



Senate Appropriations Committee on Criminal and Civil Justice

FY 2023-2024 Committee Budget Proposal

Budget Spreadsheet

Senator Bradley, Chair
Senator Powell, Vice Chair

March 21, 2023

		Agency / Department	SENATE APPROPRIATIONS COMMITTEE ON CRIMINAL AND CIVIL JUSTICE							
Row #	Issue Code	Issue Title	FTE	Rate	Rec GR	NR GR	Total GR	Trust Funds	All Funds	Row #
1		DEPT OF CORRECTIONS								1
2	1100001	Startup (OPERATING)	23,380.00	1,194,906,256	2,922,023,676		2,922,023,676	63,621,185	2,985,644,861	2
3	1100002	Startup Recurring Fixed Capital Outlay (DEBT SERVICE/OTHER)			50,960,426		50,960,426		50,960,426	3
4	2300015	Private Prison Operations			11,053,561		11,053,561		11,053,561	4
5	2401400	Critical Security Equipment			2,529,096	3,848,394	6,377,490		6,377,490	5
6	2401500	Replacement of Motor Vehicles			1,000,000	2,000,000	3,000,000		3,000,000	6
7	2503080	Direct Billing for Administrative Hearings			589		589		589	7
8	3000440	Statewide Recruitment Staffing	12.00	590,157	942,584	65,100	1,007,684		1,007,684	8
9	30010C0	Increased Workload for Data Center to Support an Agency			380,538		380,538	6,842	387,380	9
10	3001200	Phone Call Savings Pilot for Inmates' Families			-		-	1,000,000	1,000,000	10
11	36265C0	Officer Station Network Connectivity			297,806	3,094,500	3,392,306		3,392,306	11
12	36275C0	Desktop Life Cycle Management			1,500,000		1,500,000		1,500,000	12
13	4001400	Correctional Officer Academy Modernization and Support			1,289,954	1,006,850	2,296,804		2,296,804	13
14	4001700	Community Corrections Statewide Firearms Transition			391,748	1,870,742	2,262,490		2,262,490	14
15	4200030	Increase Trust Fund Authority in the Grants and Donations Trust Fund			-		-	500,000	500,000	15
16	4200040	Increase Administrative Trust Fund Authority			-		-	500,000	500,000	16
17	4700040	Century CI Micro Home Manufacturing Program Support	2.00	83,200	141,780		141,780		141,780	17
18	4700101	Payment In Lieu of Taxes for Union County			300,000		300,000		300,000	18
19	4700250	Community-Based Treatment Provider Rate Increases			2,989,091		2,989,091		2,989,091	19
20	4700369	Ready4Work Statewide Reentry (SF 2992)			-	500,000	500,000		500,000	20
21	4700370	Enhanced Offender Rehabilitation Program (SF 2741)			-		-	2,478,466	2,478,466	21
22	4700380	Search and Analytics Technology to Enhance Public Safety (SF 2231)			-	500,000	500,000		500,000	22
23	4700620	Increase Funding for Substance Abuse Treatment In Prisons			-		-	2,000,000	2,000,000	23
24	4700630	Education Program Expansion	215.00	11,138,540	19,118,978	1,436,505	20,555,483	12,768,849	33,324,332	24
25	4700650	Increase Funding for Community Corrections Residential Substance Abuse Programs			-		-	1,000,000	1,000,000	25
26	4800210	Behavioral Risk Management Team		1,041,908	1,301,538	54,250	1,355,788		1,355,788	26
27	5100010	Brevard Reentry Portal (SF 1815)			-	350,000	350,000		350,000	27
28	5100081	Re-Entry Alliance Pensacola (REAP) - Santa Rosa Re-Entry (SF 1217)			-	150,000	150,000		150,000	28
29	5100082	Re-Entry Alliance Pensacola (REAP) - Escambia County Re-Entry (SF 1218)			-	500,000	500,000		500,000	29
30	5100130	Home Builders Institute (HBI) - Building Careers for Returning Citizens (SF 1969)			-	500,000	500,000		500,000	30
31	5100160	Operation Hew Hope 's Ready4Work Re-Entry (SF 3099)			-	250,000	250,000		250,000	31
32	5100170	CRPS - Inmate Certification Training and Reentry Program (SF 1882)			-	250,000	250,000		250,000	32
33	5100183	Davis-Bradley Mental Health Overlay: Integrated Behavioral Health Treatment for Offenders (SF 3098)				200,000	200,000		200,000	33

		Agency / Department	SENATE APPROPRIATIONS COMMITTEE ON CRIMINAL AND CIVIL JUSTICE							
Row #	Issue Code	Issue Title	FTE	Rate	Rec GR	NR GR	Total GR	Trust Funds	All Funds	Row #
34	5100204	Horizon Communities (SF 1193)			-	500,000	500,000		500,000	34
35	5100206	The Red Tent Women's Initiative, Inc. (SF 1369)			-	95,000	95,000		95,000	35
36	8500A00	Conversion of Other Personal Services to Full-Time Equivalent Positions	68.00	2,129,760	1,267,069		1,267,069		1,267,069	36
37	083258	Major Repairs, Renovations and Improvements to Major Institutions			-	15,350,858	15,350,858		15,350,858	37
38	088362	New and Expanded Administrative and Support Facilities			-		-	6,000,000	6,000,000	38
39	Total	DEPT OF CORRECTIONS	23,677.00	1,209,889,821	3,017,488,434	32,522,199	3,050,010,633	89,875,342	3,139,885,975	39
40										40
41		FL COMMISSION ON OFFENDER REVIEW								41
42	1100001	Startup (OPERATING)	146.00	7,287,805	12,671,809		12,671,809	130,825	12,802,634	42
43	3000110	Office of Executive Clemency Additional Positions	4.00	195,508	318,285	22,412	340,697		340,697	43
44	3000130	Increase Number of Cases for Submission to the Clemency Board	20.00	805,497	1,397,966	317,196	1,715,162		1,715,162	44
45	Total	FL COMMISSION ON OFFENDER REVIEW	170.00	8,288,810	14,388,060	339,608	14,727,668	130,825	14,858,493	45
46										46
47		DEPT OF JUVENILE JUSTICE								47
48	1100001	Startup (OPERATING)	3,247.50	162,741,099	455,961,156		455,961,156	152,686,199	608,647,355	48
49	1600500	Increase Budget Authority In the Federal Grants Trust Fund			-		-	650,000	650,000	49
50	2503080	Direct Billing for Administrative Hearings			16,912		16,912		16,912	50
51	30010C0	Increased Workload for Data Center to Support an Agency			10,848		10,848		10,848	51
52	33V0300	Base Budget Reductions			-		-	(6,483)	(6,483)	52
53	5001285	Florida Alliance of Boys & Girls Clubs Positive Youth Development Program (SF 1813)			-	750,000	750,000		750,000	53
54	5001399	Prodigy Cultural Arts Program (SF 1373)			-	450,000	450,000		450,000	54
55	5001406	Parenting with Love and Limits (SF 1427)			-	250,000	250,000		250,000	55
56	5001421	City of West Park Youth Crime Prevention (SF 2547)			-	200,000	200,000		200,000	56
57	5001473	Clay County Youth Alternative to Secured Detention (S.W.E.A.T. Program) (SF 1430)			-	250,000	250,000		250,000	57
58	5001482	Pasco, Pinellas, Hillsborough Counties Youth Advocate Program (SF 1371)			-	450,000	450,000		450,000	58
59	5001484	Hope Street Diversion Program (SF 2712)			-	250,000	250,000		250,000	59
60	5001493	Girl Matters: Continuity of Care (SF 1425)			-	250,000	250,000		250,000	60
61	5001882	AMlkids Family Centric (SF 1968)			-	500,000	500,000		500,000	61
62	5001887	AMlkids Prevention Programs - Leon and Gadsden Counties (SF 2276)			-	720,000	720,000		720,000	62
63	5001888	Oak Street Home II - Female Teen Delinquency Prevention Program (SF 1095)			-	250,000	250,000		250,000	63
64	5001891	Youth and Police Initiative (YPI) - Train the Trainer Project (SF 1288)			-	400,000	400,000		400,000	64
65	5001892	Family Trauma Training for Youth in Both Juvenile Justice and Child Welfare (SF 1814)			-	200,000	200,000		200,000	65

		Agency / Department	SENATE APPROPRIATIONS COMMITTEE ON CRIMINAL AND CIVIL JUSTICE							
Row #	Issue Code	Issue Title	FTE	Rate	Rec GR	NR GR	Total GR	Trust Funds	All Funds	Row #
66	5003A00	Maintenance of CINS/FINS Operations			5,035,567	700,000	5,735,567		5,735,567	66
67	5004A00	Rate Increase for Non-Secure Residential Program Staff			10,625,548		10,625,548		10,625,548	67
68	5005A00	Rate Increase for Secure Residential Program Staff			6,574,460		6,574,460		6,574,460	68
69	5010010	Integrated Care and Coordination for Youth (ICCY) (SF 2466)				200,000	200,000		200,000	69
70	5103750	Comprehensive Evaluations			2,413,610		2,413,610		2,413,610	70
71	5103800	Positive Family Support Program			-		-	1,725,750	1,725,750	71
72	5103850	Substance Abuse Rate Agreements			-		-	400,000	400,000	72
73	5103900	Curriculum and Educational Materials			-		-	97,630	97,630	73
74	5202110	Continuation and Expansion of Prevention and Early Intervention Programs			2,543,791		2,543,791		2,543,791	74
75	080410	Department of Juvenile Justice Maintenance and Repair - State Owned Buildings			-	4,000,000	4,000,000	6,000,000	10,000,000	75
76	140085	Camp Deep Pond (SF 1828)			-	400,000	400,000		400,000	76
77	140085	CINS/FINS Youth Shelter serving Sarasota and DeSoto Counties (SF 2179)				500,000	500,000		500,000	77
78	140085	CINS/FINS Youth Shelter Replacement (SF 1484)				250,000	250,000		250,000	78
79	140085	Crosswinds Youth Services Campus Security to Protect Children, Youth, Families and Staff (SF 1271)				232,350	232,350		232,350	79
80	140085	The LAB YMCA Leadership Academy (SF 1167)				447,900	447,900		447,900	80
81	140085	AMiklds Feasibility Study (SF 3159)				250,000	250,000		250,000	81
82	Total	DEPT OF JUVENILE JUSTICE	3,247.50	162,741,099	483,181,892	11,900,250	495,082,142	161,553,096	656,635,238	82
83										83
84		DEPT OF LEGAL AFFAIRS								84
85	1100001	Startup (OPERATING)	1,293.50	79,381,638	73,997,638		73,997,638	273,807,149	347,804,787	85
86	2001100	Realign Budget Authority to More Accurately Reflect Expenditures - Deduct				-	-	(820,000)	(820,000)	86
87	2002200	Realign Budget Authority to More Accurately Reflect Expenditures - Add				-	-	820,000	820,000	87
88	2503080	Direct Billing for Administrative Hearings				-	-	589	589	88
89	3000100	Solicitor General Workload	3.00	376,442	893,593	14,343	907,936		907,936	89
90	3000200	Revenue Litigation Workload	6.00	454,000				817,829	817,829	90
91	3000800	Council on the Social Status of Black Men and Boys	1.00							91
92	3306000	Reduce Excess Budget Authority						(810,766)	(810,766)	92
93	3306100	Reduction of General Revenue			(503)		(503)		(503)	93
94	36220C0	Agency-Wide Information Technology Infrastructure and Hardware Replacement			403,884	391,858	795,742	1,285,718	2,081,460	94
95	3801000	Information Technology Staff Enhanced Training			300,000		300,000		300,000	95
96	4000380	Tampa Facility Expenses for Expansion and Restack				820,000	820,000		820,000	96
97	4000389	Legal Services of the Puerto Rican Community (SF 1057)				250,000	250,000		250,000	97
98	4000390	Cuban American Bar Association Pro Bono Project, Inc. (SF 1963)				250,000	250,000		250,000	98
99	4000391	Virgil Hawkins Florida Chapter Bar Association (SF 1370)				250,000	250,000		250,000	99

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100	4000392	Haitian Lawyers Association (SF 1006)			-	250,000	250,000		250,000	100
101	4000396	Additional Funding for Children's Advocacy Centers (SF 2623)			252,751	200,000	452,751		452,751	101
102	4003010	Office of Statewide Prosecution Cold Case Unit	5.00	439,686	743,610	23,905	767,515		767,515	102
103	4100223	Selah Freedom Sex Trafficking and Exploitation Victims Programs and Services (SF 1949)			-	500,000	500,000		500,000	103
104	4100224	Open Doors - Voices for Florida (SF 1938)			-	250,000	250,000		250,000	104
105	4100240	Low Income Taxpayer Clinic Program (SF 2193)			-	150,000	150,000		150,000	105
106	4100250	Florida Organized Retail Crime Exchange (FORCE) Intelligence Platform (SF 1983)			-	100,000	100,000		100,000	106
107	4100252	Nancy J. Cotterman Center Advocacy Program (SF 1071)			-	250,000	250,000		250,000	107
108	4100253	Big Brothers Big Sisters - Bigs In Blue Mentoring Project (SF 2175)			-	250,000	250,000		250,000	108
109	4100254	The NO MORE Foundation - Human Trafficking Capacity Expansion (SF 2527)			-	400,000	400,000		400,000	109
110	4100256	United Way Pasco - Transitional Housing for Survivors of Human Trafficking (SF 1254)			-	400,000	400,000		400,000	110
111	140085	Mid Florida Community Services Inc. - Children's Advocacy Center of Hernando County (SF 2892)				250,000	250,000		250,000	111
112	Total	DEPT OF LEGAL AFFAIRS	1,308.50	80,651,766	76,590,973	5,000,106	81,591,079	275,100,519	356,691,598	112
113										113
114		DEPT OF LAW ENFORCEMENT								114
115	1100001	Startup (OPERATING)	1,954.00	120,681,108	161,256,819		161,256,819	153,900,618	315,157,437	115
116	2000020	Realignment of Expenditures - Add	9.00	475,915	7,377,028		7,377,028	895,042	8,272,070	116
117	2000100	Realignment of Expenditures - Deduct	(9.00)	(475,915)	(7,377,028)		(7,377,028)	(895,042)	(8,272,070)	117
118	2301500	Increase for Facility Rental Costs			275,000		275,000		275,000	118
119	2503080	Direct Billing for Administrative Hearings				-		7,707	7,707	119
120	3000870	Capitol Police K9 Officer Position	1.00	50,000		-		212,454	212,454	120
121	3000900	E-Verify Staffing	8.00	399,453	654,995	36,360	691,355		691,355	121
122	3000920	Policy and Case Analysis Team Staffing	6.00	262,270	439,932	23,370	463,302		463,302	122
123	3000940	Missing and Endangered Persons Information Clearinghouse Staffing	3.00	245,215	402,303	22,725	425,028		425,028	123
124	3000960	Protective Services Staffing	7.00	432,658	3,886,606	1,763,620	5,650,226		5,650,226	124
125	36210C0	Alcohol Testing Program Transition to New Breath Test Instrumentation				-		3,584,729	3,584,729	125
126	36230C0	PBX (Private Branch Exchange) Replacement			1,200,000		1,200,000		1,200,000	126
127	4100320	State Assistance for Fentanyl Eradication (S.A.F.E.) In Florida Program				-		20,000,000	20,000,000	127
128	4100330	Investigative Aviation Operations			850,000	2,418,080	3,268,080		3,268,080	128
129	4100350	Purchase of Body Armor for Local Law Enforcement				-		2,000,000	2,000,000	129
130	4100440	Increase Federal Grants Trust Fund Authority - Cops Anti-Methamphetamine Program (CAMP) Grant				-		1,142,781	1,142,781	130
131	4100600	Increase Trust Fund Authority for Tenant Broker Commissions				-		15,600	15,600	131

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132	4500300	Maintain Investigative Vehicle Fleet			-		-	850,000	850,000	132
133	4500350	Replace Cyber Forensic Vans			-		-	850,000	850,000	133
134	4500900	Pensacola Regional Operations Center Facility			2,300,000		2,300,000		2,300,000	134
135	49001C0	Statewide Sexual Assault Kit Tracking System			-		-	500,000	500,000	135
136	4900200	Forensic Vehicles - Crime Scene Truck and Evidence Transfer Vehicles			-	349,500	349,500		349,500	136
137	5010030	Project Cold Case (SF 1805)			-	150,000	150,000		150,000	137
138	5010042	Broward County Sheriff 's Office Digital Forensic Unit Expansion (SF 2253)			-	525,821	525,821		525,821	138
139	5010043	Rapid DNA Local Government Grant (SF 2102)			-	250,000	250,000		250,000	139
140	5010046	Wandering Rescue and Prevention (SF 1011)			-	200,000	200,000		200,000	140
141	5010117	Alligator Alley Emergency Response Technology (SF 3183)			-	1,168,337	1,168,337		1,168,337	141
142	5010206	K9s United (SF 2251)			-	200,000	200,000		200,000	142
143	5010210	Community, Cops, Courts and State Attorney Violent Crime Intervention (SF 1106)			-	250,000	250,000		250,000	143
144	5010241	South Florida Internet Crimes Against Children (ICAC) Task Force (SF 2337)			-	250,000	250,000		250,000	144
145	5010242	City of South Miami Community Safety & Police Technology Updates (SF 1343)			-	250,000	250,000		250,000	145
146	5010245	Tampa Jewish Community Preventative Security Initiative (SF 1905)			-	250,000	250,000		250,000	146
147	5010246	City of Naples, FL - Cyber Security Expansion (SF 3030)			-	828,000	828,000		828,000	147
	5010247	Escambia Search and Rescue Response Equipment (SF 1669)				15,500	15,500		15,500	
148	5010248	Palm Beach County Sheriff - the Unmanned Aerial Response Team (UART) (SF 1869)			-	250,000	250,000		250,000	148
149	5010262	Broward County Sheriff 's Office Real-Time Crime Center Expansion (SF 2460)			-	2,390,399	2,390,399		2,390,399	149
150	5010264	City of Riviera Beach Mobile Command Center (SF 1641)			-	250,000	250,000		250,000	150
151	5010268	Gadsden County Sheriff Public Safety Interoperability Project (SF 3174)			-	250,000	250,000		250,000	151
152	5011301	Salary Increases for Law Enforcement Officers In Fiscally Constrained Counties			718,880		718,880		718,880	152
153	5013000	Maccabi Games and Arts Fest Security (SF 1247)			-	200,000	200,000		200,000	153
154	5013100	Pasco Sheriff's Office Deployable Emergency Operations Center (SF 1004)				200,000	200,000		200,000	154
155	080912	Orlando Regional Operations Center Electrical Improvements - DMS Mgd			-		-	2,800,000	2,800,000	155
156	080914	Tallahassee Regional Operations Center Laboratory Improvements - DMS Mgd			-		-	540,000	540,000	156
157	140085	Hardee County Sheriff's Office (SF 2060)				1,000,000	1,000,000		1,000,000	157
158	140085	Hiialeah Gardens Active Shooter and Emergency Response Training Facility (SF 1297)				250,000	250,000		250,000	158

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159	140085	City of Fruitland Park Emergency Operations Center/Public Safety Building (SF 1706)				250,000	250,000		250,000	159
160	140085	Union County Public Safety Complex - Phase 2 (SF 1833)				7,000,000	7,000,000		7,000,000	160
161	140085	Columbia County Sheriff's Crime Lab & Maintenance Facility (SF 1404)				980,000	980,000		980,000	161
162	140085	District 1 Medical Examiners Facility Planning, Design and Construction (SF 2247)				1,000,000	1,000,000		1,000,000	162
163	140085	Hillsborough County Sheriff's Office Regional K9 Training and Boarding Facility (SF 1902)				250,000	250,000		250,000	163
164	140085	Glades County Sheriff Administration Services Facility (SF 2116)				300,000	300,000		300,000	164
165	140085	St. Lucie County District 19 Medical Examiner Facility Planning and Design (SF 1865)				300,000	300,000		300,000	165
166	140085	Pasco Sheriff's Office - Emergency Operations Center Hardening Improvements (SF 1180)				750,000	750,000		750,000	166
167	140085	St. Johns County Police Athletic League (PAL) Youth Sports Complex (SF 2877)				500,000	500,000		500,000	167
168	140085	City of Sanibel Police Department Building Construction (SF 2000)				500,000	500,000		500,000	168
169	140085	Lafayette County Sheriff's Office Jail (SF 2995)				2,000,000	2,000,000		2,000,000	169
170	140085	Bay County Sheriff Helicopter Hanger (SF 1602)				350,000	350,000		350,000	170
171	140085	Hurricane Michael Rebuild Jackson County Sheriff's Office Public Safety Complex (SF 2998)				250,000	250,000		250,000	171
172	140085	City of Palm Bay Sacrifice Park Public Safety Memorial Improvements (SF 1475)				150,000	150,000		150,000	172
173	140085	City of Palm Bay Improvements to Public Safety Facility, a Regional Training Grounds and Gun Range (SF 1560)				1,250,000	1,250,000		1,250,000	173
174	140085	City of Fort Myers Community at Risk Youth Programs and Facilities (SF 2241)				500,000	500,000		500,000	174
175	140085	City of Belle Isle Public Safety Facility (SF 2663)				875,000	875,000		875,000	175
176	140085	Dixie County Sheriff's Office Evidence Building (SF 2266)				1,400,000	1,400,000		1,400,000	176
177	Total	DEPT OF LAW ENFORCEMENT	1,979.00	122,070,704	171,984,535	32,346,712	204,331,247	186,403,889	390,735,136	177
178										178
179		JUSTICE ADMIN COMMISSION (JAC)								179
180	1100001	Startup (OPERATING)	102.50	5,171,641	118,474,497		118,474,497	6,895,064	125,369,561	180
181	36371C0	Technology Staffing for JAC	2.00	170,000	345,606	5,970	351,576		351,576	181
182	4203760	Adjustment to Clerk of the Court Funding for Administrative Expenditures			21,000,000		21,000,000		21,000,000	182
183	4304010	Jury Expenditures			3,700,000		3,700,000		3,700,000	183
184	5002010	Strategic Planning and Performance Improvement Unit	1.00	91,506	188,599	3,101	191,700		191,700	184
185	Total	JUSTICE ADMIN COMMISSION (JAC)	105.50	5,433,147	143,708,702	9,071	143,717,773	6,895,064	150,612,837	185
186										186

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187		GUARDIAN AD LITEM (GAL)								187
188	1100001	Startup (OPERATING)	815.00	38,589,077	58,150,317		58,150,317	5,067,917	63,218,234	188
189	2000100	Realignment of Administrative Expenditures - Add			4,540,465		4,540,465	370,690	4,911,155	189
190	2000200	Realignment of Administrative Expenditures - Deduct			(4,540,465)		(4,540,465)	(370,690)	(4,911,155)	190
191	30010C0	Increased Workload for Data Center to Support an Agency			49,856		49,856		49,856	191
192	Total	GUARDIAN AD LITEM (GAL)	815.00	38,589,077	58,200,173	-	58,200,173	5,067,917	63,268,090	192
193										193
194		STATE ATTORNEYS								194
195	1100001	Startup (OPERATING)	6,067.00	365,060,722	442,021,790		442,021,790	128,147,512	570,169,302	195
196	160F010	Transfer Funds Between Categories - Add			1,400		1,400	15,000	16,400	196
197	160F020	Transfer Funds Between Categories - Deduct			(1,400)		(1,400)	(15,000)	(16,400)	197
198	2000100	Realignment of Administrative Expenditures - Add			166,000		166,000	200,000	366,000	198
199	2000200	Realignment of Administrative Expenditures - Deduct			(166,000)		(166,000)	(200,000)	(366,000)	199
200	2401000	Replacement Equipment			-		-	300,000	300,000	200
201	2401500	Replacement of Motor Vehicles			-		-	2,360,797	2,360,797	201
202	2402400	Additional Equipment - Motor Vehicles			-		-	245,000	245,000	202
203	3001250	State Attorney Workload	6.00	335,000	6,555,343	20,602	6,575,945		6,575,945	203
204	3001520	Increase Trust Fund Authority			-		-	33,195	33,195	204
205	3301710	Reduce Unfunded Trust Authority	(3.00)	(93,600)	-		-	(1,871,700)	(1,871,700)	205
206	3302000	Reduce Grants and Donations Trust Fund Authority			-		-	(73,363)	(73,363)	206
207	36201C0	Information Technology Critical Needs			-		-	122,629	122,629	207
208	36224C0	County Agreement for Information Technology Personnel Services	2.00	110,000	-		-	169,648	169,648	208
209	36370C0	Information Technology Development for Victims' Rights Compliance			-	110,940	110,940		110,940	209
210	4208012	Smart Justice Data Transparency and Crime Strategies Unit (SF 1598)			-	250,000	250,000		250,000	210
211	4208375	Victim Notification Pilot Program			-		-	4,050,000	4,050,000	211
212	4300510	Increased State Attorney Forfeiture and Investigative Support Trust Fund (FIST)			-		-	69,346	69,346	212
213	4301010	Increased Trust Fund Authority for Victims of Crime Act Grant	1.00	50,000	-		-	78,845	78,845	213
214	Total	STATE ATTORNEYS	6,073.00	365,462,122	448,577,133	381,542	448,958,675	133,631,909	582,590,584	214
215										215
216		PUBLIC DEFENDERS								216
217	1100001	Startup (OPERATING)	2,855.50	188,788,548	244,686,297		244,686,297	42,524,280	287,210,577	217
218	2000100	Realignment of Administrative Expenditures - Add			138,167		138,167		138,167	218
219	2000200	Realignment of Administrative Expenditures - Deduct			(138,167)		(138,167)		(138,167)	219
220	2401500	Replacement of Motor Vehicles			-		-	408,000	408,000	220
221	2402000	Additional Equipment			-		-	50,000	50,000	221
222	2402400	Additional Equipment - Motor Vehicles			-		-	35,000	35,000	222
223	3001300	Public Defender Trial Workload	1.00	150,000	3,800,000		3,800,000	224,384	4,024,384	223

		Agency / Department	SENATE APPROPRIATIONS COMMITTEE ON CRIMINAL AND CIVIL JUSTICE							
Row #	Issue Code	Issue Title	FTE	Rate	Rec GR	NR GR	Total GR	Trust Funds	All Funds	Row #
224	36224C0	County Agreement for Information Technology Personnel Services			-		-	25,000	25,000	224
225	4200310	Mental Health Professional		90,000	-		-	122,134	122,134	225
226	4200320	Mental Health Disposition Specialist		60,000	-		-	71,736	71,736	226
227	4303030	County Agreement for Personnel Services			-		-	37,096	37,096	227
228	5100500	Additional Criminal Court Divisions		120,000	-		-	159,200	159,200	228
229	Total	PUBLIC DEFENDERS	2,856.50	189,208,548	248,486,297	-	248,486,297	43,656,830	292,143,127	229
230										230
231		APPELLATE PUBLIC DEFENDERS								231
232	1100001	Startup (OPERATING)	173.00	13,846,312	20,147,597		20,147,597	356,732	20,504,329	232
233	Total	APPELLATE PUBLIC DEFENDERS	173.00	13,846,312	20,147,597	-	20,147,597	356,732	20,504,329	233
234										234
235		CAPITAL COLLATERAL REGIONAL COUNSELS								235
236	1100001	Startup (OPERATING)	96.00	7,032,558	12,595,735		12,595,735	1,341,709	13,937,444	236
237	2301900	Building Rental for Privately Owned Office Space			25,404		25,404		25,404	237
238	24010C0	Information Technology Infrastructure Replacement			-	426,561	426,561		426,561	238
239	2402400	Additional Equipment - Motor Vehicles			-		-	61,305	61,305	239
240	3000130	Additional Collateral Caseload Resources Request	1.00	42,000	70,220	5,648	75,868		75,868	240
241	36201C0	Information Technology Critical Needs			48,275	17,380	65,655		65,655	241
242	Total	CAPITAL COLLATERAL REGIONAL COUNSELS	97.00	7,074,558	12,739,634	449,589	13,189,223	1,403,014	14,592,237	242
243										243
244		CRIMINAL CONFLICT AND CIVIL REGIONAL COUNSEL								244
245	1100001	Startup (OPERATING)	572.00	38,833,053	61,689,358		61,689,358	5,841,249	67,530,607	245
246	2000100	Realignment of Administrative Expenditures - Add			200,000		200,000		200,000	246
247	2000200	Realignment of Administrative Expenditures - Deduct			(200,000)		(200,000)		(200,000)	247
248	2301900	Building Rental for Privately Owned Office Space			1,078,437		1,078,437		1,078,437	248
249	2403400	Law Library Requirements			20,000		20,000		20,000	249
250	3009520	Increase Trust Fund Authority for Title IV-E Funding			-		-	542,313	542,313	250
251	36201C0	Information Technology Critical Needs			-	73,000	73,000		73,000	251
252	4201800	Increased Funding for Leased Equipment			25,000		25,000		25,000	252
253	4201900	Increased Funding for Office Operations			67,000		67,000		67,000	253
254	990A000	Office Space			-	314,600	314,600		314,600	254
255	Total	CRIMINAL CONFLICT AND CIVIL REGIONAL COUNSEL	572.00	38,833,053	62,879,795	387,600	63,267,395	6,383,562	69,650,957	255
256										256
257		STATE COURT SYSTEM								257
258	1100001	Startup (OPERATING)	4,506.50	385,513,760	551,400,362		551,400,362	108,334,253	659,734,615	258
259	3000135	Problem Solving Courts Funding			920,545		920,545		920,545	259
260	3000820	Critical Due Process Resources	20.00	1,760,000	6,037,599	66,900	6,104,499		6,104,499	260
261	3001020	Trial Courts Pandemic Recovery Plan			-	8,500,000	8,500,000		8,500,000	261
262	3003015	Operational Support for the State Court System	2.00	105,597	185,636	16,113	201,749		201,749	262
263	5001510	Early Childhood Courts (SF 2174)			-	250,000	250,000		250,000	263
264	5001800	Community Court Program (SF 1251)			-	100,000	100,000		100,000	264

		Agency / Department	SENATE APPROPRIATIONS COMMITTEE ON CRIMINAL AND CIVIL JUSTICE							
Row #	Issue Code	Issue Title	FTE	Rate	Rec GR	NR GR	Total GR	Trust Funds	All Funds	Row #
265	5402000	Courthouse Furnishings - Nonpublic Areas			-	264,616	264,616		264,616	265
266	140700	Hardee County Courthouse Annex Improvements (SF 2054)				250,000	250,000		250,000	266
267	140700	Harriett T. Moore Justice Center Addition/Expansion (SF 1808)			-	5,500,000	5,500,000		5,500,000	267
268	Total	STATE COURT SYSTEM	4,528.50	387,379,357	558,544,142	14,947,629	573,491,771	108,334,253	681,826,024	268
269	Grand Total		45,602.50	2,629,468,374	5,316,917,367	98,284,306	5,415,201,673	1,018,792,952	6,433,994,625	269

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 7034

INTRODUCER: Appropriations Committee on Criminal and Civil Justice

SUBJECT: Trust Funds/Opioid Settlement Trust Fund/Department of Corrections

DATE: March 21, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
Atchley	Harkness		ACJ Submitted as Comm. Bill/Fav

I. Summary:

SB 7034 creates section 944.74, Florida Statutes, establishing the Opioid Settlement Trust Fund within the Department of Corrections. The purpose of the trust fund is to abate the opioid epidemic in accordance with the settlement agreements reached by the state in opioid-related litigation or bankruptcy proceedings. The trust fund will receive funds as provided in the General Appropriations Act.

The bill is effective July 1, 2023.

II. Present Situation:

Trust Funds

Establishment of Trust Funds

A trust fund may be created by law only by the Legislature and only if passed by a three-fifths vote of the membership of each house in a separate bill for that purpose only. Except for trust funds being re-created by the Legislature, each trust fund must be created by statutory language that specifies at least the following:

- The name of the trust fund.
- The agency or branch of state government responsible for administering the trust fund.
- The requirements or purposes that the trust fund is established to meet.
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.¹

¹ Section 215.3207, F.S.

Florida Constitution Requirement for Trust Funds

The Florida Constitution requires that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund.² By law the Legislature may set a shorter time period for which any trust fund is authorized.³

Review of Trust Funds

The Legislature must review all state trust funds at least once every 4 years,⁴ prior to the regular session of the Legislature immediately preceding the date on which any executive or judicial branch trust fund is scheduled to be terminated,⁵ or such earlier date as the Legislature may specify.⁶

The agency responsible for the administration of the trust fund and the Governor, for executive branch trust funds, or the Chief Justice, for judicial branch trust funds, must recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created.⁷ Each recommendation must be based on a review of the purpose and use of the trust fund and a determination of whether the trust fund will continue to be necessary.⁸ A recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts, and allowable expenditures for the trust fund.⁹

When the Legislature terminates a trust fund, the agency or branch of state government that administers the trust fund must pay any outstanding debts or obligations of the trust fund as soon as practicable.¹⁰ The Legislature may also provide for the distribution of moneys in that trust fund. If no such distribution is provided, the moneys remaining after all outstanding obligations of the trust fund are met must be deposited in the General Revenue Fund.¹¹

Opioid Settlements

Florida joined a multi-state coalition of 48 states and the District of Columbia to sue pharmaceutical companies, distributors, and dispensing companies that had major roles in producing or promoting opioid products that helped to fuel the nation's opioid epidemic.¹²

In July of 2021, three of the largest pharmaceutical companies settled litigation related to the opioid crisis. Based on the settlement agreement, the three companies collectively will pay up to \$21 billion over 17 and a half years, with Florida receiving a total of \$1.3 billion. Additionally,

² Art. III, s. 19(f)(2), Fla. Const.

³ *Id.*

⁴ Section 215.3208(1), F.S.

⁵ Pursuant to Art. III, s. 19(f), Fla. Const.

⁶ Section 215.3206(1), F.S.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Section 215.3208(2)(a), F.S.

¹¹ Section 215.3208(b), F.S.

¹² See Florida Attorney General, *Attorney General Moody secures relief for opioid crisis*, <https://myfloridalegal.com/opioidsettlement> (last visited Feb. 24, 2023).

Johnson & Johnson will pay up to \$5 billion over nine years, with Florida receiving almost \$300 million from that agreement. Previous settlement funding generated more than \$300 million for Florida opioid abatement, which brings the collective opioid efforts for Florida to \$1.9 billion. The settlement funding must be used to support opioid treatment, prevention and recovery services.¹³

In addition to the Johnson & Johnson settlement the state has entered into settlement agreements with the following entities: Endo Health Solutions, CVS Health Corporation, CVS Pharmacy, Inc., Teva Pharmaceuticals Industries Ltd., Allergan Finance, LLC., Walgreen Boots Alliance, Inc., and Walgreen Co., and Walmart.¹⁴ These agreements total approximately \$3.2 billion to be received by the state with some of the funds sent directly to local governments over a period of up to 18 years.

In 2022, the Legislature created an Opioid Settlement Clearing Trust Fund in the Department of Financial Services to serve as the depository of opioid settlement funds.¹⁵ Funds received from the settlements will be deposited into the clearing trust fund and then transferred from the clearing trust fund to various agencies to implement the appropriations as provided in the General Appropriations Act.¹⁶

Department of Corrections

The Department of Corrections provides substance use treatment to inmates in prison and through community based programs to offenders on felony supervision in the community. This includes treatment for inmates and offenders with opioid addictions. In Fiscal Year 2021-22, the Department of Corrections provided substance use programming to 8,542 inmates in prison and 25,290 offenders in the community¹⁷.

III. Effect of Proposed Changes:

The bill creates s. 944.74, F.S., to create the Opioid Settlement Trust Fund within the Department of Corrections. The purpose of the trust fund is to abate the opioid epidemic in accordance with the settlement agreements reached by the state in opioid-related litigation or bankruptcy proceedings.

The Department of Financial Services shall transfer any amount specified in the General Appropriations Act from the Opioid Settlement Clearing Trust Fund to the Department of Corrections' opioid settlement trust fund.

¹³ Florida Attorney General, *Attorney General Moody announces new settlement for \$65 million with opioid manufacturer Endo and finalization of Johnson & Johnson Opioid Settlement*, (Jan. 18, 2022) available at <http://www.myfloridalegal.com/newsrel.nsf/newsreleases/DBE8B56810857CB3852587CE00776C03> (last visited Feb. 24, 2023).

¹⁴ See Florida Attorney General, *Attorney General Moody secures relief for opioid crisis*.

¹⁵ Chapter 2022-161, Laws of Florida.

¹⁶ Section 17.42, F.S.

¹⁷ Florida Department of Corrections Annual Report 2021-22, <http://www.dc.state.fl.us/pub/annual/2021/Annual%20Report%2021-22.pdf> (last visited March. 15, 2023).

Any unencumbered balance remaining at the end of the fiscal year and any encumbered balance remaining undisbursed on September 30 of the same calendar year reverts to the Opioid Settlement Clearing Trust Fund.

As required by the Florida Constitution, the Opioid Settlement Trust Fund terminates on July 1, 2027, unless terminated sooner or recreated by the Legislature. Additionally, the trust fund is required to be reviewed as provided in s. 215.3206, F.S., before its schedule termination.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Article III, s. 19(f)(1) of the Florida Constitution specifies that a trust fund may be created or re-created only by a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

Article III, s. 19(f)(2) of the Florida Constitution specifies that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund. By law the Legislature may set a shorter time period for which any trust fund is authorized.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 944.74 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

FOR CONSIDERATION By the Appropriations Committee on Criminal and Civil Justice

604-02486-23

20237034pb

1 A bill to be entitled
2 An act relating to trust funds; creating s. 944.74,
3 F.S.; creating the Opioid Settlement Trust Fund within
4 the Department of Corrections; providing the purpose
5 of the trust fund; providing sources of funds;
6 providing for the reversion of funds in the Opioid
7 Settlement Trust Fund; providing for future review and
8 termination or re-creation of the trust fund;
9 providing an effective date.

10

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

12

13 Section 1. Section 944.74, Florida Statutes, is created to
14 read:

15 944.74 Opioid Settlement Trust Fund.—

16 (1) The Opioid Settlement Trust Fund is created within the
17 Department of Corrections. The purpose of the trust fund is to
18 abate the opioid epidemic in accordance with the settlement
19 agreements reached by the state in opioid-related litigation or
20 bankruptcy proceedings.

21 (2) Funds to be credited to the trust fund shall consist of
22 funds disbursed, by nonoperating transfer, from the Department
23 of Financial Services' Opioid Settlement Clearing Trust Fund in
24 amounts equal to the annual appropriations made from this trust
25 fund.

26 (3) Notwithstanding s. 216.301 and pursuant to s. 216.351,
27 any unencumbered balance in the trust fund at the end of any
28 fiscal year and any encumbered balance remaining undisbursed on
29 September 30 of the same calendar year shall revert to the

Page 1 of 2

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

604-02486-23

20237034pb

30 Department of Financial Services' Opioid Settlement Clearing
31 Trust Fund.
32 (4) In accordance with s. 19(f), Art. III of the State
33 Constitution, the Opioid Settlement Trust Fund, unless
34 terminated sooner, shall be terminated on July 1, 2027. Before
35 its scheduled termination, the trust fund shall be reviewed as
36 provided in s. 215.3206(1) and (2).

37

Section 2. This act shall take effect July 1, 2023.

Page 2 of 2

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

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 7036

INTRODUCER: Appropriations Committee on Criminal and Civil Justice

SUBJECT: Trust Funds/Opioid Settlement Trust Fund/Department of Juvenile Justice

DATE: March 21, 2023

REVISED: _____

ANALYST

STAFF DIRECTOR

REFERENCE

ACTION

Atchley

Harkness

**ACJ Submitted as Comm.
Bill/Fav**

I. Summary:

SB 7036 creates section 985.693, Florida Statutes, establishing the Opioid Settlement Trust Fund within the Department of Juvenile Justice. The purpose of the trust fund is to abate the opioid epidemic in accordance with the settlement agreements reached by the state in opioid-related litigation or bankruptcy proceedings. The trust fund will receive funds as provided in the General Appropriations Act.

The bill is effective July 1, 2023.

II. Present Situation:

Trust Funds

Establishment of Trust Funds

A trust fund may be created by law only by the Legislature and only if passed by a three-fifths vote of the membership of each house in a separate bill for that purpose only. Except for trust funds being re-created by the Legislature, each trust fund must be created by statutory language that specifies at least the following:

- The name of the trust fund.
- The agency or branch of state government responsible for administering the trust fund.
- The requirements or purposes that the trust fund is established to meet.
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.¹

¹ Section 215.3207, F.S.

Florida Constitution Requirement for Trust Funds

The Florida Constitution requires that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund.² By law the Legislature may set a shorter time period for which any trust fund is authorized.³

Review of Trust Funds

The Legislature must review all state trust funds at least once every 4 years,⁴ prior to the regular session of the Legislature immediately preceding the date on which any executive or judicial branch trust fund is scheduled to be terminated,⁵ or such earlier date as the Legislature may specify.⁶

The agency responsible for the administration of the trust fund and the Governor, for executive branch trust funds, or the Chief Justice, for judicial branch trust funds, must recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created.⁷ Each recommendation must be based on a review of the purpose and use of the trust fund and a determination of whether the trust fund will continue to be necessary.⁸ A recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts, and allowable expenditures for the trust fund.⁹

When the Legislature terminates a trust fund, the agency or branch of state government that administers the trust fund must pay any outstanding debts or obligations of the trust fund as soon as practicable.¹⁰ The Legislature may also provide for the distribution of moneys in that trust fund. If no such distribution is provided, the moneys remaining after all outstanding obligations of the trust fund are met must be deposited in the General Revenue Fund.¹¹

Opioid Settlements

Florida joined a multi-state coalition of 48 states and the District of Columbia to sue pharmaceutical companies, distributors, and dispensing companies that had major roles in producing or promoting opioid products that helped to fuel the nation's opioid epidemic.¹²

In July of 2021, three of the largest pharmaceutical companies settled litigation related to the opioid crisis. Based on the settlement agreement, the three companies collectively will pay up to \$21 billion over 17 and a half years, with Florida receiving a total of \$1.3 billion. Additionally,

² Art. III, s. 19(f)(2), Fla. Const.

³ *Id.*

⁴ Section 215.3208(1), F.S.

⁵ Pursuant to Art. III, s. 19(f), Fla. Const.

⁶ Section 215.3206(1), F.S.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Section 215.3208(2)(a), F.S.

¹¹ Section 215.3208(b), F.S.

¹² See Florida Attorney General, *Attorney General Moody secures relief for opioid crisis*, <https://myfloridalegal.com/opioidsettlement> (last visited Feb. 24, 2023).

Johnson & Johnson will pay up to \$5 billion over nine years, with Florida receiving almost \$300 million from that agreement. Previous settlement funding generated more than \$300 million for Florida opioid abatement, which brings the collective opioid efforts for Florida to \$1.9 billion. The settlement funding must be used to support opioid treatment, prevention and recovery services.¹³

In addition to the Johnson & Johnson settlement the state has entered into settlement agreements with the following entities: Endo Health Solutions, CVS Health Corporation, CVS Pharmacy, Inc., Teva Pharmaceuticals Industries Ltd., Allergan Finance, LLC., Walgreen Boots Alliance, Inc., and Walgreen Co., and Walmart.¹⁴ These agreements total approximately \$3.2 billion to be received by the state with some of the funds sent directly to local governments over a period of up to 18 years.

In 2022, the Legislature created an Opioid Settlement Clearing Trust Fund in the Department of Financial Services to serve as the depository of opioid settlement funds.¹⁵ Funds received from the settlements will be deposited into the clearing trust fund and then transferred from the clearing trust fund to various agencies to implement the appropriations as provided in the General Appropriations Act.¹⁶

Department of Juvenile Justice

The Department of Juvenile Justice provides substance use programs and services to meet the specialized needs of committed youth in their residential program. These youth are provided an assessment and evaluation to determine if substance use intervention and treatment services are needed. The majority of the department's substance use programs are offered through contracted providers.

III. Effect of Proposed Changes:

The bill creates s. 985.693, F.S., to create the Opioid Settlement Trust Fund within the Department of Juvenile Justice. The purpose of the trust fund is to abate the opioid epidemic in accordance with the settlement agreements reached by the state in opioid-related litigation or bankruptcy proceedings.

The Department of Financial Services shall transfer any amount specified in the General Appropriations Act from the Opioid Settlement Clearing Trust Fund to the Department of Juvenile Justice's opioid settlement trust fund.

¹³ Florida Attorney General, *Attorney General Moody announces new settlement for \$65 million with opioid manufacturer Endo and finalization of Johnson & Johnson Opioid Settlement*, (Jan. 18, 2022) available at <http://www.myfloridalegal.com/newsrel.nsf/newsreleases/DBE8B56810857CB3852587CE00776C03> (last visited Feb. 24, 2023).

¹⁴ See Florida Attorney General, *Attorney General Moody secures relief for opioid crisis*.

¹⁵ Chapter 2022-161, Laws of Florida.

¹⁶ Section 17.42, F.S.

Any unencumbered balance remaining at the end of the fiscal year and any encumbered balance remaining undisbursed on September 30 of the same calendar year reverts to the Opioid Settlement Clearing Trust Fund.

As required by the Florida Constitution, the Opioid Settlement Trust Fund terminates on July 1, 2027, unless terminated sooner or recreated by the Legislature. Additionally, the trust fund is required to be reviewed as provided in s. 215.3206, F.S., before its schedule termination.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Article III, s. 19(f)(1) of the Florida Constitution specifies that a trust fund may be created or re-created only by a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

Article III, s. 19(f)(2) of the Florida Constitution specifies that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund. By law the Legislature may set a shorter time period for which any trust fund is authorized.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 985.693 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

FOR CONSIDERATION By the Appropriations Committee on Criminal and Civil Justice

604-02488-23

20237036pb

1 A bill to be entitled
2 An act relating to trust funds; creating s. 985.693,
3 F.S.; creating the Opioid Settlement Trust Fund within
4 the Department of Juvenile Justice; providing the
5 purpose of the trust fund; providing sources of funds;
6 providing for the reversion of funds in the Opioid
7 Settlement Trust Fund; providing for future review and
8 termination or re-creation of the trust fund;
9 providing an effective date.

10

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

12

13 Section 1. Section 985.693, Florida Statutes, is created to
14 read:

15

985.693 Opioid Settlement Trust Fund.—

16

17 (1) The Opioid Settlement Trust Fund is created within the
18 Department of Juvenile Justice. The purpose of the trust fund is
19 to abate the opioid epidemic in accordance with the settlement
20 agreements reached by the state in opioid-related litigation or
21 bankruptcy proceedings.

22

23 (2) Funds to be credited to the trust fund shall consist of
24 funds disbursed, by nonoperating transfer, from the Department
25 of Financial Services' Opioid Settlement Clearing Trust Fund in
26 amounts equal to the annual appropriations made from this trust
27 fund.

28

29 (3) Notwithstanding s. 216.301 and pursuant to s. 216.351,
any unencumbered balance in the trust fund at the end of any
fiscal year and any encumbered balance remaining undisbursed on
September 30 of the same calendar year shall revert to the

Page 1 of 2

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

604-02488-23

20237036pb

30 Department of Financial Services' Opioid Settlement Clearing
31 Trust Fund.
32 (4) In accordance with s. 19(f), Art. III of the State
33 Constitution, the Opioid Settlement Trust Fund, unless
34 terminated sooner, shall be terminated on July 1, 2027. Before
35 its scheduled termination, the trust fund shall be reviewed as
36 provided in s. 215.3206(1) and (2).
37 Section 2. This act shall take effect July 1, 2023.

Page 2 of 2

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

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 7038

INTRODUCER: Appropriations Committee on Criminal and Civil Justice

SUBJECT: Trust Funds/Opioid Settlement Trust Fund/Department of Law Enforcement

DATE: March 21, 2023

REVISED: _____

ANALYST

STAFF DIRECTOR

REFERENCE

ACTION

Kolich

Harkness

**ACJ Submitted as Comm.
Bill/Fav**

I. Summary:

SB 7038 creates section 944.74, Florida Statutes, establishing the Opioid Settlement Trust Fund within the Department of Law Enforcement (FDLE). The purpose of the trust fund is to abate the opioid epidemic in accordance with the settlement agreements reached by the state in opioid-related litigation or bankruptcy proceedings. The trust fund will receive funds as provided in the General Appropriations Act.

The bill is effective July 1, 2023.

II. Present Situation:

Trust Funds

Establishment of Trust Funds

A trust fund may be created by law only by the Legislature and only if passed by a three-fifths vote of the membership of each house in a separate bill for that purpose only. Except for trust funds being re-created by the Legislature, each trust fund must be created by statutory language that specifies at least the following:

- The name of the trust fund.
- The agency or branch of state government responsible for administering the trust fund.
- The requirements or purposes that the trust fund is established to meet.
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.¹

¹ Section 215.3207, F.S.

Florida Constitution Requirement for Trust Funds

The Florida Constitution requires that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund.² By law the Legislature may set a shorter time period for which any trust fund is authorized.³

Review of Trust Funds

The Legislature must review all state trust funds at least once every 4 years,⁴ prior to the regular session of the Legislature immediately preceding the date on which any executive or judicial branch trust fund is scheduled to be terminated,⁵ or such earlier date as the Legislature may specify.⁶

The agency responsible for the administration of the trust fund and the Governor, for executive branch trust funds, or the Chief Justice, for judicial branch trust funds, must recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created.⁷ Each recommendation must be based on a review of the purpose and use of the trust fund and a determination of whether the trust fund will continue to be necessary.⁸ A recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts, and allowable expenditures for the trust fund.⁹

When the Legislature terminates a trust fund, the agency or branch of state government that administers the trust fund must pay any outstanding debts or obligations of the trust fund as soon as practicable.¹⁰ The Legislature may also provide for the distribution of moneys in that trust fund. If no such distribution is provided, the moneys remaining after all outstanding obligations of the trust fund are met must be deposited in the General Revenue Fund.¹¹

Opioid Settlements

Florida joined a multi-state coalition of 48 states and the District of Columbia to sue pharmaceutical companies, distributors, and dispensing companies that had major roles in producing or promoting opioid products that helped to fuel the nation's opioid epidemic.¹²

In July of 2021, three of the largest pharmaceutical companies settled litigation related to the opioid crisis. Based on the settlement agreement, the three companies collectively will pay up to \$21 billion over 17 and a half years, with Florida receiving a total of \$1.3 billion. Additionally,

² Art. III, s. 19(f)(2), Fla. Const.

³ *Id.*

⁴ Section 215.3208(1), F.S.

⁵ Pursuant to Art. III, s. 19(f), Fla. Const.

⁶ Section 215.3206(1), F.S.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Section 215.3208(2)(a), F.S.

¹¹ Section 215.3208(b), F.S.

¹² See Florida Attorney General, *Attorney General Moody secures relief for opioid crisis*, <https://myfloridalegal.com/opioidsettlement> (last visited Feb. 24, 2023).

Johnson & Johnson will pay up to \$5 billion over nine years, with Florida receiving almost \$300 million from that agreement. Previous settlement funding generated more than \$300 million for Florida opioid abatement, which brings the collective opioid efforts for Florida to \$1.9 billion. The settlement funding must be used to support opioid treatment, prevention and recovery services.¹³

In addition to the Johnson & Johnson settlement the state has entered into settlement agreements with the following entities: Endo Health Solutions, CVS Health Corporation, CVS Pharmacy, Inc., Teva Pharmaceuticals Industries Ltd., Allergan Finance, LLC., Walgreen Boots Alliance, Inc., and Walgreen Co., and Walmart.¹⁴ These agreements total approximately \$3.2 billion to be received by the state with some of the funds sent directly to local governments over a period of up to 18 years.

In 2022, the Legislature created a Opioid Settlement Clearing Trust Fund in the Department of Financial Services to serve as the depository of opioid settlement funds.¹⁵ Funds received from the settlements will be deposited into the clearing trust fund and then transferred from the clearing trust fund to various agencies to implement the appropriations as provided in the General Appropriations Act.¹⁶

Department of Law Enforcement

The FDLE is the state's law enforcement agency headquartered in Tallahassee with seven regional operations centers located in Tallahassee, Pensacola, Jacksonville, Orlando, Tampa, Fort Myers, and Miami. Its mission is to "promote public safety and strengthen domestic security by providing services in partnership with local, state, and federal criminal justice agencies to prevent, investigate, and solve crimes while protecting Florida's citizens and visitors."¹⁷ The FDLE coordinates missions with local and federal law enforcement agencies to target and dismantle drug trafficking organizations. Additionally, they provide resources and assistance to local law enforcement agencies to combat illegal drug manufacturing and distribution.

III. Effect of Proposed Changes:

The bill creates s. 944.74, F.S., to create the Opioid Settlement Trust Fund within the FDLE. The purpose of the trust fund is to abate the opioid epidemic in accordance with the settlement agreements reached by the state in opioid-related litigation or bankruptcy proceedings.

¹³ Florida Attorney General, *Attorney General Moody announces new settlement for \$65 million with opioid manufacturer Endo and finalization of Johnson & Johnson Opioid Settlement*, (Jan. 18, 2022) available at <http://www.myfloridalegal.com/newsrel.nsf/newsreleases/DBE8B56810857CB3852587CE00776C03> (last visited Feb. 24, 2023).

¹⁴ See Florida Attorney General, *Attorney General Moody secures relief for opioid crisis*.

¹⁵ Chapter 2022-161, Laws of Florida.

¹⁶ Section 17.42, F.S.

¹⁷ See Florida Department of Law Enforcement, *FDLE Mission Brochure* [FDLE-Mission-Brochure.aspx \(state.fl.us\)](https://www.fdle.state.fl.us/FDLE-Mission-Brochure.aspx) (last visited March. 15, 2023).

The Department of Financial Services shall transfer any amount specified in the General Appropriations Act from the Opioid Settlement Clearing Trust Fund to the Department of Law Enforcement's opioid settlement trust fund.

Any unencumbered balance remaining at the end of the fiscal year and any encumbered balance remaining undisbursed on September 30 of the same calendar year reverts to the Opioid Settlement Clearing Trust Fund.

As required by the Florida Constitution, the Opioid Settlement Trust Fund terminates on July 1, 2027, unless terminated sooner or recreated by the Legislature. Additionally, the trust fund is required to be reviewed as provided in s. 215.3206, F.S., before its schedule termination.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Article III, s. 19(f)(1) of the Florida Constitution specifies that a trust fund may be created or re-created only by a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

Article III, s. 19(f)(2) of the Florida Constitution specifies that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund. By law the Legislature may set a shorter time period for which any trust fund is authorized.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 944.74 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

FOR CONSIDERATION By the Appropriations Committee on Criminal and Civil Justice

604-02487-23

20237038pb

1 A bill to be entitled
 2 An act relating to trust funds; creating s. 943.368,
 3 F.S.; creating the Opioid Settlement Trust Fund within
 4 the Department of Law Enforcement; providing the
 5 purpose of the trust fund; providing sources of funds;
 6 providing for the reversion of funds in the Opioid
 7 Settlement Trust Fund; providing for future review and
 8 termination or re-creation of the trust fund;
 9 providing an effective date.

10
 11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Section 943.368, Florida Statutes, is created to
 15 read:

16 943.368 Opioid Settlement Trust Fund.—

17 (1) The Opioid Settlement Trust Fund is created within the
 18 Department of Law Enforcement. The purpose of the trust fund is
 19 to abate the opioid epidemic in accordance with the settlement
 20 agreements reached by the state in opioid-related litigation or
 21 bankruptcy proceedings.

22 (2) Funds to be credited to the trust fund shall consist of
 23 funds disbursed, by nonoperating transfer, from the Department
 24 of Financial Services' Opioid Settlement Clearing Trust Fund in
 25 amounts equal to the annual appropriations made from this trust
 26 fund.

27 (3) Notwithstanding s. 216.301 and pursuant to s. 216.351,
 28 any unencumbered balance in the trust fund at the end of any
 29 fiscal year and any encumbered balance remaining undisbursed on

Page 1 of 2

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604-02487-23

20237038pb

30 September 30 of the same calendar year shall revert to the
 31 Department of Financial Services' Opioid Settlement Clearing
 32 Trust Fund.

33 (4) In accordance with s. 19(f), Art. III of the State
 34 Constitution, the Opioid Settlement Trust Fund, unless
 35 terminated sooner, shall be terminated on July 1, 2027. Before
 36 its scheduled termination, the trust fund shall be reviewed as
 37 provided in s. 215.3206(1) and (2).

38 Section 2. This act shall take effect July 1, 2023.

Page 2 of 2

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The Florida Senate

APPEARANCE RECORD

SB 7016

March 21, 2023

Meeting Date

Bill Number or Topic

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

Senate Appropriations Committee on Criminal and Civil Justice

Committee

Amendment Barcode (if applicable)

Name Jake Felder

Phone 850-488-7436

Address 501 South Calhoun Street

Email jake.felder@fdc.myflorida.com

Tallahassee

City

Florida

State

32399

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 Department of Corrections

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

3/21/23

Meeting Date

SB 7016

Bill Number or Topic

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

Senate Appropriations Committee
in Criminal + Civil Justice

Committee

Amendment Barcode (if applicable)

Name Jeff Nall

Phone 850-255-1267

Address 413 Warwick St

Street

Email jeff.nall1267@gmail.com

City Guy Bruce FL 32561

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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S-001 (08/10/2021)

The Florida Senate

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3/21/23 Meeting Date

7016 Bill Number or Topic

Approp. Civ. Just Committee

Amendment Barcode (if applicable)

Name JEAN SIEBENALER Phone 513-532-5408

Address 7502 OLD BAY POINTE RD Street Email j.siebenaler@gmail.com

MILTON FL 32583 City State Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [X] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

- [X] I am appearing without compensation or sponsorship. [] I am a registered lobbyist, representing: [] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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SPB 7016

Bill Number or Topic

3/21/23

Meeting Date

Criminal Civil

Committee

Amendment Barcode (if applicable)

Name Cherie Crim

Phone 214-679-8502

Address 11403 Poston Rd

Email crim16@gmail.com

Street

PC

City

FL

State

32404

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3-21-23

Meeting Date

SPB 2016

Bill Number or Topic

Criminal Civil

Committee

Amendment Barcode (if applicable)

Sara Elliott

Name

703 297 0354

Phone

13214 O gave St.

Address

Street

selliotteach@yahoo.com

Email

Panama City Beach FL 32407

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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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

7016

3/21/23

Meeting Date

Bill Number or Topic

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Sen Cr Approps

Committee

Amendment Barcode (if applicable)

Name

Chelsea Murphy

Phone

904.557.0016

Address

405 Middlewoods Cir

Email

Street

JFH

City

FL

State

32312

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 \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-Joint-Rules.pdf)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

03/21/23
Meeting Date

SPB 7016
Bill Number or Topic

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Senate professional staff conducting the meeting

Senate Appropriation committee on Criminal
Committee and Civil Justice

Amendment Barcode (if applicable)

Name Theresa Moran

Phone (927) 599-8895

Address 1503 Seaspray Lane
Street

Email

Dunedin
City

FL
State

34698
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. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

03/21/2023
Meeting Date

The Florida Senate
APPEARANCE RECORD

SPB 7016
Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name Margio J. PARKERSON

Phone 850-206-5884

Address 4188 Soundpointe Dr.
Street

Email margiepa@belkouthor

Gulf Breeze FL 32563
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

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

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

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The Florida Senate

APPEARANCE RECORD

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3-21-2023

Meeting Date

7016

Bill Number or Topic

Sen appropriations

Committee

Amendment Barcode (if applicable)

Name LORRIE NEWMAN

Phone 850-516-1982

Address 10260 WEST LAKE RD
Street

Email LORRIENEWMAN@321GMAIL.COM

Union
City

FL
State

32583
Zip

Speaking: For Against Information

OR

Waive Speaking:

In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 7016

INTRODUCER: Appropriations Committee on Criminal and Civil Justice and Criminal Justice Committee

SUBJECT: Department of Corrections

DATE: March 23, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Parker</u>	<u>Stokes</u>		CJ Submitted as Committee Bill
1.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	Fav/CS
2.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7016 amends s. 944.35, F.S., providing criminal penalties for any volunteer in or employee of a contractor or subcontractor of the Department of Corrections (DOC) or private corrections facility who engages in sexual misconduct with specified inmates or offenders. The bill defines “volunteer” to mean a person registered with the DOC or a private correctional facility who is engaged in specific voluntary service activities on an ongoing or continual basis.

A person who commits this offense commits a third degree felony.¹

The bill provides the following exceptions:

- Any employee, volunteer, contractor or subcontractor, of the department or private correctional facility who is legally married to an inmate or offender under supervision.
- Any employee, volunteer, or employee of a contractor or subcontractor who has no knowledge, and would have no reason to believe, that the person with whom the employee, volunteer, or employee of a contractor or subcontractor has engaged in sexual misconduct is an inmate or offender under supervision.

¹ A felony of the third degree is punishable by a term of imprisonment not exceeding 5 years and a \$5000 fine, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

This bill transfers all power, duties, functions, records, offices, personnel, associated administrative support positions, property, administrative authority, and administrative rules relating to private correctional facilities by a type two transfer, as defined in s. 20.06(2), F.S.,² from the Department of Management Services (DMS) to the DOC. Any binding contracts or interagency agreements between the DMS and the DOC continues for the remainder of the contract.

The bill amends s. 287.042, F.S., to prohibit the DMS from entering into contracts for the designing, financing, acquiring, leasing, constructing, or operating of private correctional facilities.

The bill may have a positive indeterminate fiscal impact on the DOC (indeterminate positive prison bed impact). The provisions of the bill relating to the transfer of oversight of private correctional facilities will likely have no fiscal impact due to the type two transfer provisions.

The bill amends ss. 957.04, 957.06, 957.07, 957.08, 957.14, 957.15, and 957.16, F.S., conforming provisions to changes made by the act.

The bill is effective July 1, 2023.

II. Present Situation:

Sexual Misconduct with Inmates

Section 944.35, F.S., states that any employee of the DOC or a private correctional facility as defined in s. 944.710, F.S., who engages in sexual misconduct with an inmate or an offender supervised by the DOC in the community, without committing the crime of sexual battery, commits a third degree felony.³

The consent of such inmate or offender to any act of sexual misconduct may not be raised as a defense to a prosecution under this paragraph.⁴ This paragraph does not apply to any employee of the DOC or any employee of a private correctional facility who is legally married to an inmate or an offender supervised by the DOC in the community. It also does not apply to any employee who has no knowledge, and would have no reason to believe, that the person with whom the employee has engaged in sexual misconduct is an inmate or an offender under community supervision of the DOC.⁵

“Sexual misconduct” means oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object, but does

² Section 20.06(2), F.S., states that a type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or subunits, merging into an agency or department of the existing agency or department with certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolished.

³ Section 944.35(3)(b)2., F.S.; A felony of the third degree is punishable by a term of imprisonment not exceeding 5 years and a \$5000 fine punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

⁴ Section 944.35(3)(b)3., F.S.

⁵ Section 944.35(3)(b)4., F.S.

not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of the employee's duty.⁶

Sexual misconduct by corrections officers and other prison staff can violate the Eighth Amendment, regardless of whether physical force is used.⁷ Under federal and state law, forms of coerced sexual contact are prohibited by general criminal laws that apply to all persons regardless of the setting in which the coerced sexual contact occurs. Forty-one states, including the District of Columbia and the federal government, have laws specifically prohibiting criminalizing certain types of sexual misconduct in prisons.⁸ Florida is one of the states that criminalizes sexual contact between correctional employees of the DOC and a person under the DOC's custody.⁹

Rule 33-208.001(5), F.A.C., governs the conduct of volunteers and non-DOC employees. The rule states that all rules, directives, and policy statements governing conduct of the DOC employees apply to volunteers and non-DOC employees, violation of which may result in immediate removal from the institution or office and future denial of access to such area by the Administrator, Warden, Officer-in-Charge, or Supervisor.

Sexual Misconduct Between Detention Facility Employees and Inmates

Section 951.221, F.S., states that any employee of a county or municipal detention facility or of a private detention facility under contract with a county commission who engages in sexual misconduct, as defined in s. 944.35(3)(b)1., F.S., with an inmate or an offender supervised by the facility without committing the crime of sexual battery commits a third degree felony.¹⁰ The consent of an inmate to any act of sexual misconduct may not be raised as a defense to prosecution under this section.¹¹

Transfer of Private Prison Oversight

The DMS,¹² is responsible for overseeing the State's private prison system and ensuring private correctional facility compliance with contract terms and conditions.¹³

The DMS currently oversees private prisons in Florida and has the powers, duties, and functions to contract.¹⁴ The Bureau of Private Prison Monitoring at DMS currently contracts with three providers, CoreCivic of Tennessee, LLC (CoreCivic); GEO Group, Inc., (GEO); and

⁶ Section 944.35(3)(b)1., F.S.

⁷ *Sconiers v. Lockhart*, 946 F.3d 1256, 1267 (11th Cir. 2020) (holding the Eight Amendment protects prisoners from sexual abuse, even when there is no serious physical injury).

⁸ United States General Accounting Office, *Women in Prison, Sexual Misconduct by Correctional Staff*, p. 5 (June 1999) available at <https://www.gao.gov/products/ggd-99-104> (last visited March 3, 2023).

⁹ Section 944.35, F.S.

¹⁰ A felony of the third degree is punishable by a term of imprisonment not exceeding 5 years and a \$5000 fine punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

¹¹ Section 951.221, F.S.

¹² Bureau of Private Prison Monitoring is a business operation within the Department of Management Services. This information is available at https://www.dms.myflorida.com/business_operations/private_prison_monitoring (last visited March 6, 2023).

¹³ Section 957.04, F.S.

¹⁴ Section 287.042, F.S.

Management and Training Corporation (MTC), to operate and manage the seven private correctional facilities throughout the state.¹⁵

Section 287.057, F.S., provides that state agencies are responsible for enforcing the terms and conditions of all contracts and ensuring that deliverables are appropriately satisfied. In Florida, the Bureau of Private Prison Monitoring at DMS is responsible for the oversight and contractual compliance for the private prison system with the state.¹⁶

In June 2022, the Florida Auditor General conducted an operational audit of the DMS on the oversight of the Bureau of Private Prisons.¹⁷ The audit found seven areas of deficiency.¹⁸

III. Effect of Proposed Changes:

The bill amends s. 944.35, F.S., providing criminal penalties for any volunteer or employee of a contractor or subcontractor of the DOC or private correctional facility who engages in sexual misconduct with an inmate. Any person who commits such offense commits a third degree felony.¹⁹ This language is consistent with the intent of Rule 33-208.001(5), F.A.C.²⁰

The bill defines the term “volunteer” to mean a person registered with the DOC or a private correctional facility who is engaged in specific voluntary service activities on an ongoing or continual basis.

¹⁵ Dixon, Matt, (2013, December 16). *New contracts give private prison giant nearly 80 percent of Florida’s private prison market*. Retrieved from The Florida Times-Union: <https://www.jacksonville.com/story/news/2013/12/16/new-contracts-give-private-prison-giant-nearly-80-percent-floridas-private/15805432007/> (last visited March 3, 2023).

¹⁶ In accordance with ch. 957, F.S., the Bureau of Private Prison Monitoring is responsible for entering into contracts for the design, construction, and operation of privately operated correctional facilities.

¹⁷ Florida Auditor General, *Department of Management Services Oversight of Private Correctional Facilities Operational Audit*. Report No. 2022-23 (June 2022) (on file with the Senate Committee on Criminal Justice).

¹⁸ *Id.* The Florida Auditor General conducted an operational audit of the Department of Management Services finding there to be issues with noncompliance, maintenance, safety, and staffing. The audit found seven areas of deficiency with the Bureau of Private Prison Monitoring at DMS: (1)The Bureau did not always issue written notices of noncompliance or document the basis for not issuing notices of noncompliance to private prison providers when noncompliance was identified; (2) The Bureau had not established policies and procedures for monitoring provider maintenance activities at private correctional facilities and monitoring tools were not always completed; (3) The Bureau policies and procedures for, and documentation of, review of on-site nursing consultant activities were identified as needing improvement to demonstrate that health care monitoring services at private correctional facilities are provided in accordance with contract terms; (4) The Bureau monitoring of private correctional facility staff was identified as needing enhancement to ensure that appropriate and qualified staff were assigned to provide for and maintain security, control, custody, and supervision of inmates; (5) Bureau efforts to review and verify the accuracy and completeness of private correctional facility provider incident reporting need enhancement to ensure that incidents are correctly reported and appropriately handled in accordance with applicable contract provisions and Bureau policies and procedures; (6) The Bureau did not ensure that private correctional facility providers obtained and maintained required insurance coverage; and (7) The Bureau was identified as needing improvement to ensure that audited provider Inmate Bank and Commissary financial statements were timely received and appropriately reviewed.

¹⁹ A felony of the third degree is punishable by a term of imprisonment not exceeding 5 years and a \$5000 fine as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

²⁰ Rule 33-208.001(5), F.A.C. states that “all rules, directives, and policy statement governing conduct of Department of Corrections employees apply to volunteers and non-FDC employees, violation of which may result in immediate removal from the institution or office and future denial of access to such area by the Administrator, Warden, Officer-in-Charge or Supervisor.”

The bill prohibits any employee of the DOC or a private correctional facility or any volunteer in, or any employee of a contractor or subcontractor of, the DOC or a private correctional facility from engaging in sexual misconduct with an inmate or an offender supervised by the DOC in the community, without committing the crime of sexual battery. A person who commits this offense commits a third degree felony.

The bill provides exceptions. Specifically, the bill excludes:

- Any employee, volunteer, or employee of a contractor or subcontractor of the DOC or any employee, volunteer, or employee of a contractor or subcontractor of a private correctional facility who is legally married to an inmate or an offender supervised by the department in the community.
- Any employee, volunteer, or employee of a contractor or subcontractor who has no knowledge, and would have no reason to believe, that the person with whom the employee, volunteer, or employee of a contractor or subcontractor has engaged in sexual misconduct is an inmate.

The bill transfers oversight from the DMS to the DOC. The bill transfers all powers, duties, functions, records, offices, personnel, associated administrative support positions, property, administrative authority, and administrative rules relating to private correctional facilities by a type two transfer, as defined in s. 20.06(2), F.S.,²¹ from the DMS to the DOC.

The bill also amends s. 287.042, F.S., prohibiting the DMS from entering into contracts for the designing, financing, acquiring, leasing, constructing, or operating of private correctional facilities.

The bill amends ss. 957.06, 957.07, 957.08, 957.14, 957.15, and 957.16, F.S., conforming provisions to changes made by the act.

The bill is 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.

²¹ Section 20.06(2), F.S., provides that a type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department, or are abolished, it is the merging into an agency or department of the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolishes.

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 bill may have a positive indeterminate fiscal impact on the DOC (indeterminate positive prison bed impact). The bill may increase the number of people convicted under this offense because it expands the crime to include volunteers, contractors, and subcontractors.

The provisions of the bill relating to the transfer of oversight of private correctional facilities will likely have no fiscal impact due to the type two transfer provisions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 944.35, 287.042, 957.04, 957.06, 957.07, 957.08, 957.14, 957.15, and 957.16.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Appropriations Committee on Criminal and Civil Justice on March 21, 2023:

The committee substitute:

- Provides clarifying language relating to what persons may be charged with a violation.

- Defines “volunteer” to mean a person registered with the department or a private correctional facility who is engaged in specific voluntary service activities on an ongoing or continual basis.
- Provides exceptions to the statute. Specifically, excluding:
 - Any employee, volunteer, contractor or subcontractor of the department or a private correctional facility who is legally married to an inmate.
 - Any employee, volunteer, or employee of a contractor or subcontractor who has no knowledge, and would have no reason to believe, that the person with whom the employee, volunteer, or employee of a contractor or subcontractor has engaged in sexual misconduct is an inmate.

B. Amendments:

None.



325492

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 36 - 58

and insert:

b. "Private correctional facility" has the same meaning as
in s. 944.710.

c. ~~b.~~ "Sexual misconduct" means the oral, anal, or female
genital penetration by, or union with, the sexual organ of
another or the anal or female genital penetration of another by
any other object, but does not include an act done for a bona



325492

11 fide medical purpose or an internal search conducted in the
12 lawful performance of the employee's duty.

13 d. "Volunteer" means a person registered with the
14 department or a private correctional facility who is engaged in
15 specific voluntary service activities on an ongoing or continual
16 basis.

17 2. Any employee of the department or a private correctional
18 facility or any volunteer in, or any employee of a contractor or
19 subcontractor of, the department or a private correctional
20 facility as defined in s. 944.710 who engages in sexual
21 misconduct with an inmate or an offender supervised by the
22 department in the community, without committing the crime of
23 sexual battery, commits a felony of the third degree, punishable
24 as provided in s. 775.082, s. 775.083, or s. 775.084.

25 3. The consent of the inmate or offender supervised by the
26 department in the community to any act of sexual misconduct may
27 not be raised as a defense to a prosecution under this
28 paragraph.

29 4. This paragraph does not apply to any employee,
30 volunteer, or employee of a contractor or subcontractor of the
31 department or any employee, volunteer, or employee of a
32 contractor or subcontractor of a private correctional facility
33 who is legally married to an inmate or an offender supervised by
34 the department in the community, nor does it apply to any
35 employee, volunteer, or employee of a contractor or
36 subcontractor who has no knowledge, and would have no reason to
37 believe, that the person with whom the employee, volunteer, or
38 employee of a contractor or subcontractor has engaged in
39



325492

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

41 And the title is amended as follows:

42 Delete line 7

43 and insert:

44 offenders; providing definitions; providing

45 exceptions; providing for a type two transfer of



138604

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/21/2023	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 93 and 94

insert:

Section 3. Section 957.11, Florida Statutes, is amended to
read

957.11 Evaluation of costs and benefits of contracts.—The
Department of Corrections shall notify the Office of Program
Policy Analysis and Government Accountability upon commencement
of the procurement process and certification by the Auditor



138604

11 General of the actual costs for the public provision of a
12 similar institution by the Department of Corrections. The Office
13 of Program Policy Analysis and Government Accountability shall
14 evaluate the performance of the private correctional facility
15 during the most recent contract term. Specifically, the Office
16 of Program Policy Analysis and Government Accountability shall
17 evaluate if the contractor achieved the cost savings to the
18 state of at least 7 percent over the public provision of a
19 facility, as required by s. 957.07, F.S. The Office of Program
20 Policy Analysis and Government Accountability shall also assess
21 the contractor's performance, to include but not be limited to
22 facility operations, safety, and security and the provision of
23 inmate programs. The Office of Program Policy Analysis and
24 Government Accountability shall develop and implement an
25 evaluation of the costs and benefits of each contract entered
26 into under this chapter. This evaluation must include a
27 comparison of the costs and benefits of constructing and
28 operating prisons by the state versus by private contractors.
29 The Office of Program Policy Analysis and Government
30 Accountability shall also evaluate the performance of the
31 private contractor at the end of the term of each management
32 contract and make recommendations to the Speaker of the House of
33 Representatives and the President of the Senate on whether to
34 continue the contract.

35
36

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

38 And the title is amended as follows:

39 Delete line 10



138604

40 and insert:

41 amending s. 957.11, F.S.; providing that the
42 Department of Corrections shall notify the Office of
43 Program Policy Analysis and government Accountability
44 upon specified circumstances; providing for the
45 evaluation of private correctional facilities;
46 amending ss. 287.042, 957.04, 957.06, 957.07, 957.08,

By the Committee on Criminal Justice

591-02504-23

20237016__

A bill to be entitled

An act relating to the Department of Corrections; amending s. 944.35, F.S.; providing criminal penalties for any volunteer or employee of a contractor or subcontractor of the Department of Corrections who engages in sexual misconduct with specified inmates or offenders; providing for a type two transfer of private correctional facilities from the Department of Management Services to the Department of Corrections; amending ss. 287.042, 957.04, 957.06, 957.07, 957.08, 957.14, 957.15, and 957.16, F.S.; conforming provisions to changes made by the act; providing effective dates.

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

Section 1. Effective October 1, 2023, subsection (3) of section 944.35, Florida Statutes, is amended to read:

944.35 Authorized use of force; malicious battery and sexual misconduct prohibited; reporting required; penalties.—

(3)(a)1. Any employee of the department who, with malicious intent, commits a battery upon an inmate or an offender supervised by the department in the community, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Any employee of the department who, with malicious intent, commits a battery or inflicts cruel or inhuman treatment by neglect or otherwise, and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to an

Page 1 of 14

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591-02504-23

20237016__

inmate or an offender supervised by the department in the community, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b)1. As used in this paragraph, the term:

a. "Female genitals" includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina.

b. "Sexual misconduct" means the oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object, but does not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of the employee's duty.

2. Any employee of the department or a private correctional facility as defined in s. 944.710 or any volunteer or employee of a contractor or subcontractor of the department who engages in sexual misconduct with an inmate or an offender supervised by the department in the community, without committing the crime of sexual battery, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The consent of the inmate or offender supervised by the department in the community to any act of sexual misconduct may not be raised as a defense to a prosecution under this paragraph.

4. This paragraph does not apply to any employee of the department or any employee of a private correctional facility who is legally married to an inmate or an offender supervised by the department in the community, nor does it apply to any employee who has no knowledge, and would have no reason to believe, that the person with whom the employee has engaged in

Page 2 of 14

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591-02504-23

20237016__

59 sexual misconduct is an inmate or an offender under community
60 supervision of the department.

61 (c) Notwithstanding prosecution, any violation of the
62 provisions of this subsection, as determined by the Public
63 Employees Relations Commission, shall constitute sufficient
64 cause under s. 110.227 for dismissal from employment with the
65 department, and such person shall not again be employed in any
66 capacity in connection with the correctional system.

67 (d) Each employee who witnesses, or has reasonable cause to
68 suspect, that an inmate or an offender under the supervision of
69 the department in the community has been unlawfully abused or is
70 the subject of sexual misconduct pursuant to this subsection
71 shall immediately prepare, date, and sign an independent report
72 specifically describing the nature of the force used or the
73 nature of the sexual misconduct, the location and time of the
74 incident, and the persons involved. The report shall be
75 delivered to the inspector general of the department with a copy
76 to be delivered to the warden of the institution or the regional
77 administrator. The inspector general shall immediately conduct
78 an appropriate investigation, and, if probable cause is
79 determined that a violation of this subsection has occurred, the
80 respective state attorney in the circuit in which the incident
81 occurred shall be notified.

82 Section 2. All powers, duties, functions, records, offices,
83 personnel, associated administrative support positions,
84 property, administrative authority, and administrative rules
85 relating to private correctional facilities are transferred by a
86 type two transfer, as defined in s. 20.06(2), Florida Statutes,
87 from the Department of Management Services to the Department of

Page 3 of 14

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591-02504-23

20237016__

88 Corrections. Any binding contract or interagency agreement
89 entered into and between the Department of Management Services
90 concerning private correctional facilities and any other agency,
91 entity, or person continues as a binding contract or agreement
92 with the Department of Corrections for the remainder of the term
93 of the contract or agreement.

94 Section 3. Subsection (17) of section 287.042, Florida
95 Statutes, is amended to read:

96 287.042 Powers, duties, and functions.—The department shall
97 have the following powers, duties, and functions:

98 ~~(17)(a) To enter into contracts pursuant to chapter 957 for~~
99 ~~the designing, financing, acquiring, leasing, constructing, or~~
100 ~~operating of private correctional facilities. The department~~
101 ~~shall enter into a contract or contracts with one contractor per~~
102 ~~facility for the designing, acquiring, financing, leasing,~~
103 ~~constructing, and operating of that facility or may, if~~
104 ~~specifically authorized by the Legislature, separately contract~~
105 ~~for any such services.~~

106 ~~(b) To manage and enforce compliance with existing or~~
107 ~~future contracts entered into pursuant to chapter 957.~~

108
109 ~~The department may not delegate the responsibilities conferred~~
110 ~~by this subsection.~~

111 Section 4. Section 957.04, Florida Statutes, is amended to
112 read:

113 957.04 Contract requirements.—

114 (1) A contract entered into under this chapter for the
115 operation of private correctional facilities shall maximize the
116 cost savings of such facilities and shall:

Page 4 of 14

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591-02504-23

20237016__

117 (a) Be negotiated with the firm found most qualified.
 118 However, a contract for private correctional services may not be
 119 entered into by the department of ~~Management Services~~ unless the
 120 department of ~~Management Services~~ determines that the contractor
 121 has demonstrated that it has:

122 1. The qualifications, experience, and management personnel
 123 necessary to carry out the terms of the contract.

124 2. The ability to expedite the siting, design, and
 125 construction of correctional facilities.

126 3. The ability to comply with applicable laws, court
 127 orders, and national correctional standards.

128 (b) Indemnify the state and the department, including their
 129 officials and agents, against any and all liability, including,
 130 but not limited to, civil rights liability. Proof of
 131 satisfactory insurance is required in an amount to be determined
 132 by the department of ~~Management Services~~.

133 (c) Require that the contractor seek, obtain, and maintain
 134 accreditation by the American Correctional Association for the
 135 facility under that contract. Compliance with amendments to the
 136 accreditation standards of the association is required upon the
 137 approval of such amendments by the commission.

138 (d) Require that the proposed facilities and the management
 139 plans for the inmates meet applicable American Correctional
 140 Association standards and the requirements of all applicable
 141 court orders and state law.

142 (e) Establish operations standards for correctional
 143 facilities subject to the contract. However, if the department
 144 and the contractor disagree with an operations standard, the
 145 contractor may propose to waive any rule, policy, or procedure

Page 5 of 14

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591-02504-23

20237016__

146 of the department related to the operations standards of
 147 correctional facilities which is inconsistent with the mission
 148 of the contractor to establish cost-effective, privately
 149 operated correctional facilities. The department of ~~Management~~
 150 ~~Services~~ shall be responsible for considering all proposals from
 151 the contractor to waive any rule, policy, or procedure and shall
 152 render a final decision granting or denying such request.

153 (f) Require the contractor to be responsible for a range of
 154 dental, medical, and psychological services; diet; education;
 155 and work programs at least equal to those provided by the
 156 department in comparable facilities. The work and education
 157 programs must be designed to reduce recidivism, and include
 158 opportunities to participate in such work programs as authorized
 159 pursuant to s. 946.523.

160 (g) Require the selection and appointment of a full-time
 161 contract monitor. The contract monitor shall be appointed and
 162 supervised by the department of ~~Management Services~~. The
 163 contractor is required to reimburse the department of ~~Management~~
 164 ~~Services~~ for the salary and expenses of the contract monitor. It
 165 is the obligation of the contractor to provide suitable office
 166 space for the contract monitor at the correctional facility. The
 167 contract monitor shall have unlimited access to the correctional
 168 facility.

169 (h) Be for a period of 3 years and may be renewed for
 170 successive 2-year periods thereafter. However, the state is not
 171 obligated for any payments to the contractor beyond current
 172 annual appropriations.

173 (2) Each contract entered into for the design and
 174 construction of a private correctional facility or juvenile

Page 6 of 14

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591-02504-23

20237016__

175 commitment facility must include:

176 (a) Notwithstanding any provision of chapter 255 to the
177 contrary, a specific provision authorizing the use of tax-exempt
178 financing through the issuance of tax-exempt bonds, certificates
179 of participation, lease-purchase agreements, or other tax-exempt
180 financing methods. Pursuant to s. 255.25, approval is hereby
181 provided for the lease-purchase of up to two private
182 correctional facilities and any other facility authorized by the
183 General Appropriations Act.

184 (b) A specific provision requiring the design and
185 construction of the proposed facilities to meet the applicable
186 standards of the American Correctional Association and the
187 requirements of all applicable court orders and state law.

188 (c) A specific provision requiring the contractor, and not
189 the department of ~~Management Services~~, to obtain the financing
190 required to design and construct the private correctional
191 facility or juvenile commitment facility built under this
192 chapter.

193 (d) A specific provision stating that the state is not
194 obligated for any payments that exceed the amount of the current
195 annual appropriation.

196 (3) (a) Each contract for the designing, financing,
197 acquiring, leasing, constructing, and operating of a private
198 correctional facility shall be subject to ss. 255.2502 and
199 255.2503.

200 (b) Each contract for the designing, financing, acquiring,
201 leasing, and constructing of a private juvenile commitment
202 facility shall be subject to ss. 255.2502 and 255.2503.

203 (4) A contract entered into under this chapter does not

Page 7 of 14

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591-02504-23

20237016__

204 accord third-party beneficiary status to any inmate or juvenile
205 offender or to any member of the general public.

206 (5) Each contract entered into by the department of ~~of~~
207 ~~Management Services~~ must include substantial minority
208 participation unless demonstrated by evidence, after a good
209 faith effort, as impractical and must also include any other
210 requirements the department of ~~of Management Services~~ considers
211 necessary and appropriate for carrying out the purposes of this
212 chapter.

213 (6) Notwithstanding s. 253.025(9), the Board of Trustees of
214 the Internal Improvement Trust Fund need not approve a lease-
215 purchase agreement negotiated by the department of ~~of Management~~
216 ~~Services~~ if the department of ~~of Management Services~~ finds that
217 there is a need to expedite the lease-purchase.

218 (7) (a) Notwithstanding s. 253.025 or s. 287.057, whenever
219 the department of ~~of Management Services~~ finds it to be in the best
220 interest of timely site acquisition, it may contract without the
221 need for competitive selection with one or more appraisers whose
222 names are contained on the list of approved appraisers
223 maintained by the Division of State Lands of the Department of
224 Environmental Protection in accordance with s. 253.025(8). In
225 those instances when the department of ~~of Management Services~~
226 directly contracts for appraisal services, it shall also
227 contract with an approved appraiser who is not employed by the
228 same appraisal firm for review services.

229 (b) Notwithstanding s. 253.025(8), the department of ~~of~~
230 ~~Management Services~~ may negotiate and enter into lease-purchase
231 agreements before an appraisal is obtained. Any such agreement
232 must state that the final purchase price cannot exceed the

Page 8 of 14

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591-02504-23

20237016__

233 maximum value allowed by law.

234 Section 5. Subsection (2) of section 957.06, Florida
235 Statutes, is amended to read:

236 957.06 Powers and duties not delegable to contractor.—A
237 contract entered into under this chapter does not authorize,
238 allow, or imply a delegation of authority to the contractor to:

239 (2) Choose the facility to which an inmate is initially
240 assigned or subsequently transferred. The contractor may
241 request, in writing, that an inmate be transferred to a facility
242 operated by the department. The ~~Department of Management~~
243 ~~Services, the contractor,~~ and the department shall develop and
244 implement a cooperative agreement for transferring inmates
245 between a correctional facility operated by the department and a
246 private correctional facility. The department, ~~the Department of~~
247 ~~Management Services,~~ and the contractor must comply with the
248 cooperative agreement.

249 Section 6. Section 957.07, Florida Statutes, is amended to
250 read:

251 957.07 Cost-saving requirements.—

252 (1) The department ~~of Management Services~~ may not enter
253 into a contract or series of contracts unless the department
254 determines that the contract or series of contracts in total for
255 the facility will result in a cost savings to the state of at
256 least 7 percent over the public provision of a similar facility.
257 Such cost savings as determined and certified by the Auditor
258 General ~~Department of Management Services~~ must be based upon the
259 actual costs associated with the construction and operation of
260 similar facilities or services as determined by the department
261 ~~of Corrections and certified by the Auditor General.~~ The

591-02504-23

20237016__

262 department ~~of Corrections~~ shall calculate all of the cost
263 components that determine the inmate per diem in correctional
264 facilities of a substantially similar size, type, and location
265 that are operated by the department ~~of Corrections~~, including
266 administrative costs associated with central administration.
267 Services that are provided to the department ~~of Corrections~~ by
268 other governmental agencies at no direct cost to the department
269 shall be assigned an equivalent cost and included in the per
270 diem.

271 (2) Reasonable projections of payments of any kind to the
272 state or any political subdivision thereof for which the private
273 entity would be liable because of its status as private rather
274 than a public entity, including, but not limited to, corporate
275 income and sales tax payments, shall be included as cost savings
276 in all such determinations. In addition, the costs associated
277 with the appointment and activities of each contract monitor
278 shall be included in such determination.

279 (3) In counties where the department ~~of Corrections~~ pays
280 its employees a competitive area differential, the cost for the
281 public provision of a similar correctional facility may include
282 the competitive area differential paid by the department.

283 (4) The department ~~of Corrections~~ shall provide a report
284 detailing the state cost to design, finance, acquire, lease,
285 construct, and operate a facility similar to the private
286 correctional facility on a per diem basis. This report shall be
287 provided to the Auditor General in sufficient time that it may
288 be certified ~~to the Department of Management Services~~ to be
289 included in the request for proposals.

290 (5) (a) At the request of the Speaker of the House of

591-02504-23 20237016__

291 Representatives or the President of the Senate, the Prison Per-
 292 Diem Workgroup shall develop consensus per diem rates for use by
 293 the Legislature. The Office of Program Policy Analysis and
 294 Government Accountability and the staffs of the appropriations
 295 committees of both the Senate and the House of Representatives
 296 are the principals of the workgroup. The workgroup may consult
 297 with other experts to assist in the development of the consensus
 298 per diem rates. All meetings of the workgroup shall be open to
 299 the public as provided in chapter 286.

300 (b) When developing the consensus per diem rates, the
 301 workgroup must:

302 1. Use data provided by the department ~~of Corrections~~ from
 303 the most recent fiscal year to determine per diem costs for the
 304 following activities:

- 305 a. Custody and control;
- 306 b. Health services;
- 307 c. Substance abuse programs; and
- 308 d. Educational programs;

309 2. Include the cost of departmental, regional,
 310 institutional, and program administration and any other fixed
 311 costs of the department;

312 3. Calculate average per diem rates for the following
 313 offender populations: adult male, youthful offender male, and
 314 female; and

315 4. Make per diem adjustments, as appropriate, to account
 316 for variations in size and location of correctional facilities.

317 (c) The consensus per diem rates determined by the
 318 workgroup may be used to assist the Legislature in determining
 319 the level of funding provided to privately operated prisons to

591-02504-23 20237016__

320 meet the 7-percent savings required of private prisons by this
 321 chapter.

322 (d) If a private vendor chooses not to renew the contract
 323 at the appropriated level, the department ~~of Management Services~~
 324 shall terminate the contract as provided in s. 957.14.

325 Section 7. Section 957.08, Florida Statutes, is amended to
 326 read:

327 957.08 Capacity requirements.—The department ~~of Corrections~~
 328 shall transfer and assign prisoners to each private correctional
 329 facility opened pursuant to this chapter in an amount not less
 330 than 90 percent or more than 100 percent of the capacity of the
 331 facility pursuant to the contract with the ~~Department of~~
 332 ~~Management Services~~. The prisoners transferred by the department
 333 ~~of Corrections~~ shall represent a cross-section of the general
 334 inmate population, based on the grade of custody or the offense
 335 of conviction, at the most comparable facility operated by the
 336 department.

337 Section 8. Section 957.14, Florida Statutes, is amended to
 338 read:

339 957.14 Contract termination and control of a correctional
 340 facility by the department.—A detailed plan shall be provided by
 341 a private vendor under which the department shall assume
 342 temporary control of a private correctional facility upon
 343 termination of the contract. The department ~~of Management~~
 344 ~~Services~~ may terminate the contract with cause after written
 345 notice of material deficiencies and after 60 workdays in order
 346 to correct the material deficiencies. If any event occurs that
 347 involves the noncompliance with or violation of contract terms
 348 and that presents a serious threat to the safety, health, or

591-02504-23 20237016__

349 security of the inmates, employees, or the public, the
 350 department may temporarily assume control of the private
 351 correctional facility, with the approval of the department of
 352 ~~Management Services~~. A plan shall also be provided by a private
 353 vendor for the purchase and temporary assumption of operations
 354 of a correctional facility by the department in the event of
 355 bankruptcy or the financial insolvency of the private vendor.
 356 The private vendor shall provide an emergency plan to address
 357 inmate disturbances, employee work stoppages, strikes, or other
 358 serious events in accordance with standards of the American
 359 Correctional Association.

360 Section 9. Section 957.15, Florida Statutes, is amended to
 361 read:

362 957.15 Funding of contracts for operation, maintenance, and
 363 lease-purchase of private correctional facilities.—The request
 364 for appropriation of funds to make payments pursuant to
 365 contracts entered into by the department of ~~Management Services~~
 366 for the operation, maintenance, and lease-purchase of the
 367 private correctional facilities authorized by this chapter shall
 368 be made by the ~~Department of Management Services~~ in a request to
 369 the department. The department shall include such request in its
 370 budget request to the Legislature as a separately identified
 371 item and shall forward the request of the ~~Department of~~
 372 ~~Management Services~~ without change. After an appropriation has
 373 been made by the Legislature to the department for the private
 374 correctional facilities, the department shall have no authority
 375 over such funds other than to pay from such appropriation to the
 376 appropriate private vendor such amounts as are certified for
 377 payment by the Department of Management Services.

Page 13 of 14

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

591-02504-23 20237016__

378 Section 10. Section 957.16, Florida Statutes, is amended to
 379 read:

380 957.16 Expanding capacity.—The department of ~~Management~~
 381 ~~Services~~ is authorized to modify and execute agreements with
 382 contractors to expand up to the total capacity of contracted
 383 correctional facilities. Total capacity means the design
 384 capacity of all contracted correctional facilities increased by
 385 one-half as described under s. 944.023(1)(b). Any additional
 386 beds authorized under this section must comply with the cost-
 387 saving requirements set forth in s. 957.07. Any additional beds
 388 authorized as a result of expanded capacity under this section
 389 are contingent upon specified appropriations.

390 Section 11. Except as otherwise expressly provided in this
 391 act, this act shall take effect July 1, 2023.

Page 14 of 14

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

The Florida Senate

APPEARANCE RECORD

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

3-21-2023

Meeting Date

62

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Robert DuBois

Phone 813-567-9183

Address 8427 N. Highland ave apt-2

Email robertdubois64@gmail.com

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33604

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Speaking: [X] For [] Against [] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] 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 (fisenate.gov)

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

The Florida Senate

APPEARANCE RECORD

62

Bill Number or Topic

3/21/23

Meeting Date

CJ APPROP

Committee

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

Amendment Barcode (if applicable)

Name

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Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
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This form is part of the public record for this meeting.

5-001 (08/10/2021)



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
409 The Capitol

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5229

DATE	COMM	ACTION
3/9/23	SM	Favorable
3/14/23	JU	Favorable
3/20/23	ACJ	Favorable
	AP	

March 9, 2023

The Honorable Kathleen Passidomo
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 62** – Senator Grall
HB 6005 – Representative Duggan
Relief of Robert Earl DuBoise by the State of Florida

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM FOR \$1.85 MILLION TO BE APPROPRIATED FROM THE GENERAL REVENUE FUND TO THE DEPARTMENT OF FINANCIAL SERVICES, AND A WAIVER OF TUITION AND FEES FOR UP TO 120 HOURS OF INSTRUCTION, TO COMPENSATE ROBERT EARL DUBOISE FOR 37 YEARS OF WRONGFUL INCARCERATION.

FINDINGS OF FACT:

General Overview of the Crime

On August 18, 1983, the victim left work sometime after 9:05 p.m. The victim was walking and declined a ride home by two individuals known to her. The victim was not seen again until her body was found the next morning behind a dentist office. The body was naked, other than a tube top pulled over the breasts. The victim suffered severe trauma to the head, face and neck.¹

The Tampa Police Department responded, secured the scene, and collected evidence, including several 2x4s

¹ Conviction Review Unit Fact Finding, p. 3, (September 9, 2020).

(suspected to be the murder weapon), clothing, a wallet, a purse, moldings from potential knee and shoe impressions, and fingerprints from a nearby air conditioning unit. The crime scene indicated a struggle, and the autopsy determined the cause of death was blunt force trauma to the head.²

The medical examiner, Dr. Miller, discovered what he believed to be a bite mark on the victim's left cheek, and contacted Dr. Powell, a local dentist who worked with the medical examiner's office. Photographs were taken and Dr. Miller excised the bite mark away from the victim's face and attempted to preserve it in a formaldehyde solution. Other evidence was collected, including a rape kit, fluids from the vaginal and anal cavities, hair samples, nail clippings, photographs and clothing.³

The police focused in on the bite mark and contacted Dr. Richard Souviron, a forensic odontologist. At the time, Dr. Souviron was considered an expert on bite mark evidence and had testified in several criminal cases, including the case against Ted Bundy. Dr. Souviron requested the police to obtain beeswax impressions from any suspects. Detectives Saladino and Burke may have obtained as many as 100 separate moldings from male suspects/persons of interest that lived or frequented the area.⁴

A clerk at a gas station near the area the victim was found stated Robert DuBoise, Victor DuBoise and Raymond Garcia caused problems in the area. This statement is what led the police to Robert DuBoise, who voluntarily gave Detective Saladino a beeswax impression of his teeth. Dr. Souviron informed the police that Robert DuBoise is who inflicted the bite mark on the victim, and Robert was arrested.⁵

Robert DuBoise was tried and convicted of First Degree Felony Murder and Attempted Sexual Battery.⁶ During the trial, the state entered evidence by three witnesses who provided inculpatory evidence against Mr. DuBoise. These witnesses included Claude Butler (an inmate who claimed Mr.

² *Id.*

³ *Id.*

⁴ *Id.* at 4.

⁵ *Id.*

⁶ *Id.* at 1.

DuBoise made incriminating statements), and Joan Suarez and Jack Andruskiewicz (acquaintances who claimed Mr. DuBoise stated he was wanted for murder).⁷ The state also presented expert evidence that Mr. DuBoise was the person who inflicted the bite mark on the victim.⁸

Conviction Review Unit Findings and Recommendation

Teresa Hall, the Supervising Attorney of the Conviction Review Unit (CRU) for the Office of the State Attorney in the 13th Judicial Circuit in Florida,⁹ conducted the review of Mr. DuBoise's conviction. A CRU is an independent entity within the Office of the State Attorney that reviews convictions to determine if the conviction was wrongfully obtained. This review occurs after the CRU is prompted by a petition or request for review.¹⁰

Attorney Hall received a comprehensive petition and memorandum of law regarding Mr. DuBoise's case from Susan Friedman, an attorney with the Innocence Project, representing Mr. DuBoise. Through the petition, attorney Hall became aware of the bite mark evidence leading to Mr. DuBoise's conviction, and testified that she was already familiar with the unreliability of bite mark evidence as a single source identifier. This prompted further review of Mr. DuBoise's case.¹¹

The CRU reviewed the entire file on Mr. DuBoise's case, including the postconviction motions.¹²

The CRU found that:

- 1) DNA evidence refutes that Robert DuBoise was the perpetrator. Further, the presumptive positive is linked to person X., who had no connection to Robert DuBoise, Victor DuBoise or Raymond Garcia.
- 2) The bite mark evidence presented to the jury is unreliable and faulty. Per experts consulted by both the State Attorney's Office and the Innocence Project, the

⁷ *Id.* at 4.

⁸ Conviction Review Unit Fact Finding, p. 36, (September 9, 2020).

⁹ Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 17:14-17:26.

¹⁰ *Id.* at 17:35-18:01.

¹¹ *Id.* at 30:30-31:31.

¹² *Id.* at 31:31-32:30.

marks left on the [victim's] face were not bite marks at all.

- 3) Claude Butler's testimony is not credible for the following reasons:
 - His significant connection to law enforcement.
 - Inconsistencies through his statements to police, prosecution, defense at trial, and to the CRU.
 - His incentive to cooperate due to facing life sentences on his pending charges.
 - Discrepancies on whether Claude Butler was given a polygraph examination.
 - There was significant benefit provided to Claude Butler by the State Attorney's Office filing a Motion to Mitigate Claude Butler's sentence to time served and that this motion was filed within 2 months of the conclusion of Mr. DuBoise's trial.
- 4) If a trial were to occur today, there would not be credible evidence to prove Mr. Robert DuBoise committed the crimes charged and there would be clear and convincing evidence he is innocent of the charges against him.^{13, 14}

Attorney Hall's recommendation was that Mr. DuBoise's conviction be vacated and the charges be nolle prosequi.¹⁵

Bite Mark Evidence

The pathologist thought one of the marks on the victim's left cheek was a bite mark. The detectives "honed in" on what the pathologist, and later dentist, thought was a bite mark. Law enforcement decided to canvass the area for every known man that frequented the neighborhood, collecting over 100 bite mark impressions "from anybody that would give it to them." Mr. DuBoise voluntarily gave his bite mark impression. All impressions were done in bees wax.¹⁶

Law enforcement sent some of the dental impressions to

¹³ Conviction Review Unit Fact Finding, p. 48-49, (September 9, 2020).

¹⁴ Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 1:08:54-1:09:50.

¹⁵ *Id.* at 27:35-27:45, and 1:09:50-1:09:58.

¹⁶ *Id.* at 34:33-36:08; Testimony of Robert DuBoise at 2:46:15-2:46:35.

Dr. Richard Souviron, the forensic odontologist, who concluded that Mr. DuBoise was the person who inflicted the injury to the victim's cheek. Based on this evidence, law enforcement arrested Mr. DuBoise.¹⁷ At trial, Dr. Souviron "went above and beyond what should have been testified to," when he testified that he was 100 percent certain and convinced that Mr. DuBoise left the bite mark on the victim.¹⁸

As part of attorney Hall's review of the case, she attempted to contact Dr. Souviron 10 times via email, business phone, personal phone and home phone and never received a response.¹⁹

Attorney Hall contacted and consulted with Dr. Freeman, an expert in forensic odontology. Dr. Freeman was sent the case information, including photographs of the murder weapon and the injury to the victim's cheek. Dr. Freeman determined the mark was not a human bite mark.²⁰

Dr. Freeman is a forensic odontologist and an expert in the state of Florida.²¹ In 2019, the American Board of Forensic Odontology (ABFO) rewrote their guidelines and standards for bite marks.²² This change in guidelines followed multiple reports and studies indicating the inaccuracies of bite mark evidence. One report by the National Academy of Sciences (NAS) contained a damaging review of bite mark evidence, finding there was no evidence supporting the accuracy of bite mark evidence, and experts "diverged wildly," in their evaluations of the same bite mark.²³

The premise of bite mark evidence was: (1) that teeth are individual to a person, similar to DNA or fingerprints; (2) skin is an accurate recording medium; and (3) people of similar education and backgrounds would come to similar conclusions when looking at that evidence.²⁴ Bite mark evidence is problematic because it has never been proven that teeth are individual to a person. In fact, studies have

¹⁷ Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 36:04-36:45.

¹⁸ *Id.* at 40:18-40:40.

¹⁹ *Id.* at 49:20-49:35.

²⁰ *Id.* at 49:50-51:27.

²¹ Special Master Hearing (March 1, 2021), Testimony of Dr. Freeman at 1:15:08-1:15:26.

²² *Id.* at 1:18:08-1:19:00.

²³ *Id.* at 1:28:15-1:46:10.

²⁴ *Id.* at 1:24:00-1:24:44.

shown when looking at the side of teeth observed in bite mark evidence, many teeth can be compared and look similar to others. Further, it has never been proven that skin is an accurate recording medium. When evaluating bite mark evidence you are viewing a bruise on the skin, not an actual indentation. There are no studies to show that everyone bruises the same way, and skin looks different in different positions.²⁵

Forensic odontologists were originally permitted to testify to individualization, which means an expert could look at an injury and determine not only who inflicted that injury, but determine that the person was the only individual who could make that injury.²⁶ Current guidelines are such that a forensic odontologist *may not* testify that a specific individual inflicted a bite.²⁷

Dr. Freeman first reviewed the transcripts of the case to determine whether or not Dr. Souviron followed current or past ABFO guidelines. The evidence originally collected included low quality photos, and a portion of skin excised from the victim. While there is controversy regarding collecting bite mark evidence by excising an area of skin, there were procedures for doing so that were not followed in this case. The way in which the skin was excised in Mr. DuBoise's case distorted the injury and caused shrinkage. The injury was also preserved in formaldehyde which was not recommended and causes distortion. The way in which the injury was excised and preserved was not consistent with collection and preservation standards in place at the time of the crime.²⁸

Similarly, proper methods for taking dental impressions were not followed in Mr. DuBoise's case. The officers were not trained in taking impressions nor did they use quality materials. Law enforcement used beeswax to take dental impressions, then "pour[ed] up" each side in dental plaster. This is not an acceptable method to record an impression. The wax deforms in a way dental impression material does not. The analysis on Mr. DuBoise case was done based on the dental impressions in beeswax taken by law enforcement.²⁹

²⁵ *Id.* at 1:46:24-1:49:45.

²⁶ *Id.* at 1:25:09-1:25:39.

²⁷ *Id.* at 1:46:05-1:46:20.

²⁸ *Id.* at 1:49:50-1:53:47.

²⁹ *Id.* at 1:53:50-1:59:31.

Once the dental plaster had set in Mr. DuBoise's dental impression, it was sent to Dr. Souviron.³⁰ Dr. Souviron's interpretation of the evidence evolved and became increasingly more conclusive. Dr. Souviron's conclusion based on the resected tissue analysis was originally that the person who made this injury was likely missing an upper tooth. Mr. DuBoise had no missing teeth at the time of the impression. After being presented with Mr. DuBoise's dental impression, Dr.'s Souviron abandoned the missing tooth theory.³¹ Dr. Souviron concluded early in the case that he could not exclude Mr. DuBoise. Later he stated that Mr. DuBoise was consistent with the injury. He then stated that Mr. DuBoise's dentition matched to a reasonable degree of certainty. Finally, Dr. Souviron concluded at trial, that Mr. DuBoise did inflict the injury on the victim in this case.³² While this testimony was permissible at the time, *a forensic odontologist is no longer permitted to make this conclusion, and individualization is no longer permitted per the current ABFO standards and guidelines.*³³

Dr. Freeman reviewed the photographs of the injury in Mr. DuBoise's case and concluded that the injury to the victim's cheek was not a bite mark. The average lower dentition of a human is approximately 32 millimeters from canine to canine. In this case, the injury on the victim's face was 45 millimeters. Additionally, the injury that had been excised had visible distortion. Dr. Freeman further testified that Dr. Souviron's analysis was "wrong" and that his conclusions were "far-field of having any scientific validity."³⁴

Physical Evidence Excluding Mr. DuBoise

The medical examiner collected evidence at the autopsy, including the excised skin of the left cheek containing the alleged bite mark, hair samples, oral, anal, and vaginal smear slides, fingernail clippings, and the victim's blood type. The oral, anal, and vaginal smear slides collected are the same as

³⁰ *Id.* at 1:59:40-2:00:15.

³¹ *Id.* at 2:01:04-2:04:35.

³² *Id.* at 2:07:38-2:09:29.

³³ *Id.* at 2:09:50-2:10:21.

³⁴ *Id.* at 2:11:19-2:13:50.

the type of slides collected in a rape kit today.³⁵ At the time of the crime in 1983, DNA testing was not available.³⁶

Law enforcement collected fingerprints, 2x4s suspected to be the murder weapon, and hair from the crime scene.³⁷ All evidence collected at the scene, including the fingerprints and hair, excluded Mr. DuBoise.³⁸

Throughout Attorney Hall's review of Mr. DuBoise's case, it was determined that the medical examiner's office had oral, anal, and vaginal smear slides collected from the victim at the time of the autopsy. The slides were sent to a lab in California for testing.³⁹

Nancy Wilson, a Forensic DNA Analyst with Forensic Analytical Crime Lab in California, was contacted to review the DNA slides found in the medical examiner's possession in Mr. DuBoise's case. Wilson's responsibilities include examining and documenting evidence. Wilson performs any necessary testing, including DNA testing, and provides interpretation for the results. Wilson has been recognized as an expert in Florida.⁴⁰

Wilson received the evidence in this case in August 2020, tested the oral, anal, and vaginal smear slides, and completed her report in September 2020. Wilson observed sperm on the vaginal smear slide and anal smear slide. Wilson concluded there was one major male contributor (76% of the DNA), one minor male contributor (5% of the DNA), and the victim (19% of the DNA) on the vaginal smear slide, and a small amount of sperm DNA from one contributor on the anal smear slide. There was no male DNA on the oral smear slide. Wilson received a DNA reference sample from Mr. DuBoise and was able to compare and exclude him as a possible contributor.⁴¹

Once Wilson completed her report, it was submitted to CODIS.⁴² Mr. DuBoise was excluded as a match from all the

³⁵ Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 37:01-37:55.

³⁶ *Id.* at 34:20-34:30; Testimony of Nancy Wilson at 2:22:41-2:22:57.

³⁷ Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 37:55-38:45.

³⁸ *Id.* at 39:31-39:58 and 51:50-1:00:04.

³⁹ *Id.* at 53:50-57:15.

⁴⁰ Special Master Hearing (March 1, 2021), Testimony of Nancy Wilson at 2:15:26-2:22:23.

⁴¹ *Id.* at 1:26:58-2:38:48; see also Forensic Analytical Crime Lab, *Laboratory Report* (September 2, 2020).

⁴² CODIS is the Combined DNA Index System and is the generic term used to describe the FBI's program of support for criminal justice DNA databases as well as the software used to run these databases.

evidence tested in this case, and there was a positive match to the major contributor of the DNA. At the time of the Special Master hearing the name of the individual whose DNA matched the sample retrieved from the victim was not released because there was an ongoing investigation. There is no connection between Mr. DuBoise and the person who was a DNA match.^{43, 44} During 2022, the State Attorney's Office for the Thirteenth Judicial Circuit publicly identified two individuals whose DNA match the DNA found on the rape kit of the victim. These two individuals are currently incarcerated on life sentences for a similar crime that occurred near the time of the rape and murder for which Mr. DuBoise was convicted. Additionally, these two individuals are connected to other similar crimes in the Tampa Bay area.⁴⁵

Witnesses

Claude Butler

Witness Claude Butler had no independent knowledge of the crime. Butler testified that he shared a jail cell with Mr. DuBoise, and that Mr. DuBoise told him that Mr. DuBoise, his brother Victor DuBoise, and Raymond Garcia abducted the victim, raped her, and killed her. Butler further testified that Mr. DuBoise stated all he had done "is had sex with the woman," and he did not know anyone was going to kill the victim. Butler testified Raymond Garcia actually committed the murder. Butler testified to details about the crime could have been found in the arrest report.⁴⁶

Attorney Hall interviewed Butler as part of her investigation and Butler's recall of what Mr. DuBoise told him was inconsistent with his trial testimony. Butler had previously provided information on other crimes during the same time period to a detective with the Tampa Police Department. Prior to Mr. DuBoise's trial, Butler was charged with several punishable by life felonies. At the time of sentencing, Butler received a 5-year sentence. After the conviction of Mr. DuBoise, the state attorney who tried Mr. DuBoise's case filed a State motion to modify and mitigate Butler's sentence. Butler was sentenced to time served. He served

⁴³ Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 53:50-57:15.

⁴⁴ Special Master Hearing (March 1, 2021), Testimony of Nancy Wilson at 2:38:48-2:42:00.

⁴⁵ See, Innocence Project of Florida, Inc. *Status Update of Claimant Since 2022 Legislative Session* (2023).

⁴⁶ Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 41:29-42:26.

approximately 18 months incarceration on multiple punishable by life felonies.⁴⁷

Jack Audruskiewicz

Witness Jack Audruskiewicz had no independent knowledge of the crime. Audruskiewicz testified that he spoke with Mr. DuBoise at a party two days to a week before Mr. DuBoise's arrest. He further testified that Mr. DuBoise stated he was wanted for murder.⁴⁸

Joan Suarez

Witness Joan Suarez had no independent knowledge of the crime. Suarez testified that she frequented the same bar as Mr. DuBoise and they were friends. She further testified that Mr. DuBoise had scratches to his back, and that Mr. DuBoise made comments that he had "done something bad," and "was wanted." Suarez could not remember dates, exact conversations, and admitted to having a traumatic brain injury. Suarez's trial testimony was inconsistent with the deposition she had given prior to trial.⁴⁹

Sentencing and Post-Conviction

Mr. DuBoise was arrested on October 22, 1983.⁵⁰ The jury returned a guilty verdict on First Degree Felony Murder and Attempted Sexual Battery on March 7, 1985.⁵¹

The jury did not recommend the death penalty, but the court overrode the jury's decision and sentenced Mr. DuBoise to death on March 7, 1985.⁵² During Mr. DuBoise's direct appeal the Florida Supreme Court found that the trial court made a sentencing error, and overturned Mr. DuBoise's death sentence. The sentence of death was commuted to a life sentence on June 23, 1988.⁵³

⁴⁷ *Id.* at 1:00:50-1:03:49.

⁴⁸ *Id.* at 45:52-43:48.

⁴⁹ *Id.* at 43:55-45:09.

⁵⁰ Special Master Hearing (March 1, 2021), Testimony of Robert DuBoise at 2:46:40-2:47:26.

⁵¹ Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 45:10-45:30.

⁵² State v. Robert E. DuBoise, *Order Granting Joint Motion to Modify Sentence*, (August 27, 2020) (Case No.83CF12669)

⁵³ *Id.*; See also, Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 45:30-46:11.

Mr. DuBoise filed a postconviction motion requesting to test the DNA collected in the case. At the hearing on this postconviction motion it was determined that the evidence entered at trial had been destroyed by the Clerk's office in 1990 and the hair samples were not suitable for DNA testing.⁵⁴ Attorney Hall later determined that the medical examiner's office stored DNA slides in Mr. DuBoise's case, and these were tested during the CRU's investigation.⁵⁵

In 2020, due to Covid-19, no prison inmates were able to be transported to Hillsborough County jail for the purpose of a hearing. Because of this, and upon receiving the DNA results excluding Mr. DuBoise, attorney Hall elected to file a motion to modify Mr. DuBoise's sentence so he may be released. Mr. DuBoise's sentence was commuted to time served, and Mr. DuBoise was released.⁵⁶ The court ordered that Mr. DuBoise's sentence be modified as follows:

- Count 1: Modified to 36 years in the Department of Corrections.
- Count 2: Modified to 15 years in the Department of Corrections.
- Counts 1 and 2 were to run concurrently.
- Mr. DuBoise was given 503 days of original jail credit, as well as all credit for prison time served.
- All fines associated with the case were waived.⁵⁷

Once Mr. DuBoise was released the hearing on postconviction relief to vacate his sentence was held.⁵⁸

In the State's response to the postconviction motion seeking vacatur, the State agreed that the convictions should be vacated.⁵⁹ **On September 14th, 2020, the court granted Mr. DuBoise's motion to vacate his conviction, finding there was no credible evidence that Mr. DuBoise committed the**

⁵⁴ Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 46:20- 47:30.

⁵⁵ *Id.* at 53:50-57:15.

⁵⁶ *State v. Robert E. DuBoise, Order Granting Joint Motion to Modify Sentence*, (August 27, 2020) (Case No.83CF12669); *See also*, Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 1:04:30-1:05:15.

⁵⁷ *State v. Robert E. DuBoise, Order Granting Joint Motion to Modify Sentence*, (August 27, 2020) (Case No.83CF12669)

⁵⁸ Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 1:05:40-1:08:54.

⁵⁹ *State v. Robert E. DuBoise, State's Response to Defendant's Motion for Postconviction Relief and to Vacate Judgment and Sentence Pursuit to Fla. R. Crim P. 3.850* (September, 2020) (Case No.83CF12669).

crime and further found that he was innocent by clear and convincing evidence.⁶⁰

LITIGATION HISTORY:

Mr. DuBoise convicted of First Degree Felony Murder and Attempted Sexual Battery on March 7, 1985,⁶¹ And sentenced Mr. DuBoise to death on March 7, 1985.⁶²

The sentence of death was commuted to a life sentence on June 23, 1988.⁶³

Mr. DuBoise filed a postconviction motion requesting to test the DNA collected in the case, which was initially denied. The DNA was later tested during the CRU's investigation.⁶⁴

In 2020, based on the DNA results, attorney Hall filed a motion to modify Mr. DuBoise's sentence so that he may be released. Mr. DuBoise's sentence was commuted to time served, and Mr. DuBoise was released.⁶⁵ Once Mr. DuBoise was released, the hearing on postconviction relief to vacate his sentence was held.⁶⁶

On September 14th, 2020, the court vacated Mr. DuBoise's conviction, finding there was no credible evidence that Mr. DuBoise committed the crime and further found that he was innocent by clear and convincing evidence.⁶⁷

On October 4, 2021, Mr. DuBoise, through private counsel, filed a federal civil rights action against the City of Tampa and several employees of the Tampa Police Department. The federal District Court denied the defendants' motion to dismiss and the case is currently pending in the discovery phase.⁶⁸

⁶⁰ *State v. Robert E. DuBoise, Order Vacating Defendant's Judgment and Sentences* (September 14th, 2020) (Case No.83CF12669); *see also*, Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 1:11:00-1:11:59.

⁶¹ Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 45:10-45:30.

⁶² *State v. Robert E. DuBoise, Order Granting Joint Motion to Modify Sentence*, (August 27, 2020) (Case No.83CF12669)

⁶³ *Id.*; *See also*, Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 45:30-46:11.

⁶⁴ *Id.* at 53:50-57:15.

⁶⁵ *State v. Robert E. DuBoise, Order Granting Joint Motion to Modify Sentence*, (August 27, 2020) (Case No.83CF12669); *See also*, Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 1:04:30-1:05:15.

⁶⁶ Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 1:05:40-1:08:54.

⁶⁷ *State v. Robert E. DuBoise, Order Vacating Defendant's Judgment and Sentences* (September 14th, 2020) (Case No.83CF12669); *see also*, Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 1:11:00-1:11:59.

⁶⁸ *See*, Innocence Project of Florida, Inc. *Status Update of Claimant Since 2022 Legislative Session* (2023).

CONCLUSIONS OF LAW:

Standard of Proof in Wrongful Incarceration Compensation Claims

The appropriate standard of proof applied in a wrongful incarceration claim bill is whether there is *clear and convincing evidence* that the claimant committed neither the act nor the offense that served as the basis for the conviction and that the petitioner did not aid, abet, or act as an accomplice.

Generally, the standard of proof in the claim bill process is preponderance of the evidence. However, in 2008, the Legislature established a clear and convincing standard of proof for wrongful incarceration claims under ch. 961, F.S. While the Legislature is not bound to the statutory requirements of ch. 961, F.S., precedent⁶⁹ and equitability suggest that the applicable standard of proof in a wrongful incarceration claim bill should be consistent with these statutory requirements. There have been two wrongful incarceration claim bills that have passed since the enactment of ch. 961, F.S. Both of these bills have utilized a clear and convincing standard.⁷⁰ Additionally, a person who is barred from receiving compensation under ch. 961, F.S., due to prior felony convictions may only be compensated for a wrongful conviction through an act of grace by the Legislature. Applying a lower standard of proof to those barred from statutory relief creates an inequitable result.

Clear and convincing evidence is “evidence making the truth of the facts asserted ‘highly probable.’”⁷¹ A clear and convincing standard “is a greater burden than preponderance of the evidence, the standard applied in most civil trials, but less than evidence beyond a reasonable doubt, the norm for criminal trials.”⁷² Florida jury instructions provide that clear and convincing evidence is “evidence that is precise, explicit, lacking in confusion, and of such weight that it produces a firm

⁶⁹ Senate Special Master Report Re: CS/SB 2 (2012)(November 1, 2011)(recommending relief regarding Mr. William Dillon’s wrongful incarceration claim); Senate Special Master Report Re: SB 28 (2020)(January 23, 2020)(recommending relief regarding Mr. Clifford Williams’ wrongful incarceration claim).

⁷⁰ *Id.*

⁷¹ *Slomowitz v. Walker*, 429 So. 2d 797, 799 (4th DCA 1983).

⁷² Bryan A. Garner, *Black’s Law Dictionary* (2006).

belief or conviction, without hesitation, about the matter in issue.”⁷³

Compensation for Wrongful Incarceration Compensation Claims

Chapter 961, F.S., provides compensation for wrongful incarceration calculated at a rate of \$50,000 for each year of wrongful incarceration, which is prorated as necessary.⁷⁴ Additionally, a petitioner may receive a waiver of tuition and fees for up to 120 hours of instruction at a career center, Florida College System Institution, or any state university;⁷⁵ the amount of any fine, penalty, or court costs imposed and paid by the wrongfully incarcerated person;⁷⁶ and the amount of reasonable attorney’s fees and expenses incurred by the wrongfully incarcerated person.⁷⁷ The total amount awarded may not exceed \$2 million.⁷⁸

Similar to the standard of proof, the Legislature is not bound by the statutory requirements of ch. 961, F.S., but precedent and equitability suggest these requirements be applied.

Conclusion Based upon Findings of Fact and Clear and Convincing Evidence

The DNA evidence demonstrates Mr. DuBoise was not the perpetrator. The oral, anal, and vaginal smear slides contained DNA obtained from the victim’s body. This evidence was only recently discovered and examined through the CRU’s investigation into Mr. DuBoise’s case. Mr. DuBoise’s DNA was compared and excluded as a match to the DNA found on each of the smear slides. Not only was Mr. DuBoise excluded as a match, a match to the DNA was found after the DNA was submitted to CODIS. While the name of the match was unknown to the public at the time of the hearing, there was an ongoing investigation and the person has no connection to Mr. DuBoise, Victor DuBoise, or Raymond Garcia.

⁷³ Standard Jury Instructions-Civil (No. 405.4).

⁷⁴ Section 961.06(1)(a), F.S.

⁷⁵ Section 961.06(1)(b), F.S.

⁷⁶ Section 961.06(1)(c), F.S.

⁷⁷ Section 961.06(1)(d), F.S.

⁷⁸ Section 961.06(1), F.S.

Further, all other evidence collected at the scene and presented at trial excluded Mr. DuBoise.

The bite mark evidence presented at trial is unreliable and inaccurate. The injury to the victim's cheek was not a bite mark, and was much larger than a human bite mark. The analysis and conclusions made by Dr. Souviron are inconsistent with current standards regarding bite mark evidence. Dr. Souviron first theorized that the biter was missing an upper tooth. When presented with Mr. DuBoise's dental impression, Dr. Souviron abandoned this theory. Dr. Souviron ultimately testified that Mr. DuBoise was the biter. This testimony would not be permitted by the ABFO standards today. Further, the process used to document and preserve the bite mark was faulty. The bite mark was excised and preserved in formaldehyde which caused distortion and shrinkage. Similarly, the process to collect dental impressions was also faulty. Beeswax was used, which does not take a proper impression and may distort when dental plaster is poured in. The dental impressions were taken by law enforcement and not by trained professionals.

The witnesses providing testimony against Mr. DuBoise were not credible. Claude Butler had no independent knowledge of the crime, and received a significant benefit by the assistant state attorney mitigating his sentence to time served. Similarly, witnesses Jack Audrusckiewicz and Joan Suarez had no independent knowledge of the crime. Their testimony lacked substