisposition report.
2047 The predisposition report shall include, whether as part of the
2048 child's multidisciplinary assessment, classification, and
2049 placement process components or separately, evaluation of the
2050 following criteria:

2051 (h) The child's educational status, including, but not
2052 limited to, the child's strengths, abilities, and unmet and
2053 special educational needs. The report ~~must shall~~ identify
2054 appropriate educational and career ~~vocational~~ goals for the
2055 child. Examples of appropriate goals include:

- 2056 1. Attainment of a high school diploma or its equivalent.
- 2057 2. Successful completion of literacy course(s).
- 2058 3. Successful completion of career and technical
2059 educational ~~vocational~~ course(s).

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2060 4. Successful attendance and completion of the child's
2061 current grade, or recovery of credits of classes the child
2062 previously failed, if enrolled in school.

2063 5. Enrollment in an apprenticeship or a similar program.

2064
2065 It is the intent of the Legislature that the criteria set forth
2066 in this subsection are general guidelines to be followed at the
2067 discretion of the court and not mandatory requirements of
2068 procedure. It is not the intent of the Legislature to provide
2069 for the appeal of the disposition made under this section.

2070 (7) If the court determines that the child should be
2071 adjudicated as having committed a delinquent act and should be
2072 committed to the department, such determination shall be in
2073 writing or on the record of the hearing. The determination shall
2074 include a specific finding of the reasons for the decision to
2075 adjudicate and to commit the child to the department, including
2076 any determination that the child was a member of a criminal
2077 gang.

2078 (a) The department ~~juvenile probation officer~~ shall
2079 recommend to the court the most appropriate placement and
2080 treatment plan, specifically identifying the restrictiveness
2081 level most appropriate for the child if commitment is
2082 recommended. If the court has determined that the child was a
2083 member of a criminal gang, that determination shall be given
2084 great weight in identifying the most appropriate restrictiveness
2085 level for the child. The court shall consider the department's
2086 recommendation in making its commitment decision.

2087 Section 20. Present subsections (4) through (6) of section
2088 985.435, Florida Statutes, are redesignated as subsections (5)

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2089 through (7), respectively, a new subsection (4) is added to that
 2090 section, and subsection (3) and present subsection (4) of that
 2091 section are amended, to read:

2092 985.435 Probation and postcommitment probation; community
 2093 service.—

2094 (3) A probation program must also include a rehabilitative
 2095 program component such as a requirement of participation in
 2096 substance abuse treatment or in a school or career and technical
 2097 ~~ether~~ educational program. The nonconsent of the child to
 2098 treatment in a substance abuse treatment program does not
 2099 preclude in no way precludes the court from ordering such
 2100 treatment. Upon the recommendation of the department at the time
 2101 of disposition, or subsequent to disposition pursuant to the
 2102 filing of a petition alleging a violation of the child's
 2103 conditions of postcommitment probation, the court may order the
 2104 child to submit to random testing for the purpose of detecting
 2105 and monitoring the use of alcohol or controlled substances.

2106 (4) A probation program may also include an alternative
 2107 consequence component to address instances in which a child is
 2108 noncompliant with technical conditions of his or her probation,
 2109 but has not committed any new violations of law. The alternative
 2110 consequence component shall be designed to provide swift and
 2111 appropriate consequences to any noncompliance with technical
 2112 conditions of probation. If the probation program includes this
 2113 component, specific consequences that apply to noncompliance
 2114 with specific technical conditions of probation must be detailed
 2115 in the disposition order.

2116 (5)(4) An evaluation of the youth's risk to reoffend A
 2117 classification scale for levels of supervision shall be provided

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2118 by the department, taking into account the child's needs and
 2119 risks relative to probation supervision requirements to
 2120 reasonably ensure the public safety. Probation programs for
 2121 children shall be supervised by the department or by any other
 2122 person or agency specifically authorized by the court. These
 2123 programs must include, but are not limited to, structured or
 2124 restricted activities as described in this section and s.
 2125 985.439, and shall be designed to encourage the child toward
 2126 acceptable and functional social behavior.

2127 Section 21. Paragraph (a) of subsection (1) and subsection
 2128 (4) of section 985.439, Florida Statutes, are amended to read:

2129 985.439 Violation of probation or postcommitment
 2130 probation.—

2131 (1)(a) This section is applicable when the court has
 2132 jurisdiction over a child on probation or postcommitment
 2133 probation, regardless of adjudication an adjudicated delinquent
 2134 child.

2135 (4) Upon the child's admission, or if the court finds after
 2136 a hearing that the child has violated the conditions of
 2137 probation or postcommitment probation, the court shall enter an
 2138 order revoking, modifying, or continuing probation or
 2139 postcommitment probation. In each such case, the court shall
 2140 enter a new disposition order and, in addition to the sanctions
 2141 set forth in this section, may impose any sanction the court
 2142 could have imposed at the original disposition hearing. If the
 2143 child is found to have violated the conditions of probation or
 2144 postcommitment probation, the court may:

2145 (a) Place the child in a consequence unit in that judicial
 2146 circuit, if available, for up to 5 days for a first violation

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2147 and up to 15 days for a second or subsequent violation.

2148 (b) Place the child on nonsecure ~~home~~ detention with
2149 electronic monitoring. However, this sanction may be used only
2150 if a residential consequence unit is not available.

2151 (c) Modify or continue the child's probation program or
2152 postcommitment probation program.

2153 (d) Revoke probation or postcommitment probation and commit
2154 the child to the department.

2155 (e) If the violation of probation is technical in nature
2156 and not a new violation of law, place the child in an
2157 alternative consequence program designed to provide swift and
2158 appropriate consequences for any further violations of
2159 probation.

2160 1. Alternative consequence programs shall be established at
2161 the local level in coordination with law enforcement agencies,
2162 the chief judge of the circuit, the state attorney, and the
2163 public defender.

2164 2. Alternative consequence programs may be operated by an
2165 entity such as a law enforcement agency, the department, a
2166 juvenile assessment center, a county or municipality, or another
2167 entity selected by the department.

2168 3. Upon placing a child in an alternative consequence
2169 program, the court must approve specific consequences for
2170 specific violations of the conditions of probation.

2171 Section 22. Subsection (2) of section 985.441, Florida
2172 Statutes, is amended to read:

2173 985.441 Commitment.—

2174 (2) Notwithstanding subsection (1), the court having
2175 jurisdiction over an adjudicated delinquent child whose

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2176 ~~underlying offense is was~~ a misdemeanor, or a child who is
2177 currently on probation for a misdemeanor, may not commit the
2178 child for any misdemeanor offense or any probation violation
2179 that is technical in nature and not a new violation of law at a
2180 restrictiveness level other than minimum-risk nonresidential
2181 ~~unless the probation violation is a new violation of law~~
2182 ~~constituting a felony.~~ However, the court may commit such child
2183 to a nonsecure ~~low-risk or moderate-risk~~ residential placement
2184 if:

2185 (a) The child has previously been adjudicated or had
2186 adjudication withheld for a felony offense;

2187 (b) The child has previously been adjudicated or had
2188 adjudication withheld for three or more misdemeanor offenses
2189 within the preceding 18 months;

2190 (c) The child is before the court for disposition for a
2191 violation of s. 800.03, s. 806.031, or s. 828.12; or

2192 (d) The court finds by a preponderance of the evidence that
2193 the protection of the public requires such placement or that the
2194 particular needs of the child would be best served by such
2195 placement. Such finding must be in writing.

2196 Section 23. Paragraph (a) of subsection (1) and subsection
2197 (5) of section 985.46, Florida Statutes, are amended to read:
2198 985.46 Conditional release.—

2199 (1) The Legislature finds that:

2200 (a) Conditional release is the care, treatment, help,
2201 provision of transition-to-adulthood services, and supervision
2202 provided to juveniles released from residential commitment
2203 programs to promote rehabilitation and prevent recidivism.

2204 (5) Participation in the educational program by students of

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2205 compulsory school attendance age pursuant to s. 1003.21(1) and
 2206 (2) (a) is mandatory for juvenile justice youth on conditional
 2207 release or postcommitment probation status. A student of
 2208 noncompulsory school-attendance age who has not received a high
 2209 school diploma or its equivalent must participate in ~~an the~~
 2210 educational or career and technical educational program. A youth
 2211 who has received a high school diploma or its equivalent and is
 2212 not employed must participate in workforce development or other
 2213 career or technical education or attend a community college or a
 2214 university while in the program, subject to available funding.

2215 Section 24. Subsections (1) through (5) of section 985.461,
 2216 Florida Statutes, are amended to read:

2217 985.461 Transition to adulthood.—

2218 (1) The Legislature finds that ~~elder~~ youth are faced with
 2219 the need to learn how to support themselves within legal means
 2220 and overcome the stigma of being delinquent. In most cases,
 2221 parents expedite this transition. It is the intent of the
 2222 Legislature that the department provide ~~elder~~ youth in its
 2223 custody or under its supervision with opportunities for
 2224 participating in transition-to-adulthood services while in the
 2225 department's commitment programs or in probation or conditional
 2226 release programs in the community. These services should be
 2227 reasonable and appropriate for the youths' respective ages or
 2228 special needs and provide activities that build life skills and
 2229 increase the ability to live independently and become self-
 2230 sufficient.

2231 (2) Youth served by the department who are in the custody
 2232 of the Department of Children and Families ~~Family Services~~ and
 2233 who entered juvenile justice placement from a foster care

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2234 placement, if otherwise eligible, may receive independent living
 2235 transition services pursuant to s. 409.1451. Court-ordered
 2236 commitment or probation with the department is not a barrier to
 2237 eligibility for the array of services available to a youth who
 2238 is in the dependency foster care system only.

2239 (3) For a dependent child in the foster care system,
 2240 adjudication for delinquency does not, by itself, disqualify
 2241 such child for eligibility in the Department of Children and
 2242 Families' Family Services' independent living program.

2243 (4) As part of the child's treatment plan, the department
 2244 may provide transition-to-adulthood services to children
 2245 released from residential commitment. To support participation
 2246 in transition-to-adulthood services and subject to
 2247 appropriation, the department may:

2248 (a) Assess the child's skills and abilities to live
 2249 independently and become self-sufficient. The specific services
 2250 ~~to be~~ provided shall be determined using an assessment of his or
 2251 her readiness for adult life.

2252 (b) Use community reentry teams to assist in the
 2253 development of ~~Develop~~ a list of age-appropriate activities and
 2254 responsibilities to be incorporated in the child's written case
 2255 plan for any youth ~~17 years of age or older~~ who is under the
 2256 custody or supervision of the department. Community reentry
 2257 teams may include representation from school districts, law
 2258 enforcement, workforce development services, community-based
 2259 service providers, and the youth's family. Activities may
 2260 include, but are not limited to, life skills training, including
 2261 training to develop banking and budgeting skills, interviewing
 2262 and career planning skills, parenting skills, personal health

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2263 management, and time management or organizational skills;
2264 educational support; employment training; and counseling.

2265 (c) Provide information related to social security
2266 insurance benefits and public assistance.

2267 (d) Request parental or guardian permission for the youth
2268 to participate in transition-to-adulthood services. Upon such
2269 consent, age-appropriate activities shall be incorporated into
2270 the youth's written case plan. This plan may include specific
2271 goals and objectives and shall be reviewed and updated at least
2272 quarterly. If the parent or guardian is cooperative, the plan
2273 may not interfere with the parent's or guardian's rights to
2274 nurture and train his or her child in ways that are otherwise in
2275 compliance with the law and court order.

2276 (e) Contract for transition-to-adulthood services that
2277 include residential services and assistance and allow the child
2278 to live independently of the daily care and supervision of an
2279 adult in a setting that is not licensed under s. 409.175. A
2280 child under the care or supervision of the department ~~who has~~
2281 ~~reached 17 years of age but is not yet 19 years of age~~ is
2282 eligible for such services if he or she does not pose a danger
2283 to the public and is able to demonstrate minimally sufficient
2284 skills and aptitude for living under decreased adult
2285 supervision, as determined by the department, using established
2286 procedures and assessments.

2287 (f) Assist the youth in building a portfolio of educational
2288 and vocational accomplishments, necessary identification,
2289 resumes, and cover letters in an effort to enhance the youth's
2290 employability.

2291 (g) Collaborate with school district contacts to facilitate

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2292 appropriate educational services based on the youth's identified
2293 needs.

2294 (5) For a child ~~who is 17 years of age or older,~~ under the
2295 department's care or supervision, and without benefit of parents
2296 or legal guardians capable of assisting the child in the
2297 transition to adult life, the department may provide an
2298 assessment to determine the child's skills and abilities to live
2299 independently and become self-sufficient. Based on the
2300 assessment and within existing resources, services and training
2301 may be provided in order to develop the necessary skills and
2302 abilities ~~before the child's 18th birthday.~~

2303 Section 25. Paragraph (b) of subsection (3) of section
2304 985.481, Florida Statutes, is amended to read:

2305 985.481 Sexual offenders adjudicated delinquent;
2306 notification upon release.—

2307 (3)

2308 (b) ~~No later than November 1, 2007,~~ The department shall
2309 ~~must~~ make the information described in subparagraph (a)1.
2310 available electronically to the Department of Law Enforcement in
2311 its database and in a format that is compatible with the
2312 requirements of the Florida Crime Information Center.

2313 Section 26. Subsection (5) of section 985.4815, Florida
2314 Statutes, is amended to read:

2315 985.4815 Notification to Department of Law Enforcement of
2316 information on juvenile sexual offenders.—

2317 (5) In addition to notification and transmittal
2318 requirements imposed by any other ~~provision of law,~~ the
2319 department shall compile information on any sexual offender and
2320 provide the information to the Department of Law Enforcement. ~~Ne~~

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2321 ~~later than November 1, 2007,~~ The department shall ~~must~~ make the
 2322 information available electronically to the Department of Law
 2323 Enforcement in its database in a format that is compatible with
 2324 the requirements of the Florida Crime Information Center.

2325 Section 27. Subsection (2), paragraph (a) of subsection
 2326 (3), and paragraph (a) of subsection (9) of section 985.601,
 2327 Florida Statutes, are amended to read:

2328 985.601 Administering the juvenile justice continuum.—

2329 (2) The department shall develop and implement an
 2330 appropriate continuum of care that provides individualized,
 2331 multidisciplinary assessments, objective evaluations of relative
 2332 risks, and the matching of needs with placements for all
 2333 children under its care, and that uses a system of case
 2334 management to facilitate each child being appropriately
 2335 assessed, provided with services, and placed in a program that
 2336 meets the child's needs. The Legislature recognizes that the
 2337 purpose of the juvenile justice system is to increase public
 2338 safety by reducing juvenile delinquency and recognizes the
 2339 importance of ensuring that children who are assessed as low and
 2340 moderate risk to reoffend are considered for placement in a
 2341 nonresidential program.

2342 (3) (a) The department shall develop or contract for
 2343 diversified and innovative programs to provide rehabilitative
 2344 treatment, including early intervention and prevention,
 2345 diversion, comprehensive intake, case management, diagnostic and
 2346 classification assessments, trauma-informed care, individual and
 2347 family counseling, family engagement resources and programs,
 2348 gender-specific programming, shelter care, diversified detention
 2349 care emphasizing alternatives to secure detention, diversified

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2350 probation, halfway houses, foster homes, community-based
 2351 substance abuse treatment services, community-based mental
 2352 health treatment services, community-based residential and
 2353 nonresidential programs, mother-infant programs, and
 2354 environmental programs. The department may pay expenses in
 2355 support of innovative programs and activities that address the
 2356 identified needs and well-being of children in the department's
 2357 care or under its supervision. Each program shall place
 2358 particular emphasis on reintegration and conditional release for
 2359 all children in the program.

2360 (9) (a) The department shall operate a statewide, regionally
 2361 administered system of detention services for children, in
 2362 accordance with a comprehensive plan for the regional
 2363 administration of all detention services in the state. The plan
 2364 must provide for the maintenance of adequate availability of
 2365 detention services for all counties. The plan must cover all the
 2366 department's operating circuits, with each operating circuit
 2367 having access to a secure facility and nonsecure and home
 2368 detention programs. ~~and~~ The plan may be altered or modified by
 2369 the department of ~~Juvenile Justice~~ as necessary.

2370 Section 28. Section 985.605, Florida Statutes, is repealed.

2371 Section 29. Section 985.606, Florida Statutes, is repealed.

2372 Section 30. Section 985.61, Florida Statutes, is repealed.

2373 Section 31. Section 985.632, Florida Statutes, is reordered
 2374 and amended to read:

2375 985.632 Quality improvement ~~assurance~~ and cost-
 2376 effectiveness.—

2377 ~~(2) (+)~~ PERFORMANCE ACCOUNTABILITY.—It is the intent of the
 2378 Legislature that the department establish a performance

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2379 accountability system for each provider who contracts with the
 2380 department for the delivery of services to children. The
 2381 contract must include both output measures, such as the number
 2382 of children served, and outcome measures, such as program
 2383 completion and postcompletion recidivism. Each contractor shall
 2384 report performance results to the department annually. The
 2385 department's Bureau of Research and Planning shall summarize
 2386 performance results from all contracts and report the
 2387 information annually to the President of the Senate and the
 2388 Speaker of the House of Representatives in the Comprehensive
 2389 Accountability Report. The report must:

2390 (a) Ensure that information be provided to decisionmakers
 2391 in a timely manner so that resources are allocated to programs
 2392 that of the department which achieve desired performance levels.

2393 (b) Provide information about the cost of such programs and
 2394 their differential effectiveness so that the quality of such
 2395 programs can be compared and improvements made continually.

2396 (c) Provide information to aid in developing related policy
 2397 issues and concerns.

2398 (d) Provide information to the public about the
 2399 effectiveness of such programs in meeting established goals and
 2400 objectives.

2401 (e) Provide a basis for a system of accountability so that
 2402 each child client is afforded the best programs to meet his or
 2403 her needs.

2404 (f) Improve service delivery to children through the use of
 2405 technical assistance clients.

2406 (g) Modify or eliminate activities or programs that are not
 2407 effective.

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2408 (h) Collect and analyze available statistical data for the
 2409 purpose of ongoing evaluation of all programs.

2410 ~~(1)(2)~~ DEFINITIONS.—As used in this section, the term:

2411 (a) "Program" means any facility, service, or program for
 2412 children which is operated by the department or by a provider
 2413 under contract with the department.

2414 ~~(a) "Client" means any person who is being provided~~
 2415 ~~treatment or services by the department or by a provider under~~
 2416 ~~contract with the department.~~

2417 (b) "Program component" means an aggregation of generally
 2418 related objectives which, because of their special character,
 2419 related workload, and interrelated output, can logically be
 2420 considered an entity for purposes of organization, management,
 2421 accounting, reporting, and budgeting.

2422 (c) "Program group" means a collection of programs with
 2423 sufficient similarity of functions, services, and children to
 2424 permit appropriate comparison among programs within the group.

2425 ~~(e) "Program effectiveness" means the ability of the~~
 2426 ~~program to achieve desired client outcomes, goals, and~~
 2427 ~~objectives.~~

2428 (3) COMPREHENSIVE ACCOUNTABILITY REPORT.—The department, in
 2429 consultation with the Office of Economic and Demographic
 2430 Research, the Office of Program Policy Analysis and Government
 2431 Accountability, and contract service providers, shall develop
 2432 and use a standard methodology for annually measuring,
 2433 evaluating, and reporting program outputs and child outcomes for
 2434 each program and program group. The standard methodology must:

2435 (a) Include common terminology and operational definitions
 2436 for measuring the performance of system and program

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2437 administration, program outputs, and program outcomes.

2438 (b) Specify program outputs for each program and for each
 2439 program group within the juvenile justice continuum.

2440 (c) Specify desired child outcomes and methods by which
 2441 child outcomes may be measured for each program and program
 2442 group.

2443 ~~(3) The department shall annually collect and report cost~~
 2444 ~~data for every program operated or contracted by the department.~~
 2445 ~~The cost data shall conform to a format approved by the~~
 2446 ~~department and the Legislature. Uniform cost data shall be~~
 2447 ~~reported and collected for state-operated and contracted~~
 2448 ~~programs so that comparisons can be made among programs. The~~
 2449 ~~department shall ensure that there is accurate cost accounting~~
 2450 ~~for state-operated services including market-equivalent rent and~~
 2451 ~~other shared cost. The cost of the educational program provided~~
 2452 ~~to a residential facility shall be reported and included in the~~
 2453 ~~cost of a program. The department shall submit an annual cost~~
 2454 ~~report to the President of the Senate, the Speaker of the House~~
 2455 ~~of Representatives, the Minority Leader of each house of the~~
 2456 ~~Legislature, the appropriate substantive and fiscal committees~~
 2457 ~~of each house of the Legislature, and the Governor, no later~~
 2458 ~~than December 1 of each year. Cost-benefit analysis for~~
 2459 ~~educational programs will be developed and implemented in~~
 2460 ~~collaboration with and in cooperation with the Department of~~
 2461 ~~Education, local providers, and local school districts. Cost~~
 2462 ~~data for the report shall include data collected by the~~
 2463 ~~Department of Education for the purposes of preparing the annual~~
 2464 ~~report required by s. 1003.52(19).~~

2465 (4)(a) COST-EFFECTIVENESS MODEL.The department, in

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2466 consultation with the Office of Economic and Demographic
 2467 Research and contract service providers, shall develop a cost-
 2468 effectiveness model and apply the model to each commitment
 2469 program. ~~Program recidivism rates shall be a component of the~~
 2470 ~~model.~~

2471 (a) The cost-effectiveness model must shall compare program
 2472 costs to expected and actual child recidivism rates client
 2473 outcomes and program outputs. It is the intent of the
 2474 Legislature that continual development efforts take place to
 2475 improve the validity and reliability of the cost-effectiveness
 2476 model.

2477 (b) The department shall rank commitment programs based on
 2478 the cost-effectiveness model, performance measures, and
 2479 adherence to quality improvement standards and shall ~~submit a~~
 2480 report this data in the annual Comprehensive Accountability
 2481 Report to the appropriate substantive and fiscal committees of
 2482 each house of the Legislature by December 31 of each year.

2483 (c) Based on reports of the department on child client
 2484 outcomes and program outputs and on the department's most recent
 2485 cost-effectiveness rankings, the department may terminate a
 2486 program operated by the department or a provider if the program
 2487 has failed to achieve a minimum standard threshold of program
 2488 effectiveness. This paragraph does not preclude the department
 2489 from terminating a contract as provided under this section or as
 2490 otherwise provided by law or contract, and does not limit the
 2491 department's authority to enter into or terminate a contract.

2492 (d) In collaboration with the Office of Economic and
 2493 Demographic Research, and contract service providers, the
 2494 department shall develop a work plan to refine the cost-

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2495 effectiveness model so that the model is consistent with the
 2496 performance-based program budgeting measures approved by the
 2497 Legislature to the extent the department deems appropriate. The
 2498 department shall notify the Office of Program Policy Analysis
 2499 and Government Accountability of any meetings to refine the
 2500 model.

2501 (e) Contingent upon specific appropriation, the department,
 2502 in consultation with the Office of Economic and Demographic
 2503 Research, and contract service providers, shall:

2504 1. Construct a profile of each commitment program that uses
 2505 the results of the quality improvement assurance report required
 2506 by this section, the cost-effectiveness report required in this
 2507 subsection, and other reports available to the department.

2508 2. Target, for a more comprehensive evaluation, any
 2509 commitment program that has achieved consistently high, low, or
 2510 disparate ratings in the reports required under subparagraph 1.
 2511 and target, for technical assistance, any commitment program
 2512 that has achieved low or disparate ratings in the reports
 2513 required under subparagraph 1.

2514 3. Identify the essential factors that contribute to the
 2515 high, low, or disparate program ratings.

2516 4. Use the results of these evaluations in developing or
 2517 refining juvenile justice programs or program models, child
 2518 client outcomes and program outputs, provider contracts, quality
 2519 improvement assurance standards, and the cost-effectiveness
 2520 model.

2521 (5) QUALITY IMPROVEMENT; MINIMUM STANDARDS.—The department
 2522 shall:

2523 (a) Establish a comprehensive quality improvement assurance

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2524 system for each program operated by the department or operated
 2525 by a provider under contract with the department. Each contract
 2526 entered into by the department must provide for quality
 2527 improvement assurance.

2528 (b) Provide operational definitions of and criteria for
 2529 quality improvement assurance for each specific program
 2530 component.

2531 (c) Establish quality improvement assurance goals and
 2532 objectives for each specific program component.

2533 (d) Establish the information and specific data elements
 2534 required for the quality improvement assurance program.

2535 (e) Develop a quality improvement assurance manual of
 2536 specific, standardized terminology and procedures to be followed
 2537 by each program.

2538 (f) Evaluate each program operated by the department or a
 2539 provider under a contract with the department annually and
 2540 establish minimum standards thresholds for each program
 2541 component. If a provider fails to meet the established minimum
 2542 standards thresholds, such failure shall cause the department
 2543 shall to cancel the provider's contract unless the provider
 2544 complies achieves compliance with minimum standards thresholds
 2545 within 6 months or unless there are documented extenuating
 2546 circumstances. In addition, the department may not contract with
 2547 the same provider for the canceled service for ~~a period of~~ 12
 2548 months. If a department-operated program fails to meet the
 2549 established minimum standards thresholds, the department must
 2550 take necessary and sufficient steps to ensure, and document
 2551 program changes to achieve, compliance with the established
 2552 minimum standards thresholds. If the department-operated program

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2553 fails to achieve compliance with the established minimum
 2554 ~~standards thresholds~~ within 6 months and if there are no
 2555 documented extenuating circumstances, the department ~~shall must~~
 2556 notify the Executive Office of the Governor and the Legislature
 2557 of the corrective action taken. Appropriate corrective action
 2558 may include, but is not limited to:

- 2559 1. Contracting out for the services provided in the
- 2560 program;
- 2561 2. Initiating appropriate disciplinary action against all
- 2562 employees whose conduct or performance is deemed to have
- 2563 materially contributed to the program's failure to meet
- 2564 established minimum thresholds;
- 2565 3. Redesigning the program; or
- 2566 4. Realigning the program.

2567 (6) COMPREHENSIVE ACCOUNTABILITY REPORT; SUBMITTAL.—No
 2568 later than February 1 of each year, the department shall submit
 2569 the Comprehensive Accountability ~~an annual~~ Report to the
 2570 Governor, the President of the Senate, the Speaker of the House
 2571 of Representatives, the Minority Leader of each house of the
 2572 Legislature, and the appropriate substantive and fiscal
 2573 committees of each house of the Legislature, and the Governor,
 2574 ~~no later than February 1 of each year.~~ The Comprehensive
 2575 Accountability ~~annual~~ Report must contain, at a minimum, for
 2576 each specific program component: a comprehensive description of
 2577 the population served by the program; a specific description of
 2578 the services provided by the program; cost; a comparison of
 2579 expenditures to federal and state funding; immediate and long-
 2580 range concerns; and recommendations to maintain, expand,
 2581 improve, modify, or eliminate each program component so that

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2582 changes in services lead to enhancement in program quality. The
 2583 department shall ensure the reliability and validity of the
 2584 information contained in the report.

2585 ~~(7)-(6) ONGOING EVALUATION.~~—The department shall collect and
 2586 analyze available statistical data for the purpose of ongoing
 2587 evaluation of all programs. The department shall provide the
 2588 Legislature with necessary information and reports to enable the
 2589 Legislature to make informed decisions regarding the
 2590 effectiveness of, and any needed changes in, services, programs,
 2591 policies, and laws.

2592 Section 32. Paragraph (a) of subsection (1) and paragraph
 2593 (b) of subsection (3) of section 985.644, Florida Statutes, are
 2594 amended to read:

2595 985.644 Departmental contracting powers; personnel
 2596 standards and screening.—

2597 (1) The department may contract with the Federal
 2598 Government, other state departments and agencies, county and
 2599 municipal governments and agencies, public and private agencies,
 2600 and private individuals and corporations in carrying out the
 2601 purposes of, and the responsibilities established in, this
 2602 chapter.

2603 (a) Each contract entered into by the department for
 2604 services delivered on an appointment or intermittent basis by a
 2605 provider that does not have regular custodial responsibility for
 2606 children, and each contract with a school for ~~before or~~
 2607 ~~aftercare~~ services, must ensure that all owners, operators, and
 2608 personnel who have direct contact with children are subject to
 2609 level 2 background screening pursuant to chapter 435.

2610 (3)

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2611 (b) ~~Certified Except for~~ law enforcement, correctional, and
 2612 correctional probation officers, pursuant to s. 943.13, are not
 2613 required to submit to level 2 screenings while employed by a law
 2614 enforcement agency or correctional facility. ~~to whom s.~~

2615 ~~943.13(5) applies.~~ The department shall electronically submit to
 2616 the Department of Law Enforcement:

2617 1. Fingerprint information obtained during the employment
 2618 screening required by subparagraph (a)1.

2619 2. Fingerprint information for all persons employed by the
 2620 department, or by a provider under contract with the department,
 2621 in delinquency facilities, services, or programs if such
 2622 fingerprint information has not ~~previously~~ been previously
 2623 electronically submitted pursuant to this section to the
 2624 Department of Law Enforcement under this paragraph.

2625 Section 33. Section 985.6441, Florida Statutes, is created
 2626 to read:

2627 985.6441 Health care services.—

2628 (1) As used in this section, the term:

2629 (a) "Hospital" means a hospital licensed under chapter 395.

2630 (b) "Health care provider" has the same meaning as provided
 2631 in s. 766.105.

2632 (2) The following reimbursement limitations apply to the
 2633 compensation of health care providers by the department:

2634 (a) If there is no contract between the department and a
 2635 hospital or a health care provider providing services at a
 2636 hospital, payments to such hospital or such health care provider
 2637 may not exceed 110 percent of the Medicare allowable rate for
 2638 any health care service provided.

2639 (b) If a contract has been executed between the department

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2640 and a hospital or a health care provider providing services at a
 2641 hospital, the department may continue to make payments for
 2642 health care services at the currently contracted rates through
 2643 the current term of the contract; however, payments may not
 2644 exceed 110 percent of the Medicare allowable rate after the
 2645 current term of the contract expires or after the contract is
 2646 renewed during the 2013-2014 fiscal year.

2647 (c) Payments may not exceed 110 percent of the Medicare
 2648 allowable rate under a contract executed on or after July 1,
 2649 2014, between the department and a hospital or a health care
 2650 provider providing services at a hospital.

2651 (d) Notwithstanding paragraphs (a)-(c), the department may
 2652 pay up to 125 percent of the Medicare allowable rate for health
 2653 care services at a hospital that demonstrates or has
 2654 demonstrated through hospital-audited financial data a negative
 2655 operating margin for the previous fiscal year to the Agency for
 2656 Health Care Administration.

2657 (e) The department may execute a contract for health care
 2658 services at a hospital for rates other than rates based on a
 2659 percentage of the Medicare allowable rate.

2660 Section 34. Section 985.66, Florida Statutes, is amended to
 2661 read:

2662 985.66 Juvenile justice training ~~academies~~; staff
 2663 development and training; Juvenile Justice Training Trust Fund.—

2664 (1) LEGISLATIVE PURPOSE.—In order to enable the state to
 2665 provide a systematic approach to staff development and training
 2666 for judges, state attorneys, public defenders, law enforcement
 2667 officers, school district personnel, and juvenile justice
 2668 program staff which meets that will meet the needs of such

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2669 persons in ~~the their~~ discharge of their duties while at the same
 2670 time meeting the requirements for the American Correction
 2671 Association accreditation by the Commission on Accreditation for
 2672 Corrections, it is the purpose of the Legislature to require the
 2673 department to establish, maintain, and oversee the operation of
 2674 juvenile justice training programs and courses ~~academies~~ in the
 2675 state. The purpose of the Legislature in establishing staff
 2676 development and training programs is to provide employees of the
 2677 department or any private or public entity or contract providers
 2678 who provide services or care for youth under the responsibility
 2679 of the department with the knowledge and skills to appropriately
 2680 interact with youth and provide such care foster better staff
 2681 ~~morale and reduce mistreatment and aggressive and abusive~~
 2682 ~~behavior in delinquency programs;~~ to positively impact the
 2683 recidivism of children in the juvenile justice system; and to
 2684 afford greater protection of the public through an improved
 2685 level of services delivered by a professionally trained juvenile
 2686 justice program staff to children who are alleged to be or who
 2687 have been found to be delinquent.

2688 (2) STAFF DEVELOPMENT AND TRAINING.—The department shall:

2689 (a) Designate the number and location of the training
 2690 programs and courses ~~academies~~; assess, design, develop,
 2691 implement, evaluate, maintain, and update the curriculum to be
 2692 used in the training of juvenile justice ~~program~~ staff;
 2693 establish timeframes for participation in and completion of
 2694 training by juvenile justice ~~program~~ staff; develop, implement,
 2695 score, analyze, maintain, and update job-related examinations;
 2696 develop, implement, analyze, and update the types and
 2697 frequencies of evaluations of the training programs, courses,

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2698 and instructors ~~academies; and manage~~ approve, modify, or
 2699 ~~disapprove~~ the budget and contracts for all the training
 2700 deliverables ~~academies, and the contractor to be selected to~~
 2701 ~~organize and operate the training academies and to provide the~~
 2702 ~~training curriculum.~~

2703 (b) Establish uniform minimum job-related preservice and
 2704 inservice training courses and examinations for juvenile justice
 2705 ~~program~~ staff.

2706 (c) Consult and cooperate with the state or any political
 2707 subdivision; any private entity or contractor; and with private
 2708 and public universities, colleges, community colleges, and other
 2709 educational institutions concerning the development of juvenile
 2710 justice training and programs or courses of instruction,
 2711 including, but not limited to, education and training in the
 2712 areas of juvenile justice.

2713 (d) Enter into contracts and agreements with other
 2714 agencies, organizations, associations, corporations,
 2715 individuals, or federal agencies as necessary in the execution
 2716 of the powers of the department or the performance of its
 2717 duties.

2718 (3) JUVENILE JUSTICE TRAINING PROGRAM.—The department shall
 2719 establish a certifiable program for juvenile justice training
 2720 pursuant to this section, and all department program staff, ~~and~~
 2721 Providers who deliver direct care services pursuant to contract
 2722 with the department shall ~~be required to~~ participate in and
 2723 successfully complete the department-approved program of
 2724 training pertinent to their areas of responsibility. Judges,
 2725 state attorneys, ~~and~~ public defenders, law enforcement officers,
 2726 ~~and~~ school district personnel, and employees of contract

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2727 providers who provide services or care for youth under the
 2728 responsibility of the department may participate in such a
 2729 training program. For the juvenile justice program staff, the
 2730 ~~department shall~~, based on a job-task analysis:

2731 (a) The department shall design, implement, maintain,
 2732 evaluate, and revise a basic training program, including a
 2733 competency-based examination, for the purpose of providing
 2734 minimum employment training qualifications for all juvenile
 2735 justice personnel. All program staff of the department and
 2736 providers who deliver direct-care services who are hired after
 2737 October 1, 1999, shall, at a ~~must meet the following~~ minimum
 2738 ~~requirements:~~

2739 1. Be at least 19 years of age.

2740 2. Be a high school graduate or its equivalent, as
 2741 determined by the department.

2742 3. Not have been convicted of any felony or a misdemeanor
 2743 involving perjury or a false statement, or have received a
 2744 dishonorable discharge from any of the Armed Forces of the
 2745 United States. A ~~Any~~ person who, after September 30, 1999,
 2746 pleads guilty or nolo contendere to or is found guilty of any
 2747 felony or a misdemeanor involving perjury or false statement is
 2748 not eligible for employment, notwithstanding suspension of
 2749 sentence or withholding of adjudication. Notwithstanding this
 2750 subparagraph, a ~~any~~ person who pled nolo contendere to a
 2751 misdemeanor involving a false statement before October 1, 1999,
 2752 and ~~who~~ has had such record of that plea sealed or expunged is
 2753 not ineligible for employment for that reason.

2754 4. Abide by ~~all the provisions of~~ s. 985.644(1) regarding
 2755 fingerprinting, and background investigations, and other

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2756 screening requirements ~~for personnel~~.

2757 5. Execute and submit to the department an affidavit-of-
 2758 application form, approved ~~adopted~~ by the department, attesting
 2759 to his or her compliance with subparagraphs 1.-4. The affidavit
 2760 must be executed under oath and constitutes an official
 2761 statement under s. 837.06. The affidavit must include a
 2762 conspicuous statement ~~language~~ that the intentional false
 2763 execution of the affidavit constitutes a misdemeanor of the
 2764 second degree. The employing agency shall retain the affidavit.

2765 (b) The department shall design, implement, maintain,
 2766 evaluate, and revise an advanced training program, including a
 2767 competency-based examination for each training course, which is
 2768 intended to enhance knowledge, skills, and abilities related to
 2769 job performance.

2770 (c) The department shall design, implement, maintain,
 2771 evaluate, and revise a career development training program,
 2772 including a competency-based examination for each training
 2773 course. Career development courses are intended to prepare
 2774 personnel for promotion.

2775 (d) The department is encouraged to design, implement,
 2776 maintain, evaluate, and revise juvenile justice training
 2777 courses, or to enter into contracts for such training courses,
 2778 that are intended to provide for the safety and well-being of
 2779 both citizens and juvenile offenders.

2780 (4) JUVENILE JUSTICE TRAINING TRUST FUND.—

2781 (a) There is created within the State Treasury a Juvenile
 2782 Justice Training Trust Fund to be used by the department for the
 2783 purpose of funding the development and updating of a job-task
 2784 analysis of juvenile justice personnel; the development,

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2785 implementation, and updating of job-related training courses and
2786 examinations; and the cost of juvenile justice training courses.

2787 (b) One dollar from every noncriminal traffic infraction
2788 collected pursuant to ss. 318.14(10) (b) and 318.18 shall be
2789 deposited into the Juvenile Justice Training Trust Fund.

2790 (c) In addition to the funds generated by paragraph (b),
2791 the trust fund may receive funds from any other public or
2792 private source.

2793 (d) Funds that are not expended by the end of the budget
2794 cycle or through a supplemental budget approved by the
2795 department shall revert to the trust fund.

2796 ~~(5) ESTABLISHMENT OF JUVENILE JUSTICE TRAINING ACADEMIES.—~~
2797 ~~The number, location, and establishment of juvenile justice~~
2798 ~~training academies shall be determined by the department.~~

2799 (5)(6) SCHOLARSHIPS AND STIPENDS.—The department shall
2800 establish criteria to award scholarships or stipends to
2801 qualified juvenile justice personnel who are residents of the
2802 state and who want to pursue a bachelor's or associate in arts
2803 degree in juvenile justice or a related field. The department
2804 shall administer ~~handle the administration of~~ the scholarship or
2805 stipend. The Department of Education shall manage ~~handle~~ the
2806 notes issued for the payment of the scholarships or stipends.
2807 All scholarship and stipend awards shall be paid from the
2808 Juvenile Justice Training Trust Fund upon vouchers approved by
2809 the Department of Education and properly certified by the Chief
2810 Financial Officer. Before ~~Prior to~~ the award of a scholarship or
2811 stipend, the juvenile justice employee must agree in writing to
2812 practice her or his profession in juvenile justice or a related
2813 field for 1 month for each month of grant or to repay the full

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2814 amount of the scholarship or stipend together with interest at
2815 the rate of 5 percent per annum over a period of up to ~~not to~~
2816 ~~exceed~~ 10 years. Repayment is ~~shall be made~~ payable to the state
2817 for deposit into the Juvenile Justice Training Trust Fund.

2818 ~~(6)(7) PARTICIPATION OF CERTAIN PROGRAMS IN THE STATE RISK~~
2819 ~~MANAGEMENT TRUST FUND.—~~Pursuant to s. 284.30, the Division of
2820 Risk Management of the Department of Financial Services is
2821 authorized to insure a private agency, individual, or
2822 corporation operating a state-owned training school under a
2823 contract to carry out the purposes and responsibilities of any
2824 program of the department. The coverage authorized under this
2825 subsection is subject to herein shall be under the same general
2826 terms and conditions as the coverage afforded the department is
2827 insured for its responsibilities under chapter 284.

2828 Section 35. Subsection (5) of section 985.664, Florida
2829 Statutes, is amended to read:

2830 985.664 Juvenile justice circuit advisory boards.—

2831 ~~(5)(a) To form the initial juvenile justice circuit~~
2832 ~~advisory board, the Secretary of Juvenile Justice, in~~
2833 ~~consultation with the juvenile justice county councils in~~
2834 ~~existence on October 1, 2013, shall appoint the chair of the~~
2835 ~~board, who must meet the board membership requirements in~~
2836 ~~subsection (4). Within 45 days after being appointed, the chair~~
2837 ~~shall appoint the remaining members to the juvenile justice~~
2838 ~~circuit advisory board and submit the appointments to the~~
2839 ~~department for approval.~~

2840 ~~(b) Thereafter,~~ When a vacancy in the office of the chair
2841 occurs, ~~the Secretary of Juvenile Justice, in consultation with~~
2842 the juvenile justice circuit advisory board, ~~shall~~ appoint a new

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2843 chair, who must meet the board membership requirements in
2844 subsection (4). The chair shall appoint members to vacant seats
2845 within 45 days after the vacancy and submit the appointments to
2846 the department for approval. The chair serves at the pleasure of
2847 the Secretary of Juvenile Justice.

2848 Section 36. Subsections (1) and (4) of section 985.672,
2849 Florida Statutes, are amended to read:

2850 985.672 Direct-support organization; definition; use of
2851 property; board of directors; audit.—

2852 (1) DEFINITION.—As used in this section, the term “direct-
2853 support organization” means an organization whose sole purpose
2854 is to support the juvenile justice system and which is:

2855 (a) A corporation not-for-profit incorporated under chapter
2856 617 and ~~which is~~ approved by the Department of State;

2857 (b) Organized and operated to conduct programs and
2858 activities; to raise funds; to request and receive grants,
2859 gifts, and bequests of moneys; to acquire, receive, hold,
2860 invest, and administer, in its own name, securities, funds,
2861 objects of value, or other ~~property~~, real or personal property;
2862 and to make expenditures to or for the direct or indirect
2863 benefit of the Department of Juvenile Justice or the juvenile
2864 justice system operated by a county commission or a circuit
2865 board;

2866 (c) Determined by the Department of Juvenile Justice to be
2867 consistent with the goals of the juvenile justice system, in the
2868 best interest of the state, and in accordance with the adopted
2869 goals and mission of the Department of Juvenile Justice.

2870 Expenditures of the organization shall be ~~expressly~~ used for the
2871

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2872 prevention and amelioration of ~~to prevent and ameliorate~~
2873 juvenile delinquency. Such funds ~~The expenditures of the direct-~~
2874 ~~support organization~~ may not be used for the purpose of lobbying
2875 as defined in s. 11.045.

2876 (4) USE OF PROPERTY.—The department may allow ~~permit~~,
2877 without charge, appropriate use of fixed property, and
2878 facilities, and personnel services of the juvenile justice
2879 system by the direct-support organization, subject to the
2880 provisions of this section. For the purposes of this subsection,
2881 the term “personnel services” includes full-time or part-time
2882 personnel as well as payroll processing services.

2883 (a) The department may prescribe any condition with which
2884 the direct-support organization must comply in order to use
2885 fixed property or facilities of the juvenile justice system.

2886 (b) The department may not permit the use of any fixed
2887 property or facilities of the juvenile justice system by the
2888 direct-support organization if it does not provide equal
2889 membership and employment opportunities to all persons
2890 regardless of race, color, religion, sex, age, or national
2891 origin.

2892 (c) The department shall adopt rules prescribing the
2893 procedures by which the direct-support organization is governed
2894 and any conditions with which a direct-support organization must
2895 comply to use property or facilities of the department.

2896 Section 37. Section 985.682, Florida Statutes, is amended
2897 to read:

2898 985.682 Siting of facilities; ~~study; criteria.~~

2899 ~~(1) The department is directed to conduct or contract for a~~
2900 ~~statewide comprehensive study to determine current and future~~

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2901 needs for all types of facilities for children committed to the
 2902 custody, care, or supervision of the department under this
 2903 chapter.

2904 ~~(2) The study shall assess, rank, and designate appropriate~~
 2905 ~~sites, and shall be reflective of the different purposes and~~
 2906 ~~uses for all facilities, based upon the following criteria:~~

2907 ~~(a) Current and future estimates of children originating~~
 2908 ~~from each county;~~

2909 ~~(b) Current and future estimates of types of delinquent~~
 2910 ~~acts committed in each county;~~

2911 ~~(c) Geographic location of existing facilities;~~

2912 ~~(d) Availability of personnel within the local labor~~
 2913 ~~market;~~

2914 ~~(e) Current capacity of facilities in the area;~~

2915 ~~(f) Total usable and developable acreage of various sites~~
 2916 ~~based upon the use and purpose of the facility;~~

2917 ~~(g) Accessibility of each site to existing utility,~~
 2918 ~~transportation, law enforcement, health care, fire protection,~~
 2919 ~~refuse collection, water, and sewage disposal services;~~

2920 ~~(h) Susceptibility of each site to flooding hazards or~~
 2921 ~~other adverse natural environmental consequences;~~

2922 ~~(i) Site location in relation to desirable and undesirable~~
 2923 ~~proximity to other public facilities, including schools;~~

2924 ~~(j) Patterns of residential growth and projected population~~
 2925 ~~growth; and~~

2926 ~~(k) Such other criteria as the department, in conjunction~~
 2927 ~~with local governments, deems appropriate.~~

2928 ~~(3) The department shall recommend certification of the~~
 2929 ~~study by the Governor and Cabinet within 2 months after its~~

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2930 ~~receipt.~~

2931 ~~(4) Upon certification of the study by the Governor and~~
 2932 ~~Cabinet, the department shall notify those counties designated~~
 2933 ~~as being in need of a facility.~~

2934 (1)~~(5)~~ When the department or a contracted provider
 2935 proposes a site for a juvenile justice facility, the department
 2936 or provider shall request that the local government having
 2937 jurisdiction over such proposed site determine whether ~~or not~~
 2938 the proposed site is appropriate for public use under local
 2939 government comprehensive plans, local land use ordinances, local
 2940 zoning ordinances or regulations, and other local ordinances in
 2941 effect at the time of such request. If no such determination is
 2942 made within 90 days after the request, it ~~is~~ shall be presumed
 2943 that the proposed site is in compliance with such plans,
 2944 ordinances, or regulations.

2945 (2)~~(6)~~ If the local government determines within 90 days
 2946 after the request that construction of a facility on the
 2947 proposed site does not comply with any such plan, ordinance, or
 2948 regulation, the department may request a modification of such
 2949 plan, ordinance, or regulation without having an ownership
 2950 interest in such property. For the purposes of this section,
 2951 modification includes, but is not limited to, a variance,
 2952 rezoning, special exception, or any other action of the local
 2953 government having jurisdiction over the proposed site which
 2954 would authorize siting of a facility.

2955 (3)~~(7)~~ Upon receipt of a request for modification from the
 2956 department, the local government may recommend and hold a public
 2957 hearing on the request for modification in the same manner as
 2958 for a rezoning as provided under the appropriate special or

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2959 local law or ordinance, except that such proceeding shall be
 2960 recorded by tape or by a certified court reporter and made
 2961 available for transcription at the expense of any interested
 2962 party.

2963 ~~(4)(8)~~ If when the department requests such a modification
 2964 and it is denied by the local government, the local government
 2965 or the department shall initiate the dispute resolution process
 2966 established under s. 186.509 to reconcile differences on the
 2967 siting of correctional facilities between the department, local
 2968 governments, and private citizens. If the regional planning
 2969 council has not established a dispute resolution process
 2970 pursuant to s. 186.509, the department shall establish, by rule,
 2971 procedures for dispute resolution. The dispute resolution
 2972 process must ~~shall~~ require the parties to commence meetings to
 2973 reconcile their differences. If the parties fail to resolve
 2974 their differences within 30 days after the denial, they ~~the~~
 2975 ~~parties~~ shall engage in voluntary mediation or a similar
 2976 process. If the parties fail to resolve their differences by
 2977 mediation within 60 days after the denial, or if no action is
 2978 taken on the department's request within 90 days after the
 2979 request, the department must appeal the decision of the local
 2980 government on the requested modification of local plans,
 2981 ordinances, or regulations to the Governor and Cabinet. A ~~Any~~
 2982 dispute resolution process initiated under this section must
 2983 conform to the time limitations set forth in this subsection
 2984 ~~herein~~. However, upon agreement of all parties, the time limits
 2985 may be extended, but ~~in no event may~~ the dispute resolution
 2986 process may not extend beyond ~~over~~ 180 days.

2987 ~~(5)(9)~~ The Governor and Cabinet shall consider the

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2988 following when determining whether to grant the appeal from the
 2989 decision of the local government on the requested modification:

2990 (a) The record of the proceedings before the local
 2991 government.

2992 (b) Reports and studies by any other agency relating to
 2993 matters within the jurisdiction of such agency which may be
 2994 potentially affected by the proposed site.

2995 ~~(c) The statewide study, as established in subsection (1),~~
 2996 ~~either~~ Existing studies; reports and information maintained by
 2997 the department as the Governor and Cabinet may request
 2998 addressing the feasibility and availability of alternative sites
 2999 in the general area; and the need for a facility in the area
 3000 based on the average number of petitions, commitments, and
 3001 transfers into the criminal court from the county to state
 3002 facilities for the 3 most recent 3 calendar years.

3003 ~~(6)(10)~~ The Governor and Cabinet, upon determining that the
 3004 local government has not recommended a ne feasible alternative
 3005 site and that the interests of the state in providing facilities
 3006 outweigh the concerns of the local government, shall authorize
 3007 construction and operation of a facility on the proposed site
 3008 notwithstanding any local plan, ordinance, or regulation.

3009 ~~(7)(11)~~ The Governor and Cabinet may adopt rules ~~of~~
 3010 ~~procedure~~ to govern these proceedings in accordance with ~~the~~
 3011 ~~provisions~~ of s. 120.54.

3012 ~~(8)(12)~~ Actions taken by the department or the Governor and
 3013 Cabinet pursuant to this section are not ~~shall not be~~ subject to
 3014 ~~the provisions of~~ ss. 120.56, 120.569, and 120.57. The decision
 3015 by the Governor and Cabinet is ~~shall be~~ subject to judicial
 3016 review pursuant to s. 120.68 in the District Court of Appeal,

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3017 First District.

3018 ~~(9)(13)~~ All other departments and agencies of the state
 3019 shall cooperate fully with the department to accomplish the
 3020 siting of facilities for juvenile offenders.

3021 ~~(10)(14)~~ It is the intent of the Legislature to expedite
 3022 the siting of, acquisition of land for, and construction by the
 3023 Department of Juvenile Justice of state juvenile justice
 3024 facilities operated by the department or a private vendor under
 3025 contract with the department. Other agencies shall cooperate
 3026 with the department and expeditiously fulfill their
 3027 responsibilities to avoid unnecessary delay in the siting of,
 3028 acquisition of land for, and construction of state juvenile
 3029 justice facilities. This section and all other laws of the state
 3030 shall be construed to accomplish this intent. This section takes
 3031 ~~shall take~~ precedence over any other law ~~to the contrary~~.

3032 ~~(11)(15)~~ (a) The department shall acquire land and erect
 3033 juvenile justice facilities necessary to accommodate children
 3034 committed to the custody, care, or supervision of the
 3035 department, and shall make additional alterations to facilities
 3036 to accommodate any increase in the number of children. The
 3037 department shall establish adequate accommodations for staff of
 3038 the department who are required to reside continuously within
 3039 the facilities.

3040 (b) Notwithstanding s. 255.25(1) and contingent upon
 3041 available funds, the department may enter into lease-purchase
 3042 agreements to provide juvenile justice facilities for housing
 3043 committed youths, ~~contingent upon available funds~~. The
 3044 facilities provided through such agreements must meet the
 3045 program plan and specifications of the department. The

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3046 department may enter into such lease agreements with private
 3047 corporations and other governmental entities. However, with the
 3048 exception of contracts entered into with other governmental
 3049 entities, and notwithstanding s. 255.25(3) (a), a lease agreement
 3050 may not be entered into except upon advertisement for the
 3051 receipt of competitive bids and award to the lowest and best
 3052 bidder ~~except if contracting with other governmental entities~~.

3053 (c) A lease-purchase agreement that is for a term extending
 3054 beyond the end of a fiscal year is subject to ~~the provisions of~~
 3055 s. 216.311.

3056 ~~(12)(16)~~ (a) Notwithstanding s. 253.025 or s. 287.057, if
 3057 ~~when~~ the department finds it necessary for timely site
 3058 acquisition, it may contract, without using the competitive
 3059 selection procedure, with an appraiser whose name is on the list
 3060 of approved appraisers maintained by the Division of State Lands
 3061 of the Department of Environmental Protection under s.
 3062 253.025(6) (b). If ~~When~~ the department directly contracts for
 3063 appraisal services, it must contract with an approved appraiser
 3064 who is not employed by the same appraisal firm for review
 3065 services.

3066 (b) Notwithstanding s. 253.025(6), the department may
 3067 negotiate and enter into an option contract before an appraisal
 3068 is obtained. The option contract must state that the final
 3069 purchase price may not exceed the maximum value allowed by law.
 3070 The consideration for such an option contract may not exceed 10
 3071 percent of the estimate obtained by the department or 10 percent
 3072 of the value of the parcel, whichever amount is greater.

3073 (c) This subsection applies only to a purchase or
 3074 acquisition of land for juvenile justice facilities. This

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3075 subsection does not modify the authority of the Board of
 3076 Trustees of the Internal Improvement Trust Fund or the Division
 3077 of State Lands of the Department of Environmental Protection to
 3078 approve any contract for purchase of state lands as provided by
 3079 law or to require policies and procedures to obtain clear legal
 3080 title to parcels purchased for state purposes.

3081 ~~(13)-(17)~~ The department may sell, to the best possible
 3082 advantage, any detached parcels of land belonging to the bodies
 3083 of land purchased for the state juvenile justice facilities. The
 3084 department may purchase any parcel of land contiguous with the
 3085 lands purchased for state juvenile justice facilities.

3086 ~~(14)-(18)~~ The department may begin preliminary site
 3087 preparation and obtain the appropriate permits for the
 3088 construction of a juvenile justice facility after approval of
 3089 the lease-purchase agreement or option contract by the Board of
 3090 Trustees of the Internal Improvement Trust Fund ~~of the lease~~
 3091 ~~purchase agreement or option contract if, in the department~~
 3092 determines that department's discretion, commencing construction
 3093 is in the best interests of the state.

3094 ~~(15)-(19)~~ If insofar as the provisions of this section is
 3095 are inconsistent with the provisions of any other general,
 3096 special, or local law, general, special, or local, the
 3097 ~~provisions of this section is~~ are controlling. Additionally, the
 3098 criteria and procedures established under set forth in this
 3099 section supersede and are in lieu of any review and approval
 3100 required by s. 380.06.

3101 Section 38. Section 985.69, Florida Statutes, is amended to
 3102 read:

3103 985.69 Repair and maintenance ~~One-time startup~~ funding for

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3104 juvenile justice purposes.—Funds from juvenile justice
 3105 appropriations may be used ~~utilized as one-time startup funding~~
 3106 for juvenile justice purposes that include, but are not limited
 3107 to, remodeling or renovation of existing facilities,
 3108 construction costs, leasing costs, purchase of equipment and
 3109 furniture, site development, and other necessary and reasonable
 3110 costs associated with the repair and maintenance ~~startup~~ of
 3111 facilities or programs.

3112 Section 39. Section 985.694, Florida Statutes, is repealed.

3113 Section 40. Paragraph (a) of subsection (1) of section
 3114 985.701, Florida Statutes, is reordered and amended to read:

3115 985.701 Sexual misconduct prohibited; reporting required;
 3116 penalties.—

3117 (1) (a) 1. As used in this section subsection, the term:

3118 ~~c.a.~~ "Sexual misconduct" means fondling the genital area,
 3119 groin, inner thighs, buttocks, or breasts of a person; the oral,
 3120 anal, or vaginal penetration by or union with the sexual organ
 3121 of another; or the anal or vaginal penetration of another by any
 3122 other object. The term does not include an act done for a bona
 3123 fide medical purpose or an internal search conducted in the
 3124 lawful performance of duty by an employee of the department or
 3125 an employee of a provider under contract with the department.

3126 ~~a.b.~~ "Employee" means a ~~includes~~ paid staff ~~member members,~~
 3127 a volunteer volunteers, or an intern and interns who works ~~work~~
 3128 in a department program or a program operated by a provider
 3129 under a contract.

3130 b. "Juvenile offender" means a person of any age who is
 3131 detained or supervised by, or committed to the custody of, the
 3132 department.

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3133 2. An employee who engages in sexual misconduct with a
 3134 juvenile offender ~~detained or supervised by, or committed to the~~
 3135 ~~custody of, the department~~ commits a felony of the second
 3136 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 3137 775.084. An employee may be found guilty of violating this
 3138 subsection without having committed the crime of sexual battery.

3139 3. The consent of the juvenile offender to any act of
 3140 sexual misconduct is not a defense to prosecution under this
 3141 subsection.

3142 4. This subsection does not apply to an employee of the
 3143 department, ~~or an employee~~ of a provider under contract with the
 3144 department, who:

3145 a. Is legally married to a juvenile offender who is
 3146 detained or supervised by, or committed to the custody of, the
 3147 department.

3148 b. Has no reason to believe that the person with whom the
 3149 employee engaged in sexual misconduct is a juvenile offender
 3150 ~~detained or supervised by, or committed to the custody of, the~~
 3151 ~~department.~~

3152 Section 41. Section 985.702, Florida Statutes, is created
 3153 to read:

3154 985.702 Willful and malicious neglect of a juvenile
 3155 offender prohibited; reporting required; penalties.—

3156 (1) As used in this section, the term:

3157 (a) "Employee" means a paid staff member, volunteer, or
 3158 intern who works in a department program or a program operated
 3159 by a provider under a contract with the department.

3160 (b) "Juvenile offender" means a person of any age who is
 3161 detained by, or committed to the custody of, the department.

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3162 (c) "Neglect" means:

3163 1. An employee's failure or omission to provide a juvenile
 3164 offender with the proper level of care, supervision, and
 3165 services necessary to maintain the juvenile offender's physical
 3166 and mental health, including, but not limited to, adequate food,
 3167 nutrition, clothing, shelter, supervision, medicine, and medical
 3168 services; or

3169 2. An employee's failure to make a reasonable effort to
 3170 protect a juvenile offender from abuse, neglect, or exploitation
 3171 by another person.

3172 (2) (a) An employee who willfully and maliciously neglects a
 3173 juvenile offender without causing great bodily harm, permanent
 3174 disability, or permanent disfigurement to a juvenile offender,
 3175 commits a felony of the third degree, punishable as provided in
 3176 s. 775.082, s. 775.083, or s. 775.084.

3177 (b) An employee who willfully and maliciously neglects a
 3178 juvenile offender and in so doing causes great bodily harm,
 3179 permanent disability, or permanent disfigurement to a juvenile
 3180 offender, commits a felony of the second degree, punishable as
 3181 provided in s. 775.082, s. 775.083, or s. 775.084.

3182 (c) Notwithstanding prosecution, any violation of paragraph
 3183 (a) or paragraph (b), as determined by the Public Employees
 3184 Relations Commission, constitutes sufficient cause under s.
 3185 110.227 for dismissal from employment with the department, and a
 3186 person who commits such violation may not again be employed in
 3187 any capacity in connection with the juvenile justice system.

3188 (3) An employee who witnesses the neglect of a juvenile
 3189 offender shall immediately report the incident to the
 3190 department's incident hotline and prepare, date, and sign an

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3191 independent report that specifically describes the nature of the
 3192 incident, the location and time of the incident, and the persons
 3193 involved. The employee shall deliver the report to the
 3194 employee's supervisor or program director, who must provide
 3195 copies to the department's inspector general and the circuit
 3196 juvenile justice manager. The inspector general shall
 3197 immediately conduct an appropriate administrative investigation,
 3198 and, if there is probable cause to believe that a violation of
 3199 subsection (2) has occurred, the inspector general shall notify
 3200 the state attorney in the circuit in which the incident
 3201 occurred.

3202 (4) (a) A person who is required to prepare a report under
 3203 this section and who knowingly or willfully fails to do so, or
 3204 who knowingly or willfully prevents another person from doing
 3205 so, commits a misdemeanor of the first degree, punishable as
 3206 provided in s. 775.082 or s. 775.083.

3207 (b) A person who knowingly or willfully submits inaccurate,
 3208 incomplete, or untruthful information with respect to a report
 3209 required under this section commits a misdemeanor of the first
 3210 degree, punishable as provided in s. 775.082 or s. 775.083.

3211 (c) A person who knowingly or willfully coerces or
 3212 threatens any other person with the intent to alter testimony or
 3213 a written report regarding the neglect of a juvenile offender
 3214 commits a felony of the third degree, punishable as provided in
 3215 s. 775.082, s. 775.083, or s. 775.084.

3216 Section 42. Paragraphs (c) and (f) of subsection (3) of
 3217 section 943.0582, Florida Statutes, are amended to read:

3218 943.0582 Prearrest, postarrest, or teen court diversion
 3219 program expunction.-

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3220 (3) The department shall expunge the nonjudicial arrest
 3221 record of a minor who has successfully completed a prearrest or
 3222 postarrest diversion program if that minor:

3223 (c) Submits to the department, with the application, an
 3224 official written statement from the state attorney for the
 3225 county in which the arrest occurred certifying that he or she
 3226 has successfully completed that county's prearrest or postarrest
 3227 diversion program, that his or her participation in the program
 3228 was based on an arrest for a nonviolent misdemeanor, and that he
 3229 or she has not otherwise been charged by the state attorney with
 3230 or found to have committed any criminal offense or comparable
 3231 ordinance violation.

3232 (f) Has never, prior to filing the application for
 3233 expunction, been charged by the state attorney with or been
 3234 found to have committed any criminal offense or comparable
 3235 ordinance violation.

3236 Section 43. Section 945.75, Florida Statutes, is repealed.

3237 Section 44. Paragraphs (e) through (i) of subsection (2),
 3238 paragraphs (g) and (k) of subsection (3), paragraph (b) of
 3239 subsection (5), paragraph (d) of subsection (8), and paragraph
 3240 (c) of subsection (10) of section 121.0515, Florida Statutes,
 3241 are amended to read:

3242 121.0515 Special Risk Class.-

3243 (2) MEMBERSHIP.-

3244 ~~(e) Effective July 1, 2001, "special risk member" includes~~
 3245 ~~any member who is employed as a youth custody officer by the~~
 3246 ~~Department of Juvenile Justice and meets the special criteria~~
 3247 ~~set forth in paragraph (3)(g).~~

3248 (e)(f) Effective October 1, 2005, through June 30, 2008,

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3249 the member must be employed by a law enforcement agency or
 3250 medical examiner's office in a forensic discipline and meet the
 3251 special criteria set forth in paragraph (3) (g) ~~(3) (h)~~.

3252 ~~(f) (g)~~ Effective July 1, 2008, the member must be employed
 3253 by the Department of Law Enforcement in the crime laboratory or
 3254 by the Division of State Fire Marshal in the forensic laboratory
 3255 and meet the special criteria set forth in paragraph (3) (h)
 3256 ~~(3) (i)~~.

3257 ~~(g) (h)~~ Effective July 1, 2008, the member must be employed
 3258 by a local government law enforcement agency or medical
 3259 examiner's office and meet the special criteria set forth in
 3260 paragraph (3) (i) ~~(3) (j)~~.

3261 ~~(h) (i)~~ Effective August 1, 2008, "special risk member"
 3262 includes any member who meets the special criteria for continued
 3263 membership set forth in paragraph (3) (j) ~~(3) (k)~~.

3264 (3) CRITERIA.—A member, to be designated as a special risk
 3265 member, must meet the following criteria:

3266 ~~(g) Effective July 1, 2001, the member must be employed as~~
 3267 ~~a youth custody officer and be certified, or required to be~~
 3268 ~~certified, in compliance with s. 943.1395. In addition, the~~
 3269 ~~member's primary duties and responsibilities must be the~~
 3270 ~~supervised custody, surveillance, control, investigation,~~
 3271 ~~apprehension, arrest, and counseling of assigned juveniles~~
 3272 ~~within the community.~~

3273 ~~(j) (k)~~ The member must have already qualified for and be
 3274 actively participating in special risk membership under
 3275 paragraph (a), paragraph (b), or paragraph (c), must have
 3276 suffered a qualifying injury as defined in this paragraph, must
 3277 not be receiving disability retirement benefits as provided in

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3278 s. 121.091(4), and must satisfy the requirements of this
 3279 paragraph.

3280 1. The ability to qualify for the class of membership
 3281 defined in paragraph (2) (h) ~~(2) (i)~~ occurs when two licensed
 3282 medical physicians, one of whom is a primary treating physician
 3283 of the member, certify the existence of the physical injury and
 3284 medical condition that constitute a qualifying injury as defined
 3285 in this paragraph and that the member has reached maximum
 3286 medical improvement after August 1, 2008. The certifications
 3287 from the licensed medical physicians must include, at a minimum,
 3288 that the injury to the special risk member has resulted in a
 3289 physical loss, or loss of use, of at least two of the following:
 3290 left arm, right arm, left leg, or right leg; and:

3291 a. That this physical loss or loss of use is total and
 3292 permanent, except if the loss of use is due to a physical injury
 3293 to the member's brain, in which event the loss of use is
 3294 permanent with at least 75 percent loss of motor function with
 3295 respect to each arm or leg affected.

3296 b. That this physical loss or loss of use renders the
 3297 member physically unable to perform the essential job functions
 3298 of his or her special risk position.

3299 c. That, notwithstanding this physical loss or loss of use,
 3300 the individual can perform the essential job functions required
 3301 by the member's new position, as provided in subparagraph 3.

3302 d. That use of artificial limbs is not possible or does not
 3303 alter the member's ability to perform the essential job
 3304 functions of the member's position.

3305 e. That the physical loss or loss of use is a direct result
 3306 of a physical injury and not a result of any mental,

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3307 psychological, or emotional injury.

3308 2. For the purposes of this paragraph, "qualifying injury"
 3309 means an injury sustained in the line of duty, as certified by
 3310 the member's employing agency, by a special risk member that
 3311 does not result in total and permanent disability as defined in
 3312 s. 121.091(4)(b). An injury is a qualifying injury if the injury
 3313 is a physical injury to the member's physical body resulting in
 3314 a physical loss, or loss of use, of at least two of the
 3315 following: left arm, right arm, left leg, or right leg.
 3316 Notwithstanding any other provision of this section, an injury
 3317 that would otherwise qualify as a qualifying injury is not
 3318 considered a qualifying injury if and when the member ceases
 3319 employment with the employer for whom he or she was providing
 3320 special risk services on the date the injury occurred.

3321 3. The new position, as described in sub-subparagraph 1.c.,
 3322 that is required for qualification as a special risk member
 3323 under this paragraph is not required to be a position with
 3324 essential job functions that entitle an individual to special
 3325 risk membership. Whether a new position as described in sub-
 3326 subparagraph 1.c. exists and is available to the special risk
 3327 member is a decision to be made solely by the employer in
 3328 accordance with its hiring practices and applicable law.

3329 4. This paragraph does not grant or create additional
 3330 rights for any individual to continued employment or to be hired
 3331 or rehired by his or her employer that are not already provided
 3332 within the Florida Statutes, the State Constitution, the
 3333 Americans with Disabilities Act, if applicable, or any other
 3334 applicable state or federal law.

3335 (5) REMOVAL OF SPECIAL RISK CLASS MEMBERSHIP.—

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3336 (b) Any member who is a special risk member on July 1,
 3337 2008, and who became eligible to participate under paragraph
 3338 ~~(3)(g)~~ ~~(3)(h)~~ but fails to meet the criteria for Special Risk
 3339 Class membership established by paragraph ~~(3)(h)~~ ~~(3)(i)~~ or
 3340 paragraph ~~(3)(i)~~ ~~(3)(j)~~ shall have his or her special risk
 3341 designation removed and thereafter shall be a Regular Class
 3342 member and earn only Regular Class membership credit. The
 3343 department may review the special risk designation of members to
 3344 determine whether or not those members continue to meet the
 3345 criteria for Special Risk Class membership.

3346 (8) SPECIAL RISK ADMINISTRATIVE SUPPORT CLASS.—

3347 (d) Notwithstanding any other provision of this subsection,
 3348 this subsection does not apply to any special risk member who
 3349 qualifies for continued membership pursuant to paragraph ~~(3)(j)~~
 3350 ~~(3)(k)~~.

3351 (10) CREDIT FOR UPGRADED SERVICE.—

3352 (c) Any member of the Special Risk Class who has earned
 3353 creditable service through June 30, 2008, in another membership
 3354 class of the Florida Retirement System in a position with the
 3355 Department of Law Enforcement or the Division of State Fire
 3356 Marshal and became covered by the Special Risk Class as
 3357 described in paragraph ~~(3)(h)~~ ~~(3)(i)~~, or with a local government
 3358 law enforcement agency or medical examiner's office and became
 3359 covered by the Special Risk Class as described in paragraph
 3360 ~~(3)(i)~~ ~~(3)(j)~~, which service is within the purview of the
 3361 Special Risk Class, and is employed in such position on or after
 3362 July 1, 2008, may purchase additional retirement credit to
 3363 upgrade such service to Special Risk Class service, to the
 3364 extent of the percentages of the member's average final

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3365 compensation provided in s. 121.091(1)(a)2. The cost for such
 3366 credit must be an amount representing the actuarial accrued
 3367 liability for the difference in accrual value during the
 3368 affected period of service. The cost shall be calculated using
 3369 the discount rate and other relevant actuarial assumptions that
 3370 were used to value the Florida Retirement System Pension Plan
 3371 liabilities in the most recent actuarial valuation. The division
 3372 shall ensure that the transfer sum is prepared using a formula
 3373 and methodology certified by an enrolled actuary. The cost must
 3374 be paid immediately upon notification by the division. The local
 3375 government employer may purchase the upgraded service credit on
 3376 behalf of the member if the member has been employed by that
 3377 employer for at least 3 years.

3378 Section 45. Subsection (5) of section 985.045, Florida
 3379 Statutes, is amended to read:

3380 985.045 Court records.—

3381 (5) This chapter does not prohibit a circuit court from
 3382 providing a restitution order containing the information
 3383 prescribed in s. 985.0301(5)(e) ~~s. 985.0301(5)(h)~~ to a
 3384 collection court or a private collection agency for the sole
 3385 purpose of collecting unpaid restitution ordered in a case in
 3386 which the circuit court has retained jurisdiction over the child
 3387 and the child's parent or legal guardian. The collection court
 3388 or private collection agency shall maintain the confidential
 3389 status of the information to the extent such confidentiality is
 3390 provided by law.

3391 Section 46. Section 985.721, Florida Statutes, is amended
 3392 to read:

3393 985.721 Escapes from secure detention or residential

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3394 commitment facility.—An escape from:

3395 (1) Any secure detention facility maintained for the
 3396 temporary detention of children, pending adjudication,
 3397 disposition, or placement;

3398 (2) Any residential commitment facility described in s.
 3399 985.03(41) ~~s. 985.03(46)~~, maintained for the custody, treatment,
 3400 punishment, or rehabilitation of children found to have
 3401 committed delinquent acts or violations of law; or

3402 (3) Lawful transportation to or from any such secure
 3403 detention facility or residential commitment facility,

3404
 3405 constitutes escape within the intent and meaning of s. 944.40
 3406 and is a felony of the third degree, punishable as provided in
 3407 s. 775.082, s. 775.083, or s. 775.084.

3408 Section 47. This act shall take effect July 1, 2014.

Page 118 of 118

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

The Florida Senate**Michael D. Crews****2014****Secretary of Corrections****Received Date:** 08/13/2013**Appointment Type:** Reappointment**Residence City:** Confidential pursuant to s. 119.071(4), F.S.**Term Begin:** 05/16/2013**Term End:** Pleasure of Governor**Board Jurisdiction:** State**Committee Referral:** Appropriations Subcommittee on Criminal and Civil Justice**Committee Referral:** Criminal Justice**Committee Referral:** Ethics and Elections**Senate Action and Date:****2013****Secretary of Corrections****Received Date:** 01/31/2013**Appointment Type:** Appointment**Residence City:** Confidential pursuant to s. 119.071(4), F.S.**Term Begin:** 12/17/2012**Term End:** Pleasure of Governor**Board Jurisdiction:** State**Committee Referral:** Appropriations Subcommittee on Criminal and Civil Justice

Agenda Date	Committee Action
03/13/2013	Recommend Confirm

Committee Referral: Criminal Justice

Agenda Date	Committee Action
04/01/2013	Recommend Confirm

Committee Referral: Ethics and Elections

Agenda Date	Committee Action
04/08/2013	Recommend Confirm

Senate Action and Date: Failed to Confirm Took No Action (05/03/2013)

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes.

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500

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

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

Michael D. Crews

is duly appointed

Secretary,

Department of Corrections

for a term beginning on the

Sixteenth day of May, A.D., 2013,

to serve at the pleasure of the Governor

and is subject to be confirmed by the Senate

during the next regular session of the Legislature.

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

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



Given under my hand and the Great Seal of the
State of Florida; at Tallahassee, the Capital, this
the Eleventh day of July, A.D., 2013.

Ken Detzner

Secretary of State

2035

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of LEON

RECEIVED
13 JUL 11 PM 1:38
DIVISION OF ELECTIONS
SECRETARY OF STATE

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

SECRETARY DEPARTMENT OF CORRECTIONS
(Title of Office)

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

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

[Signature]
Signature

Sworn to and subscribed before me this 1st day of July, 2013.

Bradie M. Strickland
Signature of Officer Administering Oath or of Notary Public

Bradie M. Strickland
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced _____



BRADIE M. STRICKLAND
MY COMMISSION # EE #42817
EXPIRES: December 2, 2014
Bonded Thru Budget Notary Services

ACCEPTANCE

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

Mailing Address: Home Office

Street or Post Office Box

City, State, Zip Code

MICHAEL D. CREWS
Print name as you desire commission issued

[Signature]
Signature



RICK SCOTT
GOVERNOR

RECEIVED
13 MAY 22 AM 10:09
DIVISION OF ELECTIONS
SECRETARY OF STATE

May 17, 2013

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

Dear Secretary Detzner:

Please be advised I have made the following reappointment under the provisions of Section 1001.71, Florida Statutes:

Mr. Michael D. Crews

as Secretary of the Department of Corrections, subject to confirmation by the Senate. This appointment is effective May 16, 2013, for a term ending at the pleasure of the Governor.

Sincerely,

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

Rick Scott
Governor

RS/vh

QUESTIONNAIRE FOR GUBERNATORIAL APPOINTMENTS

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

6/13/13

1. Name: Mr. Crews Michael Daun
MR./MRS./MS./DR. LAST FIRST MIDDLE/MAIDEN

2. Business Address: _____
STREET OFFICE #

POST OFFICE BOX STATE ZIP CODE AREA CODE/PHONE NUMBER

3. Residence Address: 1

STREET CITY COUNTY

POST OFFICE BOX STATE ZIP CODE AREA CODE/PHONE NUMBER

Specify the preferred mailing address: Business Residence Fax # (850) 487-7996

4. A. List all your places of residence for the last ten (10) years.

ADDRESS	CITY & STATE	FROM	TO
			Present

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

ADDRESS	CITY & STATE	FROM	TO

5. Date of Birth: 02/16/61 Place of Birth: Marianna, Florida
 6. Social Security Number: _____
 7. Driver License Number: _____ Issuing State: Florida

RECEIVED
 JUN 21 2013
 4:20 PM
 GOVERNOR'S OFFICE
 100 S. GONZALEZ ST.
 TALLAHASSEE, FL 32301

8. Have you ever used or been known by any other legal name? Yes No If "Yes," list and explain.

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

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1961

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

A. County of registration: Leon B. Current party affiliation: Democrat

12. Education

A. High School: Marianna High School, Marianna, Florida Year Graduated: 1979

(NAME AND LOCATION)

B. List all postsecondary educational institutions attended:

NAME & LOCATION DATES ATTENDED CERTIFICATES/DEGREES RECEIVED

George C. Wallace Community College 1979-1981

Florida State University, Tallahassee, FL 1981-1983 BS-Criminology

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

A. Dates of service: _____

B. Branch or component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) If "Yes" give details:

DATE PLACE NATURE DISPOSITION

None

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

<u>EMPLOYER'S NAME & ADDRESS</u>	<u>TYPE OF BUSINESS</u>	<u>OCCUPATION/JOB TITLE</u>	<u>PERIOD OF EMPLOYMENT</u>
Dept. of Corrections	State Corrections	Secretary	12/17/12 - Present
Dept. of Corrections	State Corrections	Deputy Secretary	11/28/11-12/17/12
FL Dept. of Law Enforcement	Law Enforcement Director/Professionalism Program		10/2/87-11/28/11

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

<u>POSITION</u>	<u>EMPLOYING AGENCY</u>	<u>PERIOD OF EMPLOYMENT</u>
Secretary 12/17/12 to present	Department of Corrections	Deputy Secretary 11/20/11-12/17/12
Professionalism Program Director	FL Dept. of Law Enforcement	10/87 - 11/2011
Auxiliary Law Enforcement	Florida Wildlife Commission	1993-95
Corrections and Correctional Probation Officer	Dept. of Corrections	7/84- 10/87

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.
 Served as the Director of the FDLE Professionalism Program 2004-11 which served as staff with the Criminal Justice Standards and Training Commission.

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

BS-Criminology
 Corrections Officer
 Correctional Probation Officer
 Law Enforcement Officer

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

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

American Correctional Association
Florida Police Chiefs Association

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

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

OFFICE TITLE	DATE OF ELECTION OR APPOINTMENT	TERM OF OFFICE	LEVEL OF GOVERNMENT
Secretary	12/17/12	Governor's Discretion	State

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

(1) How frequently were meetings scheduled: _____

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

MEETINGS ATTENDED	MEETINGS MISSED	REASON FOR ABSENCE

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

DATE	NATURE OF VIOLATION	DISPOSITION

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

A. Title of office: Secretary C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

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

- A. Title of Office: Secretary
 B. Term of Appointment: Discretion of Governor
 C. Confirmation results: Not agendaed for Senate consideration

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

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

<u>LICENSE/CERTIFICATE TITLE & NUMBER</u>	<u>ORIGINAL ISSUE DATE</u>	<u>ISSUING AUTHORITY</u>	<u>DISCIPLINARY ACTION/DATE</u>
Corrections Officer #64255	10/15/84	Criminal Justice Standards and Training Commission	None
Correctional Probation Officer	10/1/86/Grandfathered	Criminal Justice Standards and Training Commission	None
Law Enforcement Officer #137687	5/19/93	Criminal Justice Standards and Training Commission	None

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

<u>NAME OF BUSINESS</u>	<u>YOUR RELATIONSHIP TO BUSINESS</u>	<u>BUSINESS' RELATIONSHIP TO AGENCY</u>

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

<u>NAME OF BUSINESS</u>	<u>FAMILY MEMBER'S RELATIONSHIP TO YOU</u>	<u>FAMILY MEMBER'S RELATIONSHIP TO BUSINESS</u>	<u>BUSINESS' RELATIONSHIP TO AGENCY</u>

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

- A. Did you receive any compensation other than reimbursement for expenses? Yes No
 B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>AGENCY LOBBIED</u>	<u>PRINCIPAL REPRESENTED</u>
Department of Corrections	Department of Corrections

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

NAME	MAILING ADDRESS	ZIP CODE	AREA CODE/PHONE NUMBER
Wayne Quinsey			
Juanita Chastain			
Chip Brady			

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

NAME	MAILING ADDRESS	OFFICE(S) HELD & TERM	DATE(S) OF MEMBERSHIP
Florida Police Chiefs	924 N. Gadsden Street, Tallahassee	None	1997-Present
American Correctional Assoc.	206 North Washington St. Suite 200, Alexandria, VA	None	2012
International Assoc. of Directors of Law Enforcement Standards and Training			2002/11
	3287 Tasa Drive, Meridian, ID	Vice-President (1) Year	
		President (15) months	

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

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

MEMORANDUM

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



Yes, I assert that identifying information provided in this application should be excluded from inspection under Public Records Law. Please indicate what section of Florida Statutes provides this in your particular situation.

Certified Law Enforcement Officer

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

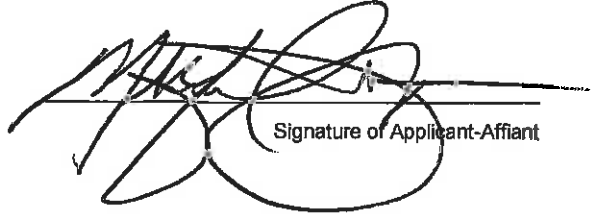
The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0158

CERTIFICATION

RECEIVED
DEPARTMENT OF STATE
2013 JUN 21 PM 4:20
DIVISION OF ELECTIONS
TALLAHASSEE, FL

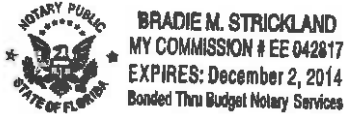
STATE OF FLORIDA, COUNTY OF LEON

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


Signature of Applicant-Affiant

Sworn to and subscribed before me
this 13th day of June, 2013

Bradie M. Strickland
Signature of Notary Public-State of Florida



Bradie M. Strickland
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: _____

Personally Known OR Produced Identification

Type of Identification Produced _____

(seal)

**The Florida Senate
Committee Notice Of Hearing**

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Michael D. Crews
Secretary of Corrections

NOTICE OF HEARING

TO: Secretary Michael D. Crews

YOU ARE HEREBY NOTIFIED that the Appropriations Subcommittee on Criminal and Civil Justice of the Florida Senate will conduct a hearing on your executive appointment on Wednesday, March 12, 2014, in the Mallory Horne Committee Room, 37 Senate Office Building, commencing at 9:00 a.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 7th day of March, 2014

Appropriations Subcommittee on Criminal and
Civil Justice



Senator Rob Bradley
As Chair and by authority of the committee

cc: Members, Appropriations Subcommittee on Criminal and Civil Justice
Office of the Sergeant at Arms

THE FLORIDA SENATE
APPEARANCE RECORD

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

12 Mch 14

Meeting Date

Topic DOC Secretary Confirmation

Bill Number _____
(if applicable)

Name Barney Bishop III

Amendment Barcode _____
(if applicable)

Job Title President & CEO

Address 204 S. Monroe Street, Suite 201

Phone 850/907-3436

Street

Tall

FL

32301

City

State

Zip

E-mail barney@smartjusticealliance.org

Speaking: For Against Information

Representing Fla. Smart Justice Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

Topic Confirmation

Bill Number _____
(if applicable)

Name Michael D. Crews

Amendment Barcode _____
(if applicable)

Job Title Secretary

Address 501 S Calhoun St

Phone 717 3030

Street

Tallahassee FL

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing DOC

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

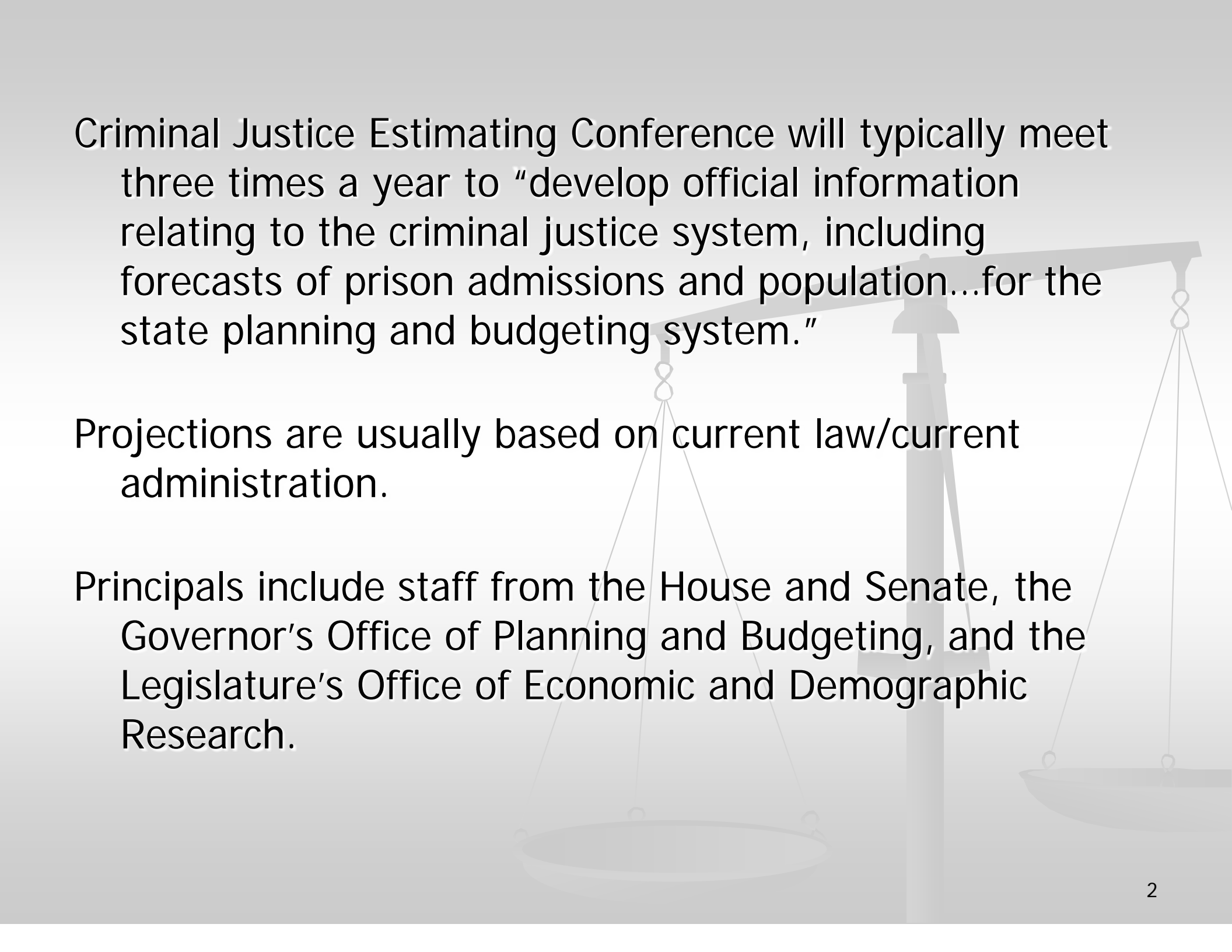
This form is part of the public record for this meeting.

S-001 (10/20/11)



Results of the February 2014 Criminal Justice Estimating Conference

Prepared by the Florida Legislature, Office of Economic and Demographic Research for
the Senate Appropriations Subcommittee on Criminal and Civil Justice, March 12, 2014



Criminal Justice Estimating Conference will typically meet three times a year to “develop official information relating to the criminal justice system, including forecasts of prison admissions and population...for the state planning and budgeting system.”

Projections are usually based on current law/current administration.

Principals include staff from the House and Senate, the Governor’s Office of Planning and Budgeting, and the Legislature’s Office of Economic and Demographic Research.

In addition, the Criminal Justice Impact Conference meets to determine the prison bed impact of proposed legislation.

Proposed legislation which creates new felony offenses or increases the penalty for existing offenses may impact the number of prison beds that are needed.

Alternatively, proposed legislation which creates diversion programs or reduces the penalty for existing offenses may impact the number of prison beds that are needed (fewer beds).

CJEC met last fall on November 20, 2013.

In November, CJEC had projected that FY 13-14 prison admissions would increase by 1.2% from FY 12-13.

In the first seven months of FY 13-14, admissions were -0.2% below FY 12-13 admissions.

CJEC met again on February 27, 2014--

After reviewing trends in various indicators, principals adopted a forecast that was lower than the one adopted in November 2013.

Four-Year Declines

■ Crime Trends

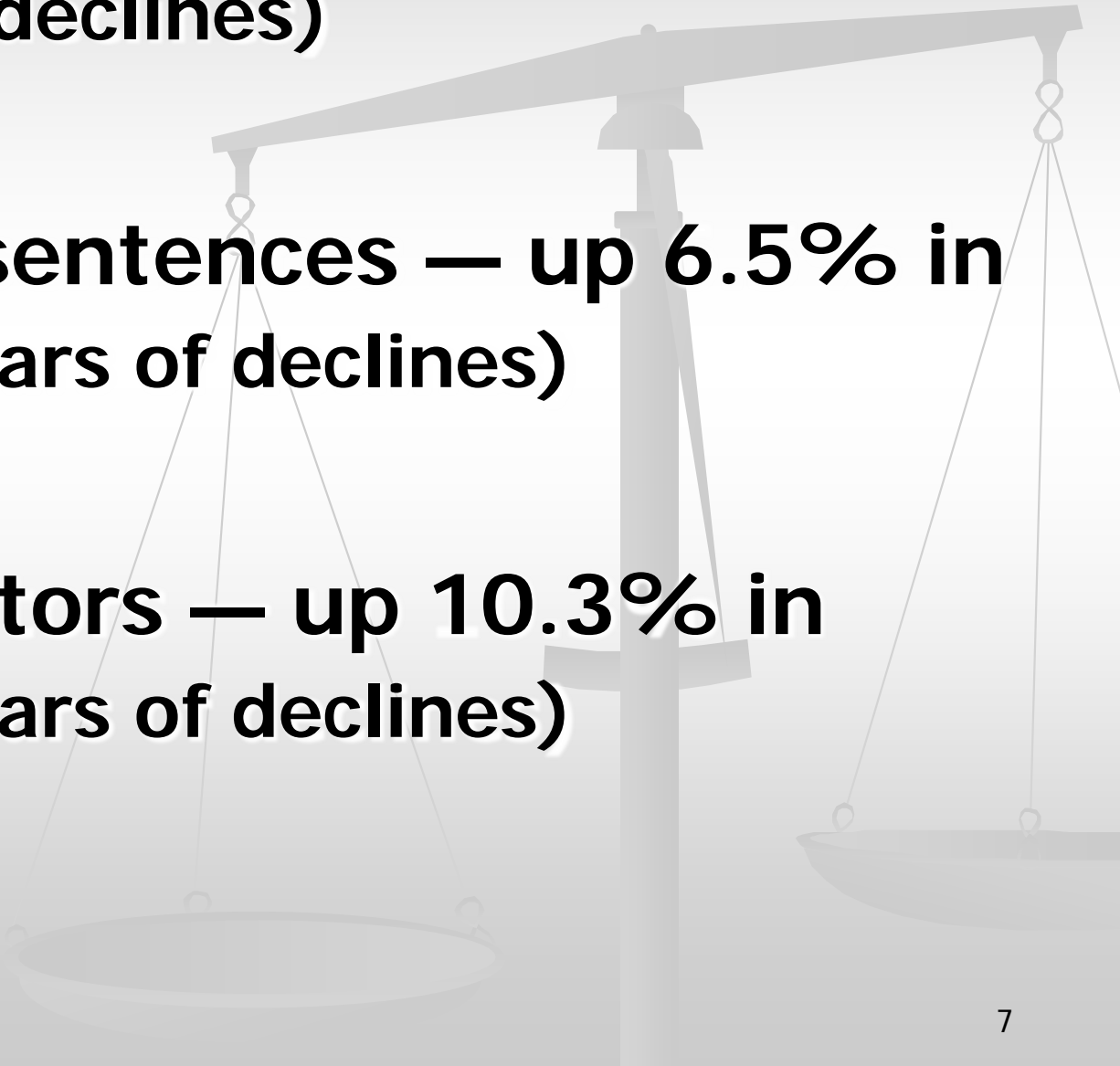
- Index crimes
- Crime rate
- Arrests

■ Judicial System Trends

- Felony filings
- Guilty dispositions



Increases after Declines

- **New Commitments — up 4.0% in 2013 (after 4 years of declines)**
 - **Year-and-day sentences — up 6.5% in 2013 (after 5 years of declines)**
 - **Technical violators — up 10.3% in 2013 (after 5 years of declines)**
- 

Current CJEC projected prison **admissions** compared to November 2013 CJEC:

- **326 for FY 13-14**
- **505 for FY 14-15**
- **506 for FY 15-16**

FY 13-14 admissions now projected to be
33,590 -- 0.2% above FY 12-13

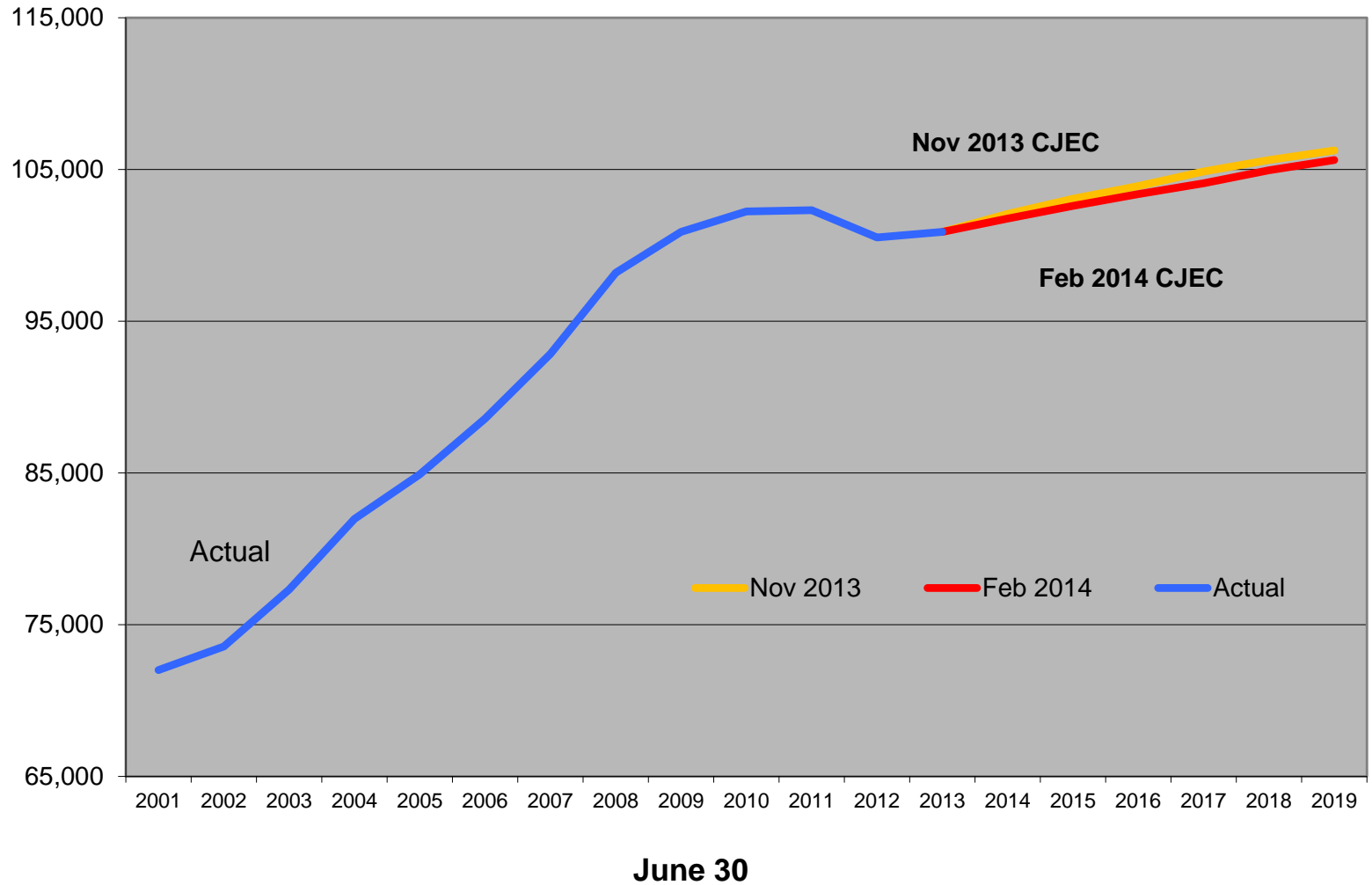
Current CJEC projected prison population compared to November's CJEC:

June 30th prison population:

- **307 for FY 13-14**
- **476 for FY 14-15**
- **529 for FY 15-16**

June 30, 2014 prison population projection
101,759

Prison Population on June 30: Actual and Projected-- November 2013 and February 2014 CJECs



For Additional Information

Florida Legislature, Office of Economic and Demographic
Research

edr.state.fl.us

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Health
and Human Services, *Chair*
Agriculture
Appropriations
Appropriations Subcommittee on Criminal and
Civil Justice
Children, Families, and Elder Affairs
Environmental Preservation and Conservation
Health Policy

SELECT COMMITTEE:

Select Committee on Patient Protection
and Affordable Care Act

SENATOR DENISE GRIMSLEY

21st District

March 10, 2014

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

Chairman Bradley,

I am writing to request permission to be excused from the Appropriations Subcommittee on Criminal and Civil Justice Committee meeting to be held on Wednesday, March 12, 2014.

Sincerely,



District 21

Cc: The Honorable Rob Bradley
Chair, the Appropriations Subcommittee on Criminal and Civil Justice

Tim Sadberry, Staff Director

REPLY TO:

- 205 South Commerce Avenue, Suite A, Sebring, Florida 33870
- 212 East Stuart Avenue, Lake Wales, Florida 33853
- 306 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: LL 37

Case:

Type:

Caption: Senate Subcommittee on Criminal and Civil Justice

Judge:

Started: 3/12/2014 9:04:57 AM

Ends: 3/12/2014 9:41:11 AM

Length: 00:36:15

9:04:59 AM Meeting Called to Order.
9:05:10 AM Chairman Bradley opens.
9:06:00 AM Sen. Grimsley is excused from meeting.
9:06:11 AM Tab 1- SB 1012 by Sen. Richter, is recognized
9:06:55 AM Sen. Richter explains the bill.
9:06:57 AM Sen. Joyner asks why it's allowable to charge those who deposited checks who members of the bank aren't.
9:08:29 AM Sen. Richter responds
9:09:26 AM Sen. Joyner asks about \$50,000 loans
9:09:41 AM Sen. Richter responds that the law allows two additional loans
9:10:20 AM Sen. Bradley addresses speaker cards.
9:10:56 AM Andy Gonzalez waives in support
9:10:59 AM Jo Morris waives in support.
9:11:17 AM Brian Pitts, trustee, Justice-2-Jesus, recognized.
9:14:31 AM Sen. Bradley
9:14:38 AM Sen. Dean asks Sen. Richter about the issue of domestic assistance.
9:15:37 AM Sen. Richter responds he knows nothing of domestic assistance.
9:15:56 AM Sen. Richter waives his close.
9:16:30 AM Sen. Bradley closes.
9:16:56 AM TAB 4- Senate Confirmation Hearing- Secretary of Corrections
9:17:05 AM Michael D. Crews, Secretary, and Department of Corrections.
9:17:08 AM Sen. Bradley swears in Mr. Crews
9:17:24 AM M. Crews thanks the board for all support. Explains the departments work.
9:23:04 AM Sen. Bradley responds about modesty, appreciates the work.
9:23:26 AM Sen. Joyner asks what the state of electronic payroll time keeping?
9:23:42 AM M. Crews responds that they've looked and are moving forward with budget and secure the opportunity in state.
9:24:17 AM Sen. Joyner asks if a timeline is established to get system set up in institutions.
9:24:22 AM M. Crews responds he hopes the end of this calendar year, it will be done.
9:25:19 AM Sen. Joyner mentions she would feel much better if when she terms out, this system is set up to help save money.
9:26:29 AM M. Crews responds that it is in face a priority and the department is moving very quickly to get it set up
9:27:03 AM Sen. Bradley comments that he wants to see it happen quickly and appreciates departments effort
9:27:33 AM Sen. Hays thanks Secretary Crews for all work and effort his department is doing.
9:28:32 AM Sen. Soto asks Sec. Crews what philosophy to get prisoners out
9:28:55 AM Sec. Crews responds that he is trying to get inmates an education so when they leave they can succeed.
9:29:56 AM Sen. Smith asks if game time was taken away for inmates obtaining GED.
9:30:48 AM Sec. Crews responds he is not aware of anything like that happening, request follow up.
9:31:17 AM Sen. Bradley recognizes public comments
9:32:09 AM Barney Bishop, President & CEO, Florida Smart Justice Alliance, recognized.
9:33:36 AM Sen. Bradley asks for anymore comments.
9:34:41 AM TAB 5- Office of Economic and Demographic Research, Criminal Justice Estimating Conference Update
9:35:12 AM Sen. Flores asks to be accounted favorably for SB 1012.
9:35:35 AM Kathy McCharen, Economist, Office of Economic & Demographic Research
9:39:16 AM Sen. Bradley thanks for update.
9:40:59 AM Meeting Adjourned.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/12/2014

Meeting Date

Topic _____

Bill Number SB1012

(if applicable)

Name Jo Morris

Amendment Barcode _____

(if applicable)

Job Title Legislative Affairs Director

Address 200 E. Gaines St.

Phone _____

Street

Tallahassee

FL

32399

E-mail _____

City

State

Zip

Speaking: For Against Information

Representing Office of Financial Regulation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/12/14

Meeting Date

Topic Financial Institutions

Bill Number 1012

(if applicable)

Name Andy Gonzalez

Amendment Barcode _____

(if applicable)

Job Title Legislative Affairs

Address 3692 Coolidge Ct

Phone (850)345-7795

Street

Tallahassee

FL

32311

E-mail andy.gonzalez@scu.com

City

State

Zip

Speaking: For Against Information

Representing Florida Credit Union Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/12/2014

Meeting Date

Topic _____ Bill Number 1012
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705
City State Zip
Speaking: For Against Information
Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/12/2014

Meeting Date

Topic _____ Bill Number 364
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705
City State Zip
Speaking: For Against Information
Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/12/2014
Meeting Date

Topic _____ Bill Number 700
(if applicable)
Name BRIAN PITTS Amendment Barcode _____
(if applicable)
Job Title TRUSTEE
Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street
SAINT PETERSBURG FLORIDA 33705
City State Zip
E-mail JUSTICE2JESUS@YAHOO.COM
Speaking: For Against Information
Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/12/2014
Meeting Date

Topic Juvenile Justice Bill Number SB 700
(if applicable)
Name Cathy Craig-Myers Amendment Barcode _____
(if applicable)
Job Title Executive Director
Address 3333 W Pasauka Phone 877 671-3422
Street
Tallahassee FL 32309
City State Zip
E-mail craigcfjja.org
Speaking: For Against Information
Representing Florida Juvenile Justice Assn

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

March 12, 2014

Meeting Date

Topic Chapter 985 Bill Number 700
(if applicable)
Name Nancy Daniels Amendment Barcode _____
(if applicable)
Job Title Public Defender, 2nd Judicial Circuit
Address 301 S. Monroe Street Phone 850-606-1000
Street
Tallahassee Florida 32301
City State Zip
Speaking: For Against Information

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-12-14

Meeting Date

Topic DJS-985 rewrite Bill Number 700C1
(if applicable)
Name B. Il Cervone Amendment Barcode _____
(if applicable)
Job Title STATE ATTORNEY - 8 CIR
Address 120 W UNIVERSITY AVE Phone 352-374-3686
Street
Gainesville FL 32601
City State Zip
Speaking: For Against Information

Representing Florida Prosecuting Atty Association

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/12/14

Meeting Date

Topic CJEC results

Bill Number
(if applicable)

Name Kathy McCharen

Amendment Barcode
(if applicable)

Job Title Economist

Address 111 W. Madison St.

Phone 487-1402

Street
Tallahassee FL 32303
City State Zip

E-mail mccharen.kathy@leg.state.fl.us

Speaking: For Against Information

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)