

Tab 1	CS/SB 306 by CJ, Boyd (CO-INTRODUCERS) Hooper, Stewart; (Similar to CS/H 00185) Catalytic Converters									
846796	D	S	RCS	ACJ, Boyd	Delete everything after	03/15	02:13	PM		
Tab 2	CS/SB 382 by CJ, Bradley; (Similar to CS/H 00043) Compensation for Wrongfully Incarcerated Persons									
Tab 3	SB 508 by Rouson; (Identical to H 01227) Problem-solving Courts									

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

MEETING DATE: Tuesday, March 14, 2023

TIME: 1:30—3:30 p.m.

PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Bradley, Chair; Senator Powell, Vice Chair; Senators Baxley, Burgess, Hooper, Ingoglia, Martin, Pizzo, Rouson, Torres, Wright, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 306 Criminal Justice / Boyd (Similar CS/H 185)	Catalytic Converters; Prohibiting a secondary metals recycler from processing or removing a catalytic converter from the recycler's place of business for a specified period; creating the "Catalytic Converter Antitheft Act"; requiring certain records regarding a transaction involving a detached catalytic converter to be maintained for a specified period; providing prohibitions regarding the possession, purchase, sale, or installation of a stolen, detached, or altered catalytic converter; providing criminal penalties, etc. CJ 02/14/2023 Fav/CS ACJ 03/14/2023 Fav/CS FP	Fav/CS Yeas 12 Nays 0
2	CS/SB 382 Criminal Justice / Bradley (Similar CS/H 43)	Compensation for Wrongfully Incarcerated Persons; Revising requirements for when a petition seeking compensation must be filed; providing that a deceased person's heirs, successors, or assigns do not have standing to file such a petition; revising compensation eligibility requirements; revising requirements for awarding compensation, etc. CJ 03/06/2023 Fav/CS ACJ 03/14/2023 Favorable FP	Favorable Yeas 12 Nays 0
3	SB 508 Rouson (Identical H 1227)	Problem-solving Courts; Revising the responsibilities of coordinators of treatment-based drug court programs; requiring such programs to collect specified data and information for certain purposes; requiring such programs to annually report certain information and data to the Office of the State Courts Administrator; authorizing courts to determine how long a person may be admitted into certain programs; revising admission requirements for certain programs; revising eligibility requirements for voluntary admission into certain substance abuse programs, etc. JU 03/07/2023 Favorable ACJ 03/14/2023 Favorable FP	Favorable Yeas 12 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Committee on Criminal and Civil Justice
Tuesday, March 14, 2023, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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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 Committee on Criminal and Civil Justice

BILL: CS/CS/SB 306

INTRODUCER: Appropriations Committee on Criminal and Civil Justice; Criminal Justice Committee;
and Senators Boyd and others

SUBJECT: Catalytic Converters

DATE: March 16, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Stokes</u>	<u>CJ</u>	Fav/CS
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	Fav/CS
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 306 creates the Catalytic Converter Antitheft Act, which addresses tampering with and theft of a catalytic converter, a device the bill defines as an emission control device that is designed to be installed and operate in a motor vehicle to convert toxic gases and pollutants in the motor vehicle's exhaust system into less toxic substances via chemical reaction. There have been numerous incidents throughout the United States of catalytic converters being detached from motor vehicles and stolen due to precious metals contained in the devices.

The bill requires recordkeeping and records inspection and disclosure regarding certain transactions involving a catalytic converter, and punishes certain unlawful transactions involving a catalytic converter. Specifically, the bill:

- Defines key terms;
- Limits purchase of a detached catalytic converter to a registered secondary metals recycler and requires that this recycler comply with statutory recordkeeping and other requirements;
- Provides that it is a third degree felony to knowingly possess, purchase, sell, or install a stolen catalytic converter, a catalytic converter removed from a stolen vehicle, a new or detached catalytic converter from which specified information has been removed, or a detached catalytic converter without proof of ownership (with exceptions).
- Provides that it is a second degree felony to knowingly import, manufacture, purchase for the purpose of reselling, etc., a counterfeit, fake, or nonfunctional catalytic converter;

- Provides that proof that a person was in possession of two or more detached catalytic converters, unless satisfactorily explained, gives rise to an inference that the person in possession of the catalytic converters knew or should have known that the catalytic converters may have been stolen or fraudulently obtained; and
- Prohibits a secondary metals recycler from processing or removing from the recycler's place of business a catalytic converter the recycler has purchased for a period of 10 business days after the date of purchase. This prohibition does not apply to a purchase from another secondary metals recycler, a salvage motor vehicle dealer, or a person or entity except under s. 538.22, F.S.

The Legislature's Office of Economic and Demographic Research preliminarily estimated that the original bill would have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds). See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

II. Present Situation:

Theft of Catalytic Converter

The U.S. Justice Department has described a catalytic converter as "a component of an automotive vehicle's exhaust device that reduce the toxic gas and pollutants from a vehicle's internal combustion engine into safe emissions."¹ The reason why catalytic converters are tampered with (detached) and stolen is the high volume of precious metals in the center or "core" of the converter, "especially the precious metals palladium, platinum, and rhodium."²

Some of these precious metals are more valuable per ounce than gold and their value has been increasing in recent years. The black-market price for catalytic converters can be above \$1,000 each, depending on the type of vehicle and what state it is from. They can be stolen in less than a minute. Additionally, catalytic converters often lack unique serial numbers, VIN information, or other distinctive identification features, making them difficult to trace to their lawful owner. Thus, the theft of catalytic converters has become increasingly popular because of their value, relative ease to steal, and their lack of identifying markings.³

¹ Press Release: *Justice Department Announces Takedown of Nationwide Catalytic Converter Theft Ring* (Nov. 2, 2022), available at <https://www.justice.gov/opa/pr/justice-department-announces-takedown-nationwide-catalytic-converter-theft-ring> (last visited on Feb. 3, 2023). "A catalyst is a device installed in the exhaust system of a vehicle. It treats and eliminates harmful pollution produced in the vehicle's engine, and is a type of device commonly referred to as an 'after-treatment system.' Automakers install catalysts in their new vehicles to meet tailpipe emissions standards (commonly referred to as 'OEM catalysts', which stands for original equipment manufacturer)." *Notice of Availability of EPA Tampering Policy and Request for Information Regarding 1986 Catalyst Policy*, U.S. Environmental Protection Agency (Dec. 14, 2020), 85 FR 80782, available at <https://www.federalregister.gov/documents/2020/12/14/2020-27433/notice-of-availability-of-epa-tampering-policy-and-request-for-information-regarding-1986-catalyst> (last visited on Feb. 3, 2023).

² *Id.*

³ *Id.*

There do not appear to be any official national or statewide data on the number of catalytic converter thefts. However, the National Insurance Crime Bureau, a not-for-profit organization that assists insurers, law enforcement, and representatives of the public in preventing and combatting insurance fraud and crime, reports: “In 2018, there were 1,298 catalytic converter thefts for which a claim was filed. In 2019, it was 3,389 thefts with a claim. In 2020, catalytic converter theft claims jumped massively to 14,433, a 325% increase in a single year.”⁴

The Congressional Research Service reports that “the National Highway Traffic Safety Administration ... issued a Federal Motor Vehicle Theft Standard, which requires manufacturers to apply or stamp a car’s unique Vehicle Identification Number (VIN) on the engine, transmission, and a dozen other major vehicle parts so law enforcement agencies can better identify vehicles from which the parts were stolen. However, the standard does not require automakers to stamp identification numbers on catalytic converters.”⁵

Federal Law on Tampering with Catalytic Converters

According to the U.S. Environmental Protection Agency (EPA), tampering with a catalytic converter “is illegal under federal law[.]” The EPA cites to a 1990 amendment to Part A of Title II of the Clean Air Act (42 U.S.C. s. 7521-7554) which was codified at 42 U.S.C. s. 7522(a)(3)), and which broadened earlier federal tampering provisions to apply them to “everyone, including car owners.”⁶

The Congressional Research Service cites the following federal criminal statutes that authorize federal law enforcement agencies to investigate vehicle or vehicle part theft but notes this theft does not appear to be a priority for these agencies:

- 18 U.S.C. s. 2312, which punishes transportation of a stolen motor vehicle in interstate commerce;
- 18 U.S.C. s. 2313, which punishes receiving, possessing, concealing, storing, bartering, selling, or disposing of a stolen car that has crossed state lines;
- 18 U.S.C. s. 2321, which punishes buying, receiving, possessing, or obtaining control of a car part, with the intent to sell or otherwise dispose of it, if the person knows that the identification number was removed, obliterated, tampered with, or altered; and
- 18 U.S.C. s. 2322, which punishes operating, owning, maintaining, or controlling a chop shop or conducting operations in a chop shop.⁷

⁴ *Catalytic Converter Thefts Skyrocket Across the Nation*, National Insurance Crime Bureau, available at <https://www.nicb.org/news/blog/catalytic-converter-thefts-skyrocket-across-nation> (last visited on Feb. 3, 2023). The organization is not representing that it is reporting all catalytic converter theft for the relevant time period noted.

⁵ *Addressing Catalytic Converter Theft*, IF118700 (July 6, 2021), Congressional Research Service, available at <https://crsreports.congress.gov/product/pdf/IF/IF11870/2> (last visited on Feb 3, 2023).

⁶ *Frequent Questions related to Transportation, Air Pollution, and Climate Change*, U.S. Environmental Protection Agency, available at <https://www.epa.gov/transportation-air-pollution-and-climate-change/frequent-questions-related-transportation-air> (last visited on Feb. 3, 2023). The EPA further notes: “The resale of a vehicle which has already had the catalytic converter removed is not specifically addressed by federal law. Therefore, the person who removed the converter violated federal law, but not necessarily the person who sold the vehicle. However, the sale of vehicles that have had the emission control system removed, disabled, or tampered with may be further governed by state or local laws.” *Id.*

⁷ *Addressing Catalytic Converter Theft*, IF118700 (July 6, 2021), Congressional Research Service, available at <https://crsreports.congress.gov/product/pdf/IF/IF11870/2> (last visited on Feb 3, 2023).

National Motor Vehicle Title Information System and Catalytic Converter Theft

The National Motor Vehicle Title Information System (NMVTIS) was established by federal law “to protect consumers from fraud and unsafe vehicles and to keep stolen vehicles from being resold.”⁸ The U.S. Department of Justice says the NMVTIS is “a tool that assists local, state, and federal law enforcement in investigating, deterring, and preventing vehicle-related crimes.”⁹ The NMVTIS is “[a]dministered by the American Association of Motor Vehicle Administrators” and “requires regular reporting by scrap recyclers and salvage yards”¹⁰

Florida Law

Section 812.014(1), F.S., provides that a person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.

The statute, in part, provides for escalating punishment for grand theft based on the property value range applicable to the value of the property stolen in the theft.

Grand theft is theft of property valued at \$750 or more. If the property stolen is valued at:

- \$750 or more, but less than \$5,000, it is grand theft of the third degree and a Level 2¹¹ third degree felony;¹²
- \$5,000 or more, but less than \$10,000, it is grand theft of the third degree and a Level 3 third degree felony;¹³
- \$10,000 or more, but less than \$20,000, it is grand theft of the third degree and a Level 4 third degree felony;¹⁴

⁸ *Law Enforcement*, National Motor Vehicle Title Information System, U.S. Department of Justice, available at https://vehiclehistory.bja.ojp.gov/nmvtis_law_enforcement (last visited on Feb. 3, 2023). The Congressional Research Service says the federal law has facilitated “identifying stolen vehicle parts.” *Addressing Catalytic Converter Theft*, IF118700 (July 6, 2021), Congressional Research Service, available at <https://crsreports.congress.gov/product/pdf/IF/IF11870/2> (last visited on Feb 3, 2023).

⁹ *Id.*

¹⁰ *Consumers Don’t Be Fooled. Protect Yourself*, National Motor Vehicle Title Information System, U.S. Department of Justice, available at <https://vehiclehistory.bja.ojp.gov/> (last visited on Feb. 3, 2023).

¹¹ The Criminal Punishment Code (Code) (ss. 921.002-921.0027, F.S.) is Florida’s primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10). Section 921.0022(2), F.S. Points are assigned and accrue based upon the offense severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Section 921.0024, F.S. Sentence points escalate as the severity level escalates. These points are relevant to determining whether the offender scores a prison sentence as the minimum sentence, and if so scored, the length of that sentence. *Id.* The offense severity ranking is either assigned by specifically ranking the offense in the Code offense severity level chart (s. 921.0022(3), F.S) or ranking the offense by “default” based on its felony degree (s. 921.0023, F.S.).

¹² Sections 812.014(2)(c)1. and 921.0022(3)(b), F.S. A third degree felony is generally punishable by not more than five years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S. *But see* ss. 775.082(10) and 921.00241, F.S. (prison diversion).

¹³ Sections 812.014(2)(c)2. and 921.0022(3)(c), F.S.

¹⁴ Sections 812.014(2)(c)3. and 921.0022(3)(d), F.S.

- \$20,000 or more, but less than \$100,000, it is grand theft of the second degree and a Level 6 second degree felony;¹⁵ and
- \$100,000 or more, it is grand theft of the first degree and a Level 7 first degree felony.¹⁶

It is also grand theft of the third degree, a third degree felony, to commit theft of any item specified in s. 812.014(1)(c)1.-13., F.S. (e.g., theft of a will, firearm, fire extinguisher, or stop sign).¹⁷

A catalytic converter is not an item specified in s. 812.014(1)(c)1.-13., F.S., so theft of a catalytic converter would be punished as either petit theft or grand theft based on the value of the device. For example, if the value of the catalytic converter stolen is \$1,000, the theft of this device is a grand theft of the third degree, which is a Level 2 third degree felony. The offender who commits this offense is unlikely to receive a prison sentence absent the commission of an additional offense, prior criminal history, or other factors that score enough sentence points to make the offender eligible for a prison sentence.¹⁸

Tampering with a Catalytic Converter and Related Offenses

Section 316.2935, F.S., addresses a motor vehicle's air pollution control device or system and tampering with that device. This section defines "tampering" as the dismantling, removal, or rendering ineffective of any air pollution control device or system which has been installed on a motor vehicle by the vehicle manufacturer except to replace such device or system with a device or system equivalent in design and function to the part that was originally installed on the motor vehicle.¹⁹

At the time of sale, lease, or transfer of title of a motor vehicle, the seller, lessor, or transferor must certify in writing to the purchaser, lessee, or transferee that the air pollution control equipment of the motor vehicle has not been tampered with by the seller, lessor, or transferor or their agents, employees, or other representatives.²⁰ A licensed motor vehicle dealer must also visually observe those air pollution control devices listed by rule of the Florida Department of

¹⁵ Sections 812.014(2)(b)1. and 921.0022(3)(f), F.S. A second degree felony is punishable by not more than 15 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

¹⁶ Sections 812.014(2)(a)1. and 921.0022(3)(g), F.S. A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding \$10,000.

¹⁷ Section s. 812.014(1)(c)4., 5., 8., and 11., F.S.

¹⁸ A Level 2 offense alone would not score more than 22 sentence points. See s. 921.0024(1)(a), F.S. Section 775.082(10), F.S., provides that a defendant must be sentenced to a nonstate prison sanction, which could include jail, if the defendant's offense was committed on or after July 1, 2009, is a third degree felony but not a forcible felony as defined in s. 776.08, F.S., and excluding any third degree felony violation under chapter 810, F.S., and if the total sentence points pursuant to s. 921.0024, F.S., are 22 points or fewer. Theft is not a forcible felony. Although subsection (10) provides that "the court" may impose a prison sentence if it makes written findings that a nonstate prison sanction could present a danger to the public, the Florida Supreme Court has held that this finding must be made by a jury. See *Brown v. State*, 260 So. 3d 147, 150–51 (Fla. 2018).

¹⁹ Section 316.2935(1)(a), F.S.

²⁰ Section 316.2935(1)(b), F.S.

Environmental Protection (DEP),²¹ and certify that they are in place, and appear properly connected and undamaged.²²

It is a second degree misdemeanor²³ (first violation) or first degree misdemeanor²⁴ (second or subsequent violation) for any person or motor vehicle dealer to knowingly and willfully offer or display for retail sale or lease, sell, lease, or transfer title to, a motor vehicle in Florida that has been subject to tampering.²⁵

It is a noncriminal traffic infraction for a person to operate any gasoline-powered motor vehicle, except a motorcycle, moped, scooter, or an imported nonconforming motor vehicle which has received a one-time exemption from federal emission control requirements under 40 C.F.R. 85, subpart P,²⁶ on the public roads and streets of this state which emits visible emissions from the exhaust pipe for more than a continuous period of 5 seconds. Further, a person may not operate on the public roads or streets of this state any motor vehicle that has been subject to tampering.²⁷

Salvage Motor Vehicle Dealer Requirements Relating to Major Component Parts

Section 319.30(j), F.S., defines a “major component part.” Relevant to motor vehicles and trucks, this definition includes a catalytic converter.²⁸ Section 319.30, F.S., in part, requires a salvage motor vehicle dealer to record the date of purchase of a major component part and the name, address, and personal identification card number of the person selling such part, as well as the vehicle identification number, if available. The dealer must also obtain such documentation as may be required by s. 319.30(2), F.S., which, in part, requires the dealer to notify the National Motor Vehicle Title Information System and provide certain information when a motor vehicle is sold, transported, delivered to, or received by a salvage motor vehicle dealer or a derelict motor vehicle is sold, transported, or delivered to a licensed salvage motor vehicle dealer.²⁹

Recordkeeping Requirements for Secondary Metals Recyclers

Section 538.19, F.S., requires a secondary metals recycler to maintain a legible paper record and to maintain and transmit an electronic record³⁰ of all purchase transactions to which such secondary metals recycler is a party. This section specifies when the electronic record must be

²¹ Rule 62-243.500, F.A.C. (“Certification”).

²² Section 316.2935(1)(b), F.S.

²³ A second degree misdemeanor is punishable by a term of not more than 60 days in county jail and a fine not exceeding \$500. Sections 775.082 and 775.083, F.S.

²⁴ A first degree misdemeanor is punishable by a term of not more than one year in county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

²⁵ Section 316.2935(1)(a) and (5)(a) and (b), F.S. Motor vehicles sold, reassigned, or traded to a licensed motor vehicle dealer are exempt from this paragraph. Section 316.2935(1)(a), F.S.

²⁶ This federal regulation involves imported motor vehicles and motor vehicle engines.

²⁷ Section 316.2935(2), F.S. Additionally, it is a noncriminal traffic infraction for a person to operate on the public roads or streets of this state any diesel-powered motor vehicle which emits visible emissions from the exhaust pipe for more than a continuous period of 5 seconds, except during engine acceleration, engine lugging, or engine deceleration. Section 316.2935(3), F.S.

²⁸ Section 319.30(j)1. and 2., F.S.

²⁹ Section 319.30(6)(a), F.S. Any person who violates subsection (6) commits a third degree felony. Section 319.30(6)(b), F.S.

³⁰ Section 538.19(1), F.S. The electronic record format must be approved by the Florida Department of Law Enforcement. *Id.*

submitted to the appropriate law enforcement official. This electronic record does not contain the price paid for the items; the original transaction form must include the price paid for the items.³¹

The following information must be maintained on the form approved by the Florida Department of Law Enforcement for each purchase transaction:

- The name and address of the secondary metals recycler.
- The name, initials, or other identification of the individual entering the information on the ticket.
- The date and time of the transaction.
- The weight, quantity, or volume, and a description of the type of regulated metals property purchased in a purchase transaction.
- The amount of consideration given in a purchase transaction for the regulated metals property.
- A signed statement from the person delivering the regulated metals property stating that she or he is the rightful owner of, or is entitled to sell, the regulated metals property being sold.
- The distinctive number from the personal identification card of the person delivering the regulated metals property to the secondary metals recycler.
- A description of the person from whom the regulated metals property was acquired, including:
 - Full name, current residential address, workplace, and home and work phone numbers.
 - Height, weight, date of birth, race, gender, hair color, eye color, and any other identifying marks.
 - The right thumbprint, free of smudges and smears.
 - Vehicle description to include the make, model, and tag number of the vehicle and trailer of the person selling the regulated metals property.
 - Any other information required by the form approved by the Florida Department of Law Enforcement.
- A photograph, videotape, or digital image of the regulated metals being sold.
- A photograph, videotape, or similar likeness of the person receiving consideration in which such person's facial features are clearly visible.³²

A secondary metals recycler complies with the informational requirements of this section if it maintains an electronic database containing the information previously described as long as that information, along with an electronic oath of ownership with an electronic signature of the seller of the secondary metals being purchased by the secondary metals recyclers and an electronic image of the seller's right thumbprint that has no smudges and smears, can be downloaded onto a paper form in the image of the form approved by the Florida Department of Law Enforcement.³³

A secondary metals recycler must maintain or cause to be maintained the information required by this section for not less than 3 years from the date of the purchase transaction.³⁴

³¹ *Id.*

³² Section 538.19(2), F.S.

³³ Section 538.22, F.S., provides that part II of ch. 538, F.S., relating to secondary metals recyclers, does not apply to purchase of regulated metals property from certain persons like a law enforcement officer performing the officer's official duties. Section 538.19(3), F.S.

³⁴ Section 538.19(4), F.S.

Unlawful Acts by a Secondary Metal Recycler That May Involve Catalytic Converter Theft

Section 538.26, F.S., addresses unlawful acts by a secondary metal recycler. A secondary metal recycler is a person who:

- Is engaged, from a fixed location, in the business of purchase transactions or gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value; or
- Has facilities for performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value, other than by the exclusive use of hand tools, by methods including, without limitation, processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content thereof.

With some exclusions, “regulated metals property” is any item composed primarily of any nonferrous metals.³⁵ “Restricted regulated metals property” are any regulated metals property listed in s. 538.26(5)(b), F.S., the sale of which is restricted as provided in s. 538.26(5)(a), F.S.³⁶

Among the regulated metals property listed in s. 538.26(5)(b), F.S., as restricted regulated metals property is a catalytic converter or any nonferrous part of a catalytic converter unless purchased as part of a motor vehicle.³⁷ It is a first degree misdemeanor for a secondary metals recycler to purchase or allow the purchase of this device unless the recycler obtains reasonable proof that the seller:

- Owns such property. Reasonable proof of ownership may include, but is not limited to, a receipt or bill of sale; or
- Is an employee, agent, or contractor of the property’s owner who is authorized to sell the property on behalf of the owner. Reasonable proof of authorization to sell the property includes, but is not limited to, a signed letter on the owner’s letterhead, dated no later than 90 days before the sale, authorizing the seller to sell the property.³⁸

It is a third degree felony or second degree felony (third or subsequent violation) for a secondary metals recycler to knowingly and intentionally:

- Violate s. 538.20, F.S., relating to law enforcement inspection of regulated property and records, or s. 538.21, F.S., relating to law enforcement’s issuance of a hold notice to a secondary metals recycler on regulated metals property in the recycler’s possession that law enforcement reasonably believes is stolen;

³⁵ Section 538.18(9), F.S. “Ferrous metals” are metals containing significant quantities of iron and steel. Section 538.18(3), F.S.

³⁶ Section 538.18(10), F.S.

³⁷ Section 538.26(5)(b)13., F.S.

³⁸ Sections 538.26(5) and 538.15, F.S.

- Purchase restricted regulated metals property from any seller who presents such property for sale at the registered location of the secondary metals recycler when such property was not transported in a motor vehicle; or
- Accept cash in any amount for the purchase of restricted regulated metals property or in a manner other than specified in s. 538.235(3), F.S.³⁹

Any person who knowingly gives false verification of ownership or who gives a false or altered identification and who receives money or other consideration from a secondary metals recycler in return for regulated metals property commits:

- A third degree felony if the value of the money or other consideration received is less than \$300; or
- A second degree felony if the value of the money or other consideration received is \$300 or more.⁴⁰

III. Effect of Proposed Changes:

The bill creates s. 860.142, F.S., the title of which is the “Catalytic Converter Antitheft Act.” The bill addresses tampering with and theft of a catalytic converter, a device the bill defines as an emission control device that is designed to be installed and operate in a motor vehicle to convert toxic gases and pollutants in the motor vehicle’s exhaust system into less toxic substances via chemical reaction.

The bill provides that a person may not knowingly purchase a detached catalytic converter⁴¹ unless he or she is a registered secondary metals recycler.

The bill requires a registered secondary metals recycler who purchases a detached catalytic converter to comply with recordkeeping requirements in s. 538.19, F.S., and other requirements in s. 538.26, F.S.⁴² The recycler is subject to first degree misdemeanor, third degree felony, or second degree felony penalties for noncompliance, depending on the requirement or number of violations.⁴³

The bill provides that it is a third degree felony for a person to knowingly possess, purchase, sell, or install a:

- Stolen catalytic converter;
- Catalytic converter that has been removed from a stolen motor vehicle;
- New or detached catalytic converter from which the manufacturer’s part identification number, aftermarket identification number, or owner-applied number has been removed, altered, or defaced; or

³⁹ Section 538.23(1), F.S.

⁴⁰ Section 538.23(3), F.S.

⁴¹ The bill defines “detached catalytic converter” as a catalytic converter that has been removed from a motor vehicle.

⁴² See “Present Situation” section of this analysis for details on those requirements.

⁴³ See ss. 538.07, 538.23, and 538.26, F.S.

- Detached catalytic converter without proof of ownership, unless the person is a registered secondary metals recycler, a salvage motor vehicle dealer, or meets the criteria for exemption provided in s. 538.22, F.S.⁴⁴

The bill provides that proof that a person was in possession of two or more detached catalytic converters, unless satisfactorily explained, gives rise to an inference that the person in possession of the catalytic converters knew or should have known that the catalytic converters may have been stolen or fraudulently obtained.⁴⁵

The bill also creates s. 860.142, F.S., which provides that it is a second degree felony for a person to knowingly import, manufacture, purchase for the purpose of reselling or installing, sell, offer for sale, or install, or reinstall in a motor vehicle a counterfeit,⁴⁶ fake,⁴⁷ or nonfunctional catalytic converter.⁴⁸

The bill also amends s. 538.26, F.S., to prohibit a secondary metals recycler from processing or removing from the recycler's place of business a detached catalytic converter the recycler has purchased for a period of 10 business days after the date of purchase. This prohibition does not apply to a purchase from another secondary metals recycler, a salvage motor vehicle dealer, or a person or entity exempt under s. 538.22, F.S.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Art. VII, s. 18, of the Florida Constitution.

⁴⁴ Section 538.22, F.S., provides that part II of ch. 538, F.S., relating to secondary metals recyclers, does not apply to purchases of regulated metals property from a list of persons and entities including a law enforcement officer acting in an official capacity.

⁴⁵ In criminal law, a "permissive inference" is legally permissible if it "allows, but does not require, the trier of fact to infer the elemental fact from proof of a basic fact and does not place any burden on the defendant. In this situation, the basic fact may constitute prima facie evidence of the elemental fact." *State v. Rygwelski*, 899 So.2d 498, 501 (Fla. 2d DCA 2005) (citations omitted).

⁴⁶ The bill defines "counterfeit catalytic converter" as a catalytic converter displaying a mark identical or similar to the genuine mark of a catalytic converter manufacturer or motor vehicle manufacturer without authorization from such manufacturer.

⁴⁷ The bill defines "fake catalytic converter" as an item, other than a catalytic converter designed in accordance with United States Environmental Protection Agency regulations for a given make, model, and year of motor vehicle as part of a motor vehicle emission control system, including a counterfeit or nonfunctional catalytic converter, which is used to replace a legitimate, functional catalytic converter. A "nonfunctional catalytic converter" is a replacement catalytic converter that: was previously recalled or damaged; or includes a part or object, including, but not limited to, a counterfeit or repaired catalytic converter, installed in a motor vehicle to mislead the owner or operator of such motor vehicle to believe that a functional catalytic converter has been installed.

⁴⁸ The bill defines "nonfunctional catalytic converter" as a replacement catalytic converter that: was previously recalled or damaged; or includes a part or object, including, but not limited to, a counterfeit or repaired catalytic converter, installed in a motor vehicle to mislead the owner or operator of such motor vehicle to believe that a functional catalytic converter has been installed.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. The Legislature's Office of Economic and Demographic Research (EDR) preliminarily estimated that the original bill would have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds).⁴⁹ According to the EDR, there is no data on how many stolen catalytic converters have been sold in the manner described in the newly-created felonies created by the bill, "nor is there data available on the sales of counterfeit, detached, fake, or junk-filled catalytic converters."⁵⁰

VI. Technical Deficiencies:

None.

⁴⁹ *HB 185 – Catalytic Converters (Similar SB 306)*, Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).

⁵⁰ *Id.*

VII. Related Issues:

According to the Insurance Information Institute, 26 states proposed bills in 2021 to help curb theft of catalytic converters.⁵¹

VIII. Statutes Affected:

This bill substantially amends section 538.26 of the Florida Statutes.

This bill creates sections 860.142 and 860.147 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 Appropriations Committee on Criminal and Civil Justice on March 14, 2023:

The committee substitute:

- Limits purchase of a detached catalytic converter to a registered secondary metals recycler and requires that this recycler comply with statutory recordkeeping and other requirements;
- Provides that it is a third degree felony to knowingly possess, purchase, sell, or install a stolen catalytic converter, a catalytic converter removed from a stolen vehicle, a new or detached catalytic converter from which specified information has been removed, or a detached catalytic converter without proof of ownership (with exceptions);
- Provides that it is a second degree felony to knowingly import, manufacture, purchase for the purpose of reselling, etc., a counterfeit, fake, or nonfunctional catalytic converter;
- Provides that proof that a person was in possession of two or more detached catalytic converters, unless satisfactorily explained, gives rise to an inference that the person in possession of the catalytic converters knew or should have known that the catalytic converters may have been stolen or fraudulently obtained; and
- Prohibits a secondary metals recycler from processing or removing from the recycler's place of business a catalytic converter the recycler has purchased for a period of 10 business days after the date of purchase. This prohibition does not apply to a purchase from another secondary metals recycler, a salvage motor vehicle dealer, or a person or entity exempt under s. 538.22, F.S.

CS by Criminal Justice on February 14, 2023:

The CS prohibits a secondary metals recycler from processing or removing from the recycler's place of business a catalytic converter the recycler has purchased for a period

⁵¹ Jeff Dunsavage. *Catalytic Converter Thefts Up, Spurring Lawmakers to Act* (Jan. 9, 2023), Insurance Information Institute, available at <https://www.iii.org/insuranceindustryblog/catalytic-converter-thefts-up-spurring-action-from-lawmakers/> (last visited on March 13, 2023).

of 10 business days after the date of purchase. This prohibition does not apply to a purchase from a salvage motor vehicle dealer.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/15/2023	.	
	.	
	.	
	.	

The Appropriations Committee on Criminal and Civil Justice
(Boyd) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 860.142, Florida Statutes, is created to
read:

860.142 Catalytic Converter Antitheft Act.—

(1) This section may be cited as the "Catalytic Converter
Antitheft Act."

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



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11 (a) "Catalytic converter" means an emission control device
12 that is designed to be installed and operate in a motor vehicle
13 to convert toxic gases and pollutants in the motor vehicle's
14 exhaust system into less toxic substances via chemical reaction.

15 (b) "Detached catalytic converter" means a catalytic
16 converter that has been removed from a motor vehicle.

17 (c) "Registered secondary metals recycler" means a
18 secondary metals recycler, as defined in s. 538.18, that is
19 registered with the Department of Revenue as required in s.
20 538.25.

21 (d) "Salvage motor vehicle dealer" has the same meaning as
22 provided in s. 320.27(1)(c)5.

23 (3)(a) A person may not knowingly purchase a detached
24 catalytic converter unless he or she is a registered secondary
25 metals recycler.

26 (b) A registered secondary metals recycler who purchases a
27 detached catalytic converter must comply with the requirements
28 in ss. 538.19 and 538.26(5).

29 (c) A registered secondary metals recycler who does not
30 comply with the requirements of paragraph (b) is subject to the
31 penalties in s. 538.23.

32 (4)(a) A person may not knowingly possess, purchase, sell,
33 or install a:

34 1. Stolen catalytic converter;

35 2. Catalytic converter that has been removed from a stolen
36 motor vehicle;

37 3. New or detached catalytic converter from which the
38 manufacturer's part identification number, aftermarket
39 identification number, or owner-applied number has been removed,



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altered, or defaced; or

4. Detached catalytic converter without proof of ownership, unless the person is a registered secondary metals recycler, a salvage motor vehicle dealer, or meets the criteria for exemption provided in s. 538.22.

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

(c) Proof that a person was in possession of two or more detached catalytic converters, unless satisfactorily explained, gives rise to an inference that the person in possession of the catalytic converters knew or should have known that the catalytic converters may have been stolen or fraudulently obtained.

Section 2. Section 860.147, Florida Statutes, is created to read:

860.147 Import, sale, or installation of counterfeit, fake, or nonfunctional catalytic converters.—

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

(a) "Catalytic converter" has the same meaning as provided in s. 860.142(2)(a).

(b) "Counterfeit catalytic converter" means a catalytic converter displaying a mark identical or similar to the genuine mark of a catalytic converter manufacturer or motor vehicle manufacturer without authorization from such manufacturer.

(c) "Fake catalytic converter" means an item, other than a catalytic converter designed in accordance with United States Environmental Protection Agency regulations for a given make, model, and year of motor vehicle as part of a motor vehicle



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emission control system, including a counterfeit or nonfunctional catalytic converter, which is used to replace a legitimate catalytic converter.

(d) "Nonfunctional catalytic converter" means a replacement catalytic converter that:

1. Was previously recalled or damaged; or
2. Includes a part or object, including, but not limited to, a counterfeit or repaired catalytic converter, installed in a motor vehicle to mislead the owner or operator of such motor vehicle to believe that a functional catalytic converter has been installed.

(2) A person may not knowingly import, manufacture, purchase for the purpose of reselling or installing, sell, offer for sale, or install or reinstall in a motor vehicle a counterfeit, fake, or nonfunctional catalytic converter. A person who violates this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. Subsection (6) is added to section 538.26, Florida Statutes, to read:

538.26 Certain acts and practices prohibited.—It is unlawful for a secondary metals recycler to do or allow any of the following acts:

(6) Process or remove from the place of business of a secondary metal recycler a detached catalytic converter the secondary metals recycler has purchased for a period of 10 business days after the date of purchase. This subsection does not apply to the purchase of a detached catalytic converter from another secondary metals recycler, a salvage motor vehicle



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dealer as defined in s. 320.27(1)(c)5., or a person or entity in
s. 538.22.

Section 4. This act shall take effect July 1, 2023.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to catalytic converters; creating s.
860.142, F.S.; providing a short title; providing
definitions; prohibiting a person from purchasing a
detached catalytic converter unless he or she is a
registered secondary metals recycler; requiring a
registered secondary metals recycler to comply with
specified recordkeeping requirements; providing
penalties; prohibiting a person from possessing,
purchasing, selling, or installing a stolen, altered,
or detached catalytic converter; providing penalties;
providing for an inference that a catalytic converter
may have been stolen; creating s. 860.147, F.S.;
providing definitions; prohibiting the import,
manufacture, specified purchase, sale, or installation
of a counterfeit, fake, or nonfunctional catalytic
converter; providing penalties; amending s. 538.26,
F.S.; prohibiting a secondary metals recycler from
processing or removing a detached catalytic converter
from the recycler's place of business for a specified
period; providing exceptions; providing an effective



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date.

By the Committee on Criminal Justice; and Senators Boyd and Hooper

591-02083-23

2023306c1

A bill to be entitled

An act relating to catalytic converters; amending s. 538.26, F.S.; prohibiting a secondary metals recycler from processing or removing a catalytic converter from the recycler's place of business for a specified period; providing an exception; creating s. 860.142, F.S.; providing a short title; providing definitions; requiring certain records regarding a transaction involving a detached catalytic converter to be maintained for a specified period; authorizing inspection of such records by a law enforcement officer or agency representative; requiring a person who sells or installs a detached catalytic converter to disclose that the catalytic converter has been detached; requiring certain information regarding a transaction to be provided to certain persons upon request; providing application of specified statutory provisions; providing for an inference that a catalytic converter may have been stolen; providing prohibitions regarding the possession, purchase, sale, or installation of a stolen, detached, or altered catalytic converter; providing prohibitions regarding the importing, manufacturing, purchase, sale, or installation or reinstallation of a counterfeit, fake, or junk-filled catalytic converter; providing criminal penalties; providing criminal penalties for failure to maintain certain records, prepare certain documents, provide certain records upon request, or make certain disclosures; providing an effective date.

Page 1 of 6

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

591-02083-23

2023306c1

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

Section 1. Subsection (6) is added to section 538.26, Florida Statutes, to read:

538.26 Certain acts and practices prohibited.—It is unlawful for a secondary metals recycler to do or allow any of the following acts:

(6) Process or remove from the place of business of a secondary metals recycler a catalytic converter the secondary metals recycler has purchased for a period of 10 business days after the date of purchase. This subsection does not apply to a purchase from a salvage motor vehicle dealer as defined in s. 320.27(1)(c).

Section 2. Section 860.142, Florida Statutes, is created to read:

860.142 Catalytic Converter Antitheft Act.—

(1) SHORT TITLE.—This section may be cited as the "Catalytic Converter Antitheft Act."

(2) DEFINITIONS.—As used in this section, the term:

(a) "Catalytic converter" means an emission control device that is designed to be installed and operate in a motor vehicle to convert toxic gases and pollutants in the motor vehicle's exhaust system into less toxic substances via chemical reaction.

(b) "Counterfeit catalytic converter" means a catalytic converter displaying a mark identical or similar to the genuine mark of a catalytic converter manufacturer or motor vehicle manufacturer without authorization from such manufacturer.

(c) "Detached catalytic converter" means a catalytic

Page 2 of 6

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

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converter that has been removed or detached from a motor vehicle.

(d) "Fake catalytic converter" means an item, other than a catalytic converter designed in accordance with United States Environmental Protection Agency regulations for a given make, model, and year of motor vehicle as part of a motor vehicle emission control system, including a counterfeit or nonfunctional catalytic converter, which is used to replace a legitimate, functional catalytic converter.

(e) "Junk-filled catalytic converter" means a catalytic converter the composition of which includes a metal or chemical that does not function in the same manner or to the same extent as a metal or chemical in a legitimate catalytic converter to protect motor vehicle occupants and others from toxic gases and pollutants produced by the motor vehicle.

(f) "Nonfunctional catalytic converter" means a replacement catalytic converter that:

1. Was previously recalled or damaged; or
2. Includes a part or object, including, but not limited to, a counterfeit or repaired catalytic converter, installed in a motor vehicle to mislead the owner or operator of such motor vehicle to believe that a functional catalytic converter has been installed.

(g) "Registered secondary metals recycler" means a secondary metals recycler, as defined in s. 538.18, that is registered with the Department of Revenue as required in s. 538.25.

(h) "Salvage motor vehicle dealer" has the same meaning as provided in s. 320.27(1)(c)5.

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(3) PURCHASE, SALE, OR INSTALLATION OF CATALYTIC CONVERTERS; RECORDS.—

(a) A person engaged in the purchase, sale, or installation of a detached catalytic converter shall maintain a manual or electronic record of the purchase, sale, or installation. The record must include the first and last name, the address, and a copy of the driver license or other government-issued means of identification of the person from whom the detached catalytic converter was purchased and, if the detached catalytic converter is installed, the vehicle identification number of the motor vehicle in which the catalytic converter is installed. Such record must be maintained for 3 years after the transaction and may be inspected during normal business hours by a law enforcement officer or other authorized representative of the agency charged with administering this section. A person who sells or installs a detached catalytic converter must disclose to the purchaser or consumer that the catalytic converter has been detached from a motor vehicle. Upon request, information contained in a record or document pertaining to a specific transaction must be provided to an insurer, purchaser, consumer, or law enforcement officer.

(b) A catalytic converter is a major component part of a motor vehicle as provided in s. 319.30(1)(j)1. The requirements of s. 319.30 apply to the purchase, possession, or sale of a catalytic converter by a salvage motor vehicle dealer.

(4) INFERENCE.—Proof that a person was in possession of two or more detached catalytic converters, unless satisfactorily explained, gives rise to an inference that the person in possession of the catalytic converters knew or should have known

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that the catalytic converters may have been stolen or
fraudulently obtained.

(5) PROHIBITIONS; PENALTIES.—

(a) A person may not:

1. Knowingly possess, purchase, sell, or install a stolen catalytic converter; a new or detached catalytic converter of which the manufacturer's part identification number, aftermarket identification number, or owner-applied number has been removed, altered, or defaced; or a catalytic converter removed from a stolen motor vehicle;

2. Knowingly purchase a detached catalytic converter without being a registered secondary metals recycler; or

3. Possess, sell, or offer for sale a detached catalytic converter without proof of ownership or proof that the person meets the criteria for exemption provided in s. 538.22.

A person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person may not knowingly import, manufacture, purchase, sell, offer for sale, or install or reinstall in a motor vehicle a counterfeit, fake, or junk-filled catalytic converter. A person who violates this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A person or business entity that fails to maintain complete and accurate records, to prepare complete and accurate documents, to provide a record or information contained in a record upon request, or to properly disclose that a catalytic

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converter is a counterfeit, detached, fake, or junk-filled catalytic converter:

1. Upon a first offense, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Upon a second or subsequent offense, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. This act shall take effect July 1, 2023.

The Florida Senate
APPEARANCE RECORD

3/14

Meeting Date

306

Bill Number or Topic

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

Amendment Barcode (if applicable)

Committee

Name

CHASE MITCHELL

Phone

850 413 2866

Address

200 E Gaines

Email

chase.mitchell@myfloridacfo.com

Street

Tallahassee

FL

32399

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

CFO JIMMY PATRONIS

☐

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

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

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

Meeting Date _____

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

SB 306

Bill Number or Topic

Committee _____

Amendment Barcode (if applicable) _____

Name

Amanda Fraser

Phone _____

Address

Street _____

Email _____

City _____

State _____

Zip _____

Speaking:

☐ For

☐ Against

☐ Information

OR

Waive Speaking:

☒

In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

FL Catalytic Converter
Recycler Coalition



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

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

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

3/14/23

Meeting Date

SB 306

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Amanda Fraser

Phone

Address

Street

Email

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Auto Dismantlers
& Recyclers

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

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

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

S-001 (08/10/2021)

3/14/23

Meeting Date

The Florida Senate
APPEARANCE RECORD

306

Bill Number or Topic

Approps on Criminal Justice
Committee

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

Amendment Barcode (if applicable)

Name

Chris Carmody for Orange Sherriff

Phone

Address

301 E. Pine St

Email

chris.carmody@gray-robin.com

Street

City

State

Zip

Speaking:

☐ For

☐ Against

☐ Information

OR

Waive Speaking:

☒ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

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

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

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

S-001 (08/10/2021)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Banking and Insurance, *Chair*
Agriculture, *Vice Chair*
Appropriations Committee on Agriculture,
Environment, and General Government
Finance and Tax
Fiscal Policy
Judiciary
Rules
Transportation

SENATOR JIM BOYD

20th District

February 19, 2023

Senator Jennifer Bradley
404 South Monroe Street
201 The Capitol
Tallahassee, FL 32399

Dear Madame Chair Bradley:

I respectfully request Senate Bill CS/306: Catalytic Converters, be scheduled for a hearing in the Appropriations Committee on Criminal and Civil Justice, at your earliest convenience.

If I may be of assistance to you on this or any other matter, please do not hesitate to contact me.

Thank you for your consideration of this matter.

Best regards,

A handwritten signature in blue ink, appearing to read "Jim Boyd".

Jim Boyd

cc: Marti Harkness
Rebecca Henderson

REPLY TO:

- ☐ 717 Manatee Avenue West, Bradenton, Florida 34205 (941) 742-6445
- ☐ 418 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the

BILL: CS/SB 382

INTRODUCER: Criminal Justice Committee and Senator Bradley

SUBJECT: Compensation for Wrongfully Incarcerated Persons

DATE: March 13, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	Fav/CS
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	Favorable
3.	<u> </u>	<u> </u>	<u>FP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 382 amends the Victims of Wrongful Incarceration Compensation Act by amending s. 961.02, F.S., to remove an unnecessary definition.

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

- Prospectively extend the filing deadline for a petition under the Act from 90 days to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed or the person is retried and acquitted, if the person's conviction and sentence is vacated on or after July 1, 2023.
- Retroactively authorize a person to file a petition for determination of status as a wrongfully incarcerated person and determination of eligibility for compensation by July 1, 2025, under specified circumstances.
- Provide that a deceased person's heirs, successors, or assigns do not have standing to file a petition on the deceased person's behalf.

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

Section 961.06, F.S., is amended to prohibit the Chief Financial Officer (CFO) from drawing a warrant to purchase an annuity to pay a claimant for his or her wrongful incarceration if the claimant is currently incarcerated under specified circumstances.

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

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

The bill becomes effective July 1, 2023.

II. Present Situation:

Victims of Wrongful Incarceration Act

Since 2000, 21 people in Florida have been exonerated or released from incarceration as a result of post-conviction DNA testing, false or misleading forensic evidence, mistaken identity, perjury, or false accusations.¹ In 2008, the Legislature created The Victims of Wrongful Incarceration Compensation Act (Act).² The Act provides a process by which a person whose conviction and sentence is vacated based upon exonerating evidence may petition the court to seek and obtain compensation as a “wrongfully incarcerated person.”³

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

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

¹ Frank Lee Smith, Jerry Townsend, Rudolph Holton, Wilton Dedge, Luis Diaz, Orlando Boquete, Alan Crotzer, Larry Bostic, Cody Davis, Chad Heins, William Dillon, James Bain, Anthony Caravella, Derrick Williams, Cheydrick Britt, Narcisse Antoine, Clemente Aguirre-Jarquin, Dean McKee, Ronald Stewart, and Robert Duboise have been released from prison or exonerated in Florida. The National Registry of Exonerations, <https://www.law.umich.edu/special/exoneration/Pages/browse.aspx?View={B8342AE7-6520-4A32-8A06-4B326208BAF8}&FilterField1=State&FilterValue1=Florida&FilterField2=DNA&FilterValue2=8%5FDNA> (last visited March 1, 2023).

² Chapter 2008–39, L.O.F.

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

⁴ Section 961.02(7), F.S.

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

Petition Process

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

- That verifiable and substantial evidence of actual innocence exists;
- With particularity, the nature and significance of the evidence of actual innocence; and
- That the person is not disqualified under s. 961.04, F.S., from seeking compensation because he or she has specified criminal history.

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

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

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

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

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

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

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

⁷ Jeffrey Gutman, *Compensation Under the Microscope*, George Washington University Law School, (2022) <https://www.law.umich.edu/special/exoneration/Documents/UTM%20Florida.pdf> (last visited March 1, 2023).

⁸ Section 961.03(2), F.S.

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

¹⁰ Section 961.03(3), F.S.

- The original sentencing court must use the pleadings and supporting documents to determine whether, by a preponderance of the evidence, the petitioner is ineligible for compensation under s. 961.04, F.S., regardless of his or her claim of wrongful incarceration.
 - If the court finds that the petitioner is ineligible under s. 961.04, F.S., it must dismiss the petition.¹¹
 - And the court determines that the petitioner is eligible under s. 961.04, F.S., but the prosecuting authority also contests the nature, significance or effect of the evidence of the petitioner's actual innocence, or the facts related to the petitioner's alleged wrongful incarceration, the court is required to set forth its findings on eligibility and transfer the petition to the Division of Administrative Hearings (DOAH).¹²

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

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

The “Clean Hands” Provision

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

- Convicted of any violent felony, or any crime committed in another jurisdiction the elements of which would constitute a violent felony in Florida, or a federal crime designated a violent

¹¹ Section 961.03(4)(a), F.S.

¹² Section 961.03(4)(b), F.S.

¹³ Section 961.03(6)(a), F.S.

¹⁴ Section 961.03(5), F.S.

¹⁵ Section 961.03(6)(b), F.S.

¹⁶ Section 961.03(6)(c), F.S.

¹⁷ Section 961.03(6)(d), F.S.

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

¹⁹ Chapter 2008-39, L.O.F.

²⁰ Chapter 2017-120, L.O.F.

felony, excluding any delinquency disposition, before or during his or her wrongful conviction and incarceration;

- Convicted of more than one nonviolent felony, or more than one crime committed in another jurisdiction the elements of which would constitute a felony in Florida, or more than one federal crime designated a felony, excluding any delinquency disposition, before or during his or her wrongful conviction and incarceration; or
- Serving a concurrent sentence for another felony for which he or she was not wrongfully convicted during the period of wrongful incarceration.²¹

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

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

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

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

²¹ Section. 961.04, F.S.

²² Section 961.06(2), F.S.

²³ Section 961.02(6), F.S.

Currently, the Federal government, District of Columbia, and 38 states have a process to compensate wrongfully incarcerated individuals.²⁴ Florida's wrongful incarceration compensation law is the only one in the country that makes a person ineligible for compensation if he or she was previously convicted of certain unrelated crimes.²⁵ At least 17 exonerees in Florida are currently ineligible to receive compensation under the Act because of the "clean hands" requirement.²⁶

The Application Process

After the original sentencing court enters an order finding that the claimant meets the definition of a wrongfully incarcerated person who is eligible for compensation, the claimant must submit an application to the DLA for compensation, if he or she is otherwise eligible to apply, within two years.²⁷ Section 961.06, F.S., prohibits a wrongfully incarcerated person from applying for compensation if he or she is the subject of a pending claim bill²⁸ which is based on his or her wrongful conviction and incarceration. Similarly, once a claimant files an application for compensation, he or she may not pursue recovery under a claim bill until the final disposition of his or her application,²⁹ and once the DLA notifies a claimant that his or her application meets the requirements of the Act, he or she is prohibited from seeking additional compensation under a claim bill.^{30, 31}

Only the claimant, not the claimant's estate or its personal representative, may apply for compensation.³² Section 961.05(3), F.S., requires, in part, that a claimant's application include:

- A certified copy of the order vacating the conviction and sentence;

²⁴ Alaska, Arizona, Arkansas, Delaware, Georgia, Kentucky, New Mexico, North Dakota, Pennsylvania, South Carolina, South Dakota, and Wyoming do not have compensation laws. Innocence Project, *Compensating the Wrongly Convicted* <https://innocenceproject.org/compensating-wrongly-convicted/#:~:text=The%20federal%20government%2C%20the%20District,%2C%20South%20Dakota%2C%20and%20Wyoming.> (last visited Feb. 3, 2023).

²⁵ Kansas Legislative Research Department, *Compensation for Wrongful Conviction, Wrongful Incarceration, and Exoneration* (Dec. 27, 2017) <http://www.kslegresearch.org/KLRD-web/Publications/JudiciaryCorrectionsJuvJustice/WrongfulIncarcerationCompensationMemo.pdf> (last visited on Feb. 3, 2023).

²⁶ According to the Innocence Project and independent research conducted at George Washington University Law School. Jeffrey Gutman, *supra* note 6.

²⁷ Section 961.05(1) and (2), F.S.

²⁸ A claim bill is not an action at law, but rather is a legislative measure that directs the CFO, or if appropriate, a unit of local government, to pay a specific sum of money to a claimant to satisfy an equitable or moral obligation. The amount awarded under a claim bill is based on the Legislature's concept of fair treatment of a person who has been injured or damaged but who is without a complete judicial remedy or who is not otherwise compensable. *Wagner v. Orange Cty.*, 960 So. 2d 785, 788 (Fla. 5th DCA 2007).

²⁹ Section 961.06(6)(c), F.S.

³⁰ Any amount awarded under the Act is intended to provide the sole compensation for any and all present and future claims arising out of the facts in connection with the claimant's wrongful conviction and incarceration. Section 961.06(6)(d), F.S.

³¹ Since 2008, numerous claim bills have been filed on behalf of wrongfully incarcerated persons who were ineligible for compensation under the Act because of the "clean hands" requirement. At least three such persons have received compensation for wrongful incarceration through the claim bill process: Alan Crotzer (2008), William Dillon (2017), and Clifford Williams (2020).

³² Section 961.05(2), F.S.

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

The DLA is required to review the application, and within 30 days, notify the claimant of any errors or omissions and request any additional information relevant to the review of the application. The claimant has 15 days after notification of existing errors or omissions to supplement the application. The DLA must process and review each completed application within 90 days.³³

Before the DLA approves an application, the wrongfully incarcerated person must sign a release and waiver on behalf of himself or herself and his or her heirs, successors, and assigns, forever releasing the state or any agency, or any political subdivision thereof, from all present or future claims that may arise out of the facts in connection with the wrongful conviction for which compensation is being sought.³⁴ Once DLA determines whether a claim meets the Act's requirements, it must notify the claimant within five business days of its determination.³⁵ If DLA determines that a claimant meets the Act's requirements, the wrongfully incarcerated person becomes entitled to compensation.³⁶

Compensation

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

- Monetary compensation, at a rate of \$50,000 for each year of wrongful incarceration;
- A waiver of tuition and fees for up to 120 hours of instruction at a public career center, community college, or state university;
- A refund of fines, penalties, and court costs imposed and paid;
- Reasonable attorney's fees and expenses incurred and paid in connection with all criminal proceedings and appeals regarding the wrongful conviction; and
- Immediate administrative expunction of the person's criminal record resulting from the wrongful arrest, conviction, and incarceration.³⁷

Within 15 calendar days after the DLA issues notice to the claimant that his or her claim satisfies all of the requirements under the Act, the DLA must notify the CFO to draw a warrant from the General Revenue Fund or another source designated by the Legislature in law for the purchase of

³³ Section 961.05(5), F.S.

³⁴ Section 961.06(5), F.S.

³⁵ Section 961.05(5), F.S.

³⁶ Section 961.05(6), F.S.

³⁷ Section 961.06(1), F.S.

an annuity for the claimant based on the total amount determined by the DLA.³⁸ Section 961.07, F.S., currently provides for a continuing appropriation from the General Revenue Fund to the CFO for payments under the Act.³⁹

The total compensation awarded to a claimant may not exceed \$2 million.⁴⁰ The CFO is required to issue payment in the amount determined by the DLA to an insurance company or other financial institution admitted and authorized to issue annuity contracts to purchase an annuity or annuities, selected by the claimant, for a term not less than 10 years to distribute such compensation.⁴¹

III. Effect of Proposed Changes:

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

The bill amends s. 961.03, F.S., to prospectively extend the filing deadline for a petition under the Act from 90 days to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed or the person is retried and acquitted, if the person's conviction and sentence is vacated on or after July 1, 2023.

The bill also amends s. 961.03, F.S., to retroactively authorize a person to file a petition for determination of status as a wrongfully incarcerated person and determination of eligibility for compensation by July 1, 2025, if the:

- Person's conviction and sentence was vacated and the criminal charges against the person were dismissed, or the person was retried and acquitted, after January 1, 2006, but before July 1, 2023; and
- Person previously filed a petition that was dismissed or did not file a petition, because the:
 - Date when the criminal charges against the person were dismissed or the date the person was acquitted occurred more than 90 days after the date of the final order vacating his or her conviction and sentence; *or*
 - Person was convicted of an unrelated felony before or during his or her wrongful conviction and incarceration and was ineligible to receive compensation under s. 961.04, F.S., the "clean hands" requirement.

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

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

³⁸ Section 961.06(3), F.S.

³⁹ Section 961.06(1), F.S.

⁴⁰ *Id.*

⁴¹ Section 961.06(4), F.S.

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

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

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

The CFO must commence with the drawing of a warrant after such term of imprisonment has concluded.

The bill also amends s. 961.07, F.S., to provide that beginning in fiscal year 2023-2024, and continuing each fiscal year thereafter, a sum sufficient to pay the approved payments under s. 961.03(1)(b), F.S.,⁴² is appropriated from the General Revenue Fund to the Chief Financial Officer, which sum is further appropriated for expenditure pursuant to the Victims of Wrongful Incarceration Act. Petitions filed pursuant to s. 961.03(1)(b)2., F.S.,⁴³ are subject to specific appropriation.

The bill becomes effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁴² Subparagraph 961.03(1)(b)1., F.S., extends the time for filing a petition to within two years after an order vacating a conviction and sentence becomes final and the criminal charges against a person are dismissed or the person is retried and acquitted, if the person's conviction and sentence is vacated on or after July 1, 2023.

⁴³ Subparagraph s. 961.03(1)(b)2., F.S., extends the time for filing a petition to July 1, 2025, if the:

- Person's conviction and sentence was vacated and the criminal charges against the person were dismissed, or the person was retried and acquitted, after January 1, 2006, but before July 1, 2023; *and*
- Person previously filed a petition that was dismissed or did not file a petition, because the:
 - Date when the criminal charges against the person were dismissed or the date the person was acquitted occurred more than 90 days after the date of the final order vacating his or her conviction and sentence; *or*
 - Person was convicted of an unrelated felony before or during his or her wrongful conviction and incarceration and was ineligible to receive compensation under s. 961.04, F.S., the "clean hands" requirement (emphasis added).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Section 961.07, F.S., currently provides for the continuing appropriation from the General Revenue Fund to the CFO for payments under the Act. The limitation on a wrongful incarceration claim is \$50,000 per year of wrongful incarceration, up to a limit of \$2 million. The bill extends the timelines and expands the parameters for filing wrongful incarceration claims, which may increase the number of persons who qualify for wrongful compensation under the Act. It is not possible to quantify the additional number of people who may become compensable. Therefore, the fiscal impact of the bill is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 961.02, 961.03, 961.04, 961.06, and 961.07.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Criminal Justice on March 6, 2023:

The committee substitute:

- Amends s. 961.02, F.S., to remove a definition that has become unnecessary due to other parts of the bill.
- Restores current law in s. 961.04, F.S., providing that a person is ineligible for compensation for any period of wrongful incarceration during which the person was serving a concurrent sentence for a felony offense for which he or she was lawfully incarcerated.
- Removes the provisions in s. 961.06, F.S., relating to an “off-set provision” if the defendant receives a civil award, a settlement, and funds from a source other than the Act.
- Restores current law in s. 961.06, F.S., relating to the wrongfully incarcerated person signing a release and waiver releasing the state and other entities from all present and future claims.
- Restores current law in s. 961.06, F.S., prohibiting a wrongfully incarcerated person from filing an application under the Act if he or she has a pending lawsuit against the state and other entities in state court.
- Restores current law in s. 961.06, F.S., regarding compensation awarded to the wrongfully incarcerated person from a claim bill.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator Bradley

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A bill to be entitled

An act relating to compensation for wrongfully incarcerated persons; amending s. 961.02, F.S.; deleting an obsolete definition; amending s. 961.03, F.S.; revising requirements for when a petition seeking compensation must be filed; providing that a deceased person's heirs, successors, or assigns do not have standing to file such a petition; amending s. 961.04, F.S.; revising compensation eligibility requirements; amending s. 961.06, F.S.; revising requirements for awarding compensation; amending s. 961.07, F.S.; revising requirements for continuing appropriations; providing an effective date.

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

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

961.02 Definitions.—As used in ss. 961.01-961.07, the term:

~~(6) "Violent felony" means a felony listed in s. 775.084(1)(c)1. or s. 948.06(8)(c).~~

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

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

(1)

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

1. Within 2 years ~~90 days~~ after the order vacating a

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conviction and sentence becomes final and the criminal charges against the person are dismissed or the person is retried and acquitted if the person's conviction and sentence is vacated on or after July 1, 2023 ~~2008~~.

2. By July 1, 2025 ~~2010~~, if the person's conviction and sentence was vacated and the criminal charges against the person were dismissed or the person was retried and acquitted on or after January 1, 2006, but before July 1, 2023, and he or she previously filed a petition under this section that was dismissed or he or she did not file a petition under this section because:

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

b. The person was convicted of an unrelated felony before or during his or her wrongful conviction and incarceration and was ineligible for compensation under s. 961.04 as it existed before July 1, 2023.

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

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

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

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a conviction of another felony for which such person was lawfully incarcerated if:

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

(2) Before the person's wrongful conviction and incarceration, the person was convicted of, or pled guilty or nolo contendere to, regardless of adjudication, more than one felony that is not a violent felony, or more than one crime committed in another jurisdiction, the elements of which would constitute a felony in this state, or more than one crime committed against the United States which is designated a felony, excluding any delinquency disposition;

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

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

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

Section 4. Section 961.06, Florida Statutes, is amended to

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read:

961.06 Compensation for wrongful incarceration.—

(1) Except as otherwise provided in this act and subject to the limitations and procedures prescribed in this section, a person who is found to be entitled to compensation under ~~the provisions of~~ this act is entitled to all of the following:

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

(b) A waiver of tuition and fees for up to 120 hours of instruction at any career center established under s. 1001.44, any Florida College System institution as defined in s. 1000.21(3), or any state university as defined in s. 1000.21(6), if the wrongfully incarcerated person meets and maintains the regular admission requirements of such career center, Florida College System institution, or state university; remains registered at such educational institution; and makes satisfactory academic progress as defined by the educational institution in which the claimant is enrolled.

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

(d) The amount of any reasonable attorney ~~attorney's~~ fees and expenses incurred and paid by the wrongfully incarcerated

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person in connection with all criminal proceedings and appeals regarding the wrongful conviction, to be calculated by the department based upon the supporting documentation submitted as specified in s. 961.05, ~~and~~

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

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

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

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~~in revocation of the parole or community supervision is ineligible for any compensation under subsection (1).~~

(2)(3) Except as provided in subsection (4), within 15 calendar days after issuing notice to the claimant that his or her claim satisfies all of the requirements under this act, the department shall notify the Chief Financial Officer to draw a warrant from the General Revenue Fund or another source designated by the Legislature in law for the purchase of an annuity for the claimant based on the total amount determined by the department under this act.

(3)(4) The Chief Financial Officer shall issue payment in the amount determined by the department to an insurance company or other financial institution admitted and authorized to issue annuity contracts in this state to purchase an annuity or annuities, selected by the wrongfully incarcerated person, for a term of not less than 10 years. The Chief Financial Officer is directed to execute all necessary agreements to implement this act and to maximize the benefit to the wrongfully incarcerated person. The terms of the annuity or annuities shall:

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

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

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

1. In a county, city, or federal jail or other correctional

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facility or an institution operated by the Department of
Corrections for a felony conviction other than a crime for which
the claimant was wrongfully convicted; or

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

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

(5) Before the department approves the application for
compensation, the wrongfully incarcerated person must sign a
release and waiver on behalf of the wrongfully incarcerated
person and his or her heirs, successors, and assigns, forever
releasing the state or any agency, instrumentality, or any
political subdivision thereof, or any other entity subject to s.
768.28, from all present or future claims that the wrongfully
incarcerated person or his or her heirs, successors, or assigns
may have against such entities arising out of the facts in
connection with the wrongful conviction for which compensation
is being sought under the act.

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

(b) A wrongfully incarcerated person may not submit an

591-02317-23

2023382c1

application for compensation under this act if the person is the
subject of a claim bill pending for claims arising out of the
facts in connection with the claimant's conviction and
incarceration.

(c) Once an application is filed under this act, a
wrongfully incarcerated person may not pursue recovery under a
claim bill until the final disposition of the application.

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

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

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

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

961.07 Continuing appropriation.—Beginning in the 2023-2024
~~2008-2009~~ fiscal year and continuing each fiscal year
thereafter, a sum sufficient to pay the approved payments under

591-02317-23

2023382c1

233 s. 961.03(1)(b) ~~this act~~ is appropriated from the General
234 Revenue Fund to the Chief Financial Officer, which sum is
235 further appropriated for expenditure pursuant to ~~the provisions~~
236 ~~of~~ this act.

237 Section 6. This act shall take effect July 1, 2023.

The Florida Senate

APPEARANCE RECORD

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3/14/23

Meeting Date

SB382

Bill Number or Topic

LS Appropriations

Committee

Amendment Barcode (if applicable)

Name

Clemente Aguirre - Jarquin

Phone

321 - 276 - 3940

Address

1100 East Park Avenue

Email

Street

Tallahassee

City

State

FL

32301

Zip

Speaking:

☒ For

☐ Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☒

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

Project of FL

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

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S-001 (08/10/2021)

The Florida Senate

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CS/BS 382
Bill Number or Topic

Meeting Date

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐ For



Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



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

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

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Meeting Date

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Name

Phone

Address

Email

Street

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

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

Florida Association of Criminal Defense Lawyers

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

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S-001 (08/10/2021)

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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐ For

☐ Against

☐ Information

OR

Waive Speaking:

☒ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Right on Crime

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

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

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S-001 (08/10/2021)

March 14, 2023

Meeting Date

C & CJ Approps

Committee

The Florida Senate

APPEARANCE RECORD

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382

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850-510-9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

Tallahassee

FL

32308

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Fla. Smart Justice

...

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

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

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5-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3-14-23

Meeting Date

SB 382

Bill Number or Topic

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Appropriation on Criminal and Civil Justice
Committee

Amendment Barcode (if applicable)

Name

Barbara DeVane

Phone

850-251-4280

Address

625 E. Brevard St

Email

barbadevane1@yahoo.com

Street

Tallahassee FL 32308

City

State

Zip

Speaking:

☐ For

☐ Against

☐ Information

OR

Waive Speaking:

☒ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist
representing:

FL NOW

☐

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

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

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S-001 (08/10/2021)

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3/14/23
Meeting Date

C5 Appropriations
Committee

SB382
Bill Number or Topic

Amendment Barcode (if applicable)

Name Dr. Adina Thompson

Phone 850-561-6767

Address Innocence Project of Florida
1100 East Park Avenue
Street

Email AThompson@Florida
Innocence.org

Tallahassee FL 32303
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

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

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3/14/23

Meeting Date

The Florida Senate
APPEARANCE RECORD

382

Bill Number or Topic

Appropriations on Criminal and Civil Justice

Committee

Deliver both copies of this form to
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Amendment Barcode (if applicable)

Name Christie Arnold

Phone 407-312-5374

Address 201 W Park Ave

Email carhold@flaccb.org

Street

Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing: Florida
Conference of Catholic
Bishops

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

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

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3/14/23

Meeting Date

SB 382

Bill Number or Topic

Appops Comm. on Crim & Cr. Justice

Committee

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Amendment Barcode (if applicable)

Name Christian Minor

Phone (321) 223-4232

Address 2850 Pablo Ave
Street

Email cmminor@fjja.org

Tallahassee FL 32308
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Juvenile Justice
Association

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/14/2023

382

Meeting Date

Bill Number or Topic

Approps on Crim + Civ. Justice

Committee

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

Amendment Barcode (if applicable)

Name Caitlyn Clibbon

Phone 850)488-9071

Address 2473 Cane Dr.

Email caitlync@disabilityrights
florida.org

Street

TLH

FL

32308

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Disability
Rights Florida

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

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

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S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 508

INTRODUCER: Senator Rouson

SUBJECT: Problem-solving Courts

DATE: March 13, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	Favorable
2.	Kolich	Harkness	ACJ	Favorable
3.			FP	

I. Summary:

SB 508 revises three statutes that govern admission to, and participation in, the state’s “problem-solving courts.” The problem-solving courts are pre-trial intervention court programs that afford a defendant the opportunity to participate in getting the help he or she needs and avoid a criminal conviction. This bill expands eligibility for pretrial intervention programs, creates consistency within the criteria of the programs, and revises data reporting requirements for the programs.

The bill takes effect July 1, 2023.

II. Present Situation:

Problem-solving Courts

Florida’s “problem-solving courts” are unique among the trial and appellate courts in the state. They are specifically designed to address the root causes of why people are involved in the criminal justice system and to help those people receive the treatment they need to leave the system. Presently, there are more than 185 problem-solving courts operating in the state.¹ While participation in these court programs is voluntary, there is a list of factors, such as the commission of violent crimes, which can disqualify someone from participating.

Rather than operate in the traditional adversarial model, problem-solving courts provide non-adversarial proceedings with a dedicated judge who holds each participant accountable for his or her actions. The courts also provide a broad-based problem-solving team made up of case managers, attorneys, treatment professionals, even law enforcement and correctional officers,

¹ Office of the State Courts Administrator, *Florida Problem-Solving Courts Report, Pursuant to Section 43.51, F.S.* (Feb. 17, 2023). A map is attached at the end of this analysis showing the locations of these courts throughout the state.

and a guardian ad litem, if necessary.² The programs require regular court appearances by the participants and the length of the program is often, though not always, determined by the progress the participant makes as measured against specific guidelines.³

The problem-solving courts currently include adult drug courts, juvenile drug courts, dependency drug courts, veterans' courts, mental health courts, a community court, and a delinquency pretrial intervention court program.^{4,5}

Section 948.08, F.S., addresses *felony* pretrial intervention programs while s. 948.16, F.S., establishes *misdemeanor* pretrial intervention programs.

Treatment-based Drug Court Programs (Section 1)

Authorization, Admission, Disqualifying Criteria

Each county is authorized to fund a treatment-based drug court program for people in the justice system who have a substance abuse problem.⁶ Under current law, participation is voluntary, but admission is not guaranteed.

Previously Rejected Offer

Pursuant to s. 948.08(6)(c)1., F.S., the court or a state attorney may deny a defendant entry into the program if he or she was previously offered admission to the program and the defendant rejected that offer on the record.⁷

Dealing or Selling Controlled Substances

Pursuant to 948.08(6)(c)2., F.S., if the state attorney believes the defendant was involved in the dealing and selling of controlled substances, a court will hold a preadmission hearing. If the state attorney establishes by a preponderance of the evidence that the defendant was involved in dealing or selling controlled substances, the court is required to deny the defendant admission into the program.

Program Coordinator, Data Reporting Requirements

If the Legislature appropriates sufficient funding annually, each judicial circuit must establish at least one coordinator position for the treatment-based drug court program within the state courts system. Among other assigned tasks, the coordinator is responsible for coordinating the

² Florida Courts, Office of the State Courts Administrator, *Office of Problem-Solving Courts*, <https://www.flcourts.gov/Resources-Services/Office-of-Problem-Solving-Courts>.

³ Florida's 10th Judicial Circuit, *Problem Solving Court*, <https://www.jud10.flcourts.org/problem-solving-court#:~:text=Problem%20Solving%20Court%20programs%20are,random%20testing%20for%20substance%20use>.

⁴ This definition of "problem-solving court" is provided in s. 43.51, F.S., which requires the Office of the State Courts Administrator to provide an annual report to the President of the Senate and the Speaker of the House of Representatives detailing participant, service, and financial data.

⁵ Florida Courts, Office of the State Courts Administrator, Office of Problem-Solving Courts, Defining Elements <https://www.flcourts.gov/Resources-Services/Office-of-Problem-Solving-Courts>.

⁶ Section 397.334(1), F.S.

⁷ Section 948.08(6)(c)1., F.S.

responsibilities of the participating agencies and providers as well as provide program evaluation and accountability.

Each judicial circuit is required to report client-level and programmatic data to the Office of the State Court Administrator (OSCA) annually for program evaluation. Client-level data includes cataloguing primary offenses that resulted in drug court referral or sentence and other details. Programmatic data includes referral and screening procedures, eligibility criteria, and similar categories.

According to the OSCA, it does not perform program evaluations such that it does not need to receive the client-level data from the circuits. The OSCA has stated that requiring this data collection also puts an unnecessary burden on the circuits to report the data and an unnecessary burden on the OSCA to collect the data.⁸

In contrast, the mental health court programs require each *program*, not each *circuit*, to gather client-level data and programmatic information for evaluation purposes. Of that information, only certain program information regarding client admissions and terminations are reported to the OSCA each year.

Pretrial Intervention Program for *Felony* Offenses (Section 2)

Section 948.08, F.S., establishes three categories of pretrial intervention programs for felony offenses:

- Substance abuse education and treatment intervention, including a drug court program.
- Veterans treatment court program for veterans and service members.
- Mental health court program.

Substance Abuse Education and Treatment Intervention Program

Program Duration – Not Less than 1 Year

Section 948.08(6)(b), F.S., states that a person admitted into a pretrial substance abuse education and treatment intervention program is admitted for a period “of not less than 1 year in duration” if he or she meets certain criteria.

Possible Disqualifying Criteria – Previously Violent Crime or Rejection of Previous Offer for Admission

Section 948.08(6)(b)3., F.S., lists an offense that will prohibit a defendant from entering a treatment-based drug court program: the defendant has been charged with a crime involving violence which includes, but is not limited to, murder, sexual battery, robbery, carjacking, home-invasion robbery, or any other crime involving violence.

⁸ Office of the State Courts Administrator, *SB 508 Judicial Impact Statement*, (March 3, 2023) <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=34341>.

As discussed above, pursuant to s. 948.08(6)(c)1., F.S., the court or a state attorney may deny a defendant entry into the program if he or she was previously offered admission to the program and the defendant rejected that offer on the record.

Mental Health Court Program Eligibility

Section 948.08(8)(a), F.S., lists the requirements for a defendant to be eligible for voluntary admission into a pretrial mental health court program. The defendant must be identified as having a mental illness, not have been convicted of a felony, but is charged with certain crimes.

Pretrial Substance Abuse Education and Treatment Intervention Program for Misdemeanor Offenses (Section 3)

Section 948.16(1)(a), F.S., establishes the criteria for a defendant to participate in a misdemeanor pretrial substance abuse education and treatment program, misdemeanor pretrial veterans treatment intervention program, and a misdemeanor pretrial mental health court program. To qualify for admission into the substance abuse education and treatment intervention, a defendant may not have been convicted of a felony. In addition to being identified as having a substance abuse problem, these offenses, for which the defendant is currently charged, will permit him or her to be considered for admission into the program:

- A nonviolent, nontraffic-related misdemeanor;
- A misdemeanor possession of a controlled substance or drug paraphernalia under chapter 893, F.S.;
- Prostitution under s. 796.07, F.S.;
- Possession of alcohol while under 21 years of age under s. 562.111, F.S.;
- Possession of a controlled substance without a valid prescription under s. 499.03, F.S.

III. Effect of Proposed Changes:

The bill amends three statutes dealing with pretrial intervention programs. The bill makes the eligibility criteria provisions more consistent with each other, revises the data reporting requirements for treatment-based drug court programs, and expands the current eligibility requirements for admission into a misdemeanor pretrial treatment-based drug court program.

Treatment-based Drug Court Programs (Sections 1 & 2)

Admission for Participation is Expanded

Under existing law, a defendant may be denied an opportunity to be admitted into a pre-trial treatment-based drug court program by the court or the prosecution if he or she previously rejected the opportunity to do so before trial. Under the bill, persons who reject opportunities to participate are no longer subject to being barred from participation for that reason.

Data Reporting Requirements Shift from Circuit Responsibility to the Program

The bill adds a new provision that removes the responsibility of managing the collection of data from the circuits and places the responsibility on the treatment-based drug court program. In addition, each program is now required to annually report the programmatic information and the

aggregate data regarding the number of admissions and terminations, by type of termination, to the OSCA. The collection and reporting requirements will be consistent with the requirements placed on mental health court program reporting requirements.

Pretrial Intervention Program for *Felony Offenses* (Section 2)

Substance Abuse Education and Treatment Intervention Program

Duration Revised

The substance abuse education and treatment intervention program mandatory duration period “of not less than 1 year” is deleted and the court is given discretion as to how long a defendant needs to remain in the program, based upon his or her clinical needs. This makes the duration period consistent with the duration, described in s. 948.08(8)(a), F.S., for participation in a mental health court program.

Criteria – Previous Violent Crime Criteria Deleted

The bill deletes the language that excluded a defendant from participation for having been charged with a crime of violence. As revised, a defendant is excluded from participating only if he or she is currently charged with a crime of violence. By making this change, the statute becomes consistent with eligibility requirements contained in other problem-solving court statutes.

Mental Health Court Program Eligibility

The bill is amended to delete the provision that a defendant seeking admission to a pretrial mental health court program has not been convicted of a felony. This will expand the option for more people to enter the program who would previously be ineligible. The language would also be consistent with the criteria for entering a pretrial treatment-based drug court program.

Misdemeanor Pretrial Substance Abuse Education and Treatment Intervention Program (Section 3)

The bill expands who may be eligible for a misdemeanor pretrial substance abuse education and treatment intervention program. By eliminating the qualifying offenses currently listed in statute and opening the criteria to any person charged with a misdemeanor, but who has not previously been convicted of a felony, more people will be eligible to participate in the program. This would make the eligibility criteria consistent with the criteria for pretrial misdemeanor veterans programs and mental health programs.

“Program Administrator” Terminology Change for Consistency with the Mental Health Statute

The term “program administrator” is added in ss. 948.08(6)(e), 948.08(7)(c), and 948.16(4), F.S., for consistent referencing to the person in charge of the problem-solving court programs in these statutes.

The effective date of the bill is July 1, 2023.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The OSCA states that the changes to the data reporting requirements for the treatment-based drug court programs will reduce the workloads for the judicial circuits and the OSCA. Additionally, by reducing how long a defendant must participate in the drug court program from the current 1-year period to a time based on his or her clinical needs would possibly reduce the courts' workload if participants complete the program in less than 1 year. Finally, the OSCA does not expect the proposals that will increase the number of people who may become eligible to participate in the programs to increase court workload because admissions are discretionary and the capacity for the number of participants is limited.⁹

VI. Technical Deficiencies:

None.

⁹ Office of the State Courts Administrator, *SB 508 Judicial Impact Statement*, (March 3, 2023) <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=34341>

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 397.334, 948.08, and 948.16

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

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

None.

B. Amendments:

None.

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

By Senator Rouson

16-01452-23

2023508__

1 A bill to be entitled
 2 An act relating to problem-solving courts; amending s.
 3 397.334, F.S.; revising the responsibilities of
 4 coordinators of treatment-based drug court programs;
 5 requiring such programs to collect specified data and
 6 information for certain purposes; requiring such
 7 programs to annually report certain information and
 8 data to the Office of the State Courts Administrator;
 9 conforming provisions to changes made by the act;
 10 amending s. 948.08, F.S.; authorizing courts to
 11 determine how long a person may be admitted into
 12 certain programs; revising admission requirements for
 13 certain programs; conforming provisions to changes
 14 made by the act; amending s. 948.16, F.S.; revising
 15 eligibility requirements for voluntary admission into
 16 certain substance abuse programs; conforming
 17 provisions to changes made by the act; providing an
 18 effective date.
 19
 20 Be It Enacted by the Legislature of the State of Florida:
 21
 22 Section 1. Subsections (2) and (6) of section 397.334,
 23 Florida Statutes, are amended to read:
 24 397.334 Treatment-based drug court programs.—
 25 (2) Entry into any pretrial treatment-based drug court
 26 program shall be voluntary. When ~~neither~~ s. 948.08(6)(c)1. does
 27 not apply nor 2. applies, the court may order an eligible
 28 individual to enter into a pretrial treatment-based drug court
 29 program only upon written agreement by the individual, which

Page 1 of 7

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

16-01452-23

2023508__

30 shall include a statement that the individual understands the
 31 requirements of the program and the potential sanctions for
 32 noncompliance.
 33 (6) (a) Contingent upon an annual appropriation by the
 34 Legislature, each judicial circuit shall establish, at a
 35 minimum, one coordinator position for the treatment-based drug
 36 court program within the state courts system to coordinate the
 37 responsibilities of the participating agencies and service
 38 providers. Each coordinator shall provide direct support to the
 39 treatment-based drug court program by providing coordination
 40 between the multidisciplinary team and the judiciary, providing
 41 case management, monitoring compliance of the participants in
 42 the treatment-based drug court program with court requirements,
 43 and managing the collection of data for ~~providing~~ program
 44 evaluation and accountability.
 45 (b) Each treatment-based drug court program shall collect
 46 ~~circuit shall report~~ sufficient client-level data and
 47 programmatic information data to the Office of State Courts
 48 ~~Administrator annually~~ for purposes of program evaluation.
 49 Client-level data includes ~~include~~ primary offenses that
 50 resulted in the treatment-based drug court program referral or
 51 sentence, treatment compliance, completion status and reasons
 52 for failure to complete, offenses committed during treatment and
 53 the sanctions imposed, frequency of court appearances, and units
 54 of service. Programmatic information includes ~~data include~~
 55 referral and screening procedures, eligibility criteria, type
 56 and duration of treatment offered, and residential treatment
 57 resources. Each treatment-based drug court program must annually
 58 report the programmatic information and aggregate data on the

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number of treatment-based drug court program admissions and terminations by type of termination to the Office of the State Courts Administrator.

Section 2. Paragraphs (b), (c), and (e) of subsection (6), paragraph (c) of subsection (7), and paragraph (a) of subsection (8) of section 948.08, Florida Statutes, are amended to read:

948.08 Pretrial intervention program.—

(6)

(b) Notwithstanding any provision of this section, a person is eligible for voluntary admission into a pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program established pursuant to s. 397.334, approved by the chief judge of the circuit, for a period to be determined by the court, based on the clinical needs of the defendant of not less than 1 year in duration, if he or she:

1. Is identified as having a substance abuse problem and is amenable to treatment.

2. Is charged with a nonviolent felony.

3. Is not also ~~Has never been~~ charged with a crime involving violence, including, but not limited to, murder, sexual battery, robbery, carjacking, home-invasion robbery, or any other crime involving violence.

4. Has two or fewer felony convictions, provided that the prior convictions are for nonviolent felonies.

(c) Upon motion of either party or the court's own motion, and with the agreement of the defendant, the court shall admit an eligible person into a pretrial substance abuse education and treatment intervention program, except:

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~~1. If a defendant was previously offered admission to a pretrial substance abuse education and treatment intervention program at any time before trial and the defendant rejected that offer on the record, the court or the state attorney may deny the defendant's admission to such a program.~~

~~2.~~ If the state attorney believes that the facts and circumstances of the case suggest the defendant's involvement in the dealing and selling of controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in the dealing or selling of controlled substances, the court shall deny the defendant's admission into a pretrial intervention program.

~~2.3.~~ If the defendant has two or fewer prior felony convictions as provided in subparagraph (b)4., the court, in its discretion, may deny admission to such a program.

(e) At the end of the pretrial intervention period, the court shall consider the recommendation of the program administrator pursuant to subsection (5) and the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program. Notwithstanding the coordinated strategy developed by a drug court team pursuant to s. 397.334(4), if the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment, which may include substance abuse treatment programs offered by licensed service providers as defined in s. 397.311 or jail-based treatment programs, or order

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that the charges revert to normal channels for prosecution. The court shall dismiss the charges upon a finding that the defendant has successfully completed the pretrial intervention program.

(7)

(c) At the end of the pretrial intervention period, the court shall consider the recommendation of the ~~treatment~~ program administrator and the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program. If the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment, which may include treatment programs offered by licensed service providers or jail-based treatment programs, or order that the charges revert to normal channels for prosecution. The court shall dismiss the charges upon a finding that the defendant has successfully completed the pretrial intervention program.

(8) (a) Notwithstanding any provision of this section, a defendant is eligible for voluntary admission into a pretrial mental health court program established pursuant to s. 394.47892 and approved by the chief judge of the circuit for a period to be determined by the court, based on the clinical needs of the defendant, upon motion of either party or the court's own motion if:

1. The defendant is identified as having a mental illness;

and

2. ~~The defendant has not been convicted of a felony; and~~

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~~3.~~ The defendant is charged with:

a. A nonviolent felony that includes a third degree felony violation of chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08;

b. Resisting an officer with violence under s. 843.01, if the law enforcement officer and state attorney consent to the defendant's participation;

c. Battery on a law enforcement officer under s. 784.07, if the law enforcement officer and state attorney consent to the defendant's participation; or

d. Aggravated assault, if the victim and state attorney consent to the defendant's participation.

Section 3. Paragraph (a) of subsection (1) and subsection (4) of section 948.16, Florida Statutes, are amended to read:

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

(1) (a) A person who is charged with a ~~nonviolent, nontraffic-related~~ misdemeanor and identified as having a substance abuse problem ~~or who is charged with a misdemeanor for possession of a controlled substance or drug paraphernalia under chapter 893, prostitution under s. 796.07, possession of alcohol while under 21 years of age under s. 562.111, or possession of a controlled substance without a valid prescription under s. 499.03,~~ and who has not previously been convicted of a felony, is eligible for voluntary admission into a misdemeanor pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program established

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175 pursuant to s. 397.334, approved by the chief judge of the
176 circuit, for a period based on the program requirements and the
177 treatment plan for the offender, upon motion of either party or
178 the court's own motion, except, if the state attorney believes
179 the facts and circumstances of the case suggest the defendant is
180 involved in dealing and selling controlled substances, the court
181 shall hold a preadmission hearing. If the state attorney
182 establishes, by a preponderance of the evidence at such hearing,
183 that the defendant was involved in dealing or selling controlled
184 substances, the court shall deny the defendant's admission into
185 the pretrial intervention program.

186 (4) At the end of the pretrial intervention period, the
187 court shall consider the recommendation of the ~~treatment~~ program
188 administrator and the recommendation of the state attorney as to
189 disposition of the pending charges. The court shall determine,
190 by written finding, whether the defendant successfully completed
191 the pretrial intervention program. Notwithstanding the
192 coordinated strategy developed by a drug court team pursuant to
193 s. 397.334(4) or by the veterans' treatment intervention team,
194 if the court finds that the defendant has not successfully
195 completed the pretrial intervention program, the court may order
196 the person to continue in education and treatment or return the
197 charges to the criminal docket for prosecution. The court shall
198 dismiss the charges upon finding that the defendant has
199 successfully completed the pretrial intervention program.

200 Section 4. This act shall take effect July 1, 2023.

The Florida Senate
APPEARANCE RECORD

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

Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐ For

☐ Against

☐ Information

OR

Waive Speaking:

☒ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Right on
Crime.

☐

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

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

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

S-001 (08/10/2021)

March 14, 2023

Meeting Date

C & CJ Approps

Committee

The Florida Senate

APPEARANCE RECORD

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508

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850-510-9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

Tallahassee

FL

32308

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

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

Fla. Smart Justice

...

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

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S-001 (08/10/2021)

March 14, 2023

The Florida Senate
APPEARANCE RECORD

SB 508

Meeting Date

Deliver both copies of this form to
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Bill Number or Topic

Appropriations Committee on Criminal and Civil Justice

Committee

Amendment Barcode (if applicable)

Name **Sean Burnfin**

Phone **(850) 922-0358**

Address **500 South Duval Street**

Email **burnfins@flcourts.org**

Street

Tallahassee

Florida

32399

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

**Steering Committee on
Problem-Solving Courts**

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

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

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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

Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

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

Florida association of
Criminal Defense
Lawyers

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

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S-001 (08/10/2021)

CourtSmart Tag Report

Room: SB 37
Caption: Appropriations Committee on Criminal and Civil Justice

Type:
Judge:

Started: 3/14/2023 1:30:46 PM
Ends: 3/14/2023 1:57:43 PM
Length: 00:26:58

1:31:03 PM Sen. Bradley (Chair)
1:31:45 PM S 306
1:31:55 PM Sen. Boyd
1:32:01 PM Am. 846796
1:32:09 PM Sen. Boyd
1:33:05 PM Sen. Powell
1:33:14 PM Sen. Boyd
1:33:49 PM S 306 (cont.)
1:33:55 PM Chase Mitchell, Department of Financial Services (waives in support)
1:34:13 PM Amanda Fraser, Florida Catalytic Converter Recycler Coalition and Florida Auto Dismantlers & Recyclers Association (waives in support)
1:34:45 PM Sen. Boyd
1:35:56 PM S 382
1:36:14 PM Sen. Powell
1:36:26 PM Sen. Bradley
1:37:58 PM Clemente Acuirre-Jarquin, Innocence Project of Florida
1:40:26 PM Mary Smith Santana
1:45:21 PM Sen. Pizzo
1:45:34 PM M. Santana
1:46:31 PM Sen. Pizzo
1:46:41 PM Andrew Rutledge, Florida Association of Criminal Defense Lawyers (waives in support)
1:46:47 PM Chelsea Murphy, Right on Crime (waives in support)
1:46:53 PM Barney Bishop III, Florida Smart Justice (waives in support)
1:46:57 PM Barbara DeVane, FL Now (waives in support)
1:47:04 PM Adina Thompson, Innocence Project of Florida (waives in support)
1:47:10 PM Christie Arnold, Florida Conference of Catholic Bishops (waives in support)
1:47:17 PM Christian Minor, Florida Juvenile Justice Associations (waives in support)
1:47:24 PM Caitlyn Clibbon, Disability Rights Florida (waives in support)
1:47:36 PM Sen. Pizzo
1:47:48 PM Sen. Bradley
1:48:48 PM S 508
1:48:52 PM Sen. Rouson
1:51:26 PM Sen. Torres
1:51:40 PM Sen. Rouson
1:51:44 PM Sen. Torres
1:52:09 PM Sen. Rouson
1:52:14 PM Sen. Torres
1:52:34 PM Chelsea Murphy, Right on Crime (waives in support)
1:52:37 PM Barney Bishop III, Florida Smart Justice (waives in support)
1:52:42 PM Sean Burnfin, Steering Committee on Problem-Solving Courts (waives in support)
1:52:47 PM Andrew Rutledge, Florida Association of Criminal Defense Lawyers (waives in support)
1:52:57 PM Sen. Wright
1:53:25 PM Sen. Martin
1:55:22 PM Sen. Rouson
1:57:00 PM Sen. Bradley
1:57:09 PM Sen. Baxley
1:57:15 PM Sen. Hooper
1:57:19 PM Sen. Burgess
1:57:29 PM Sen. Bradley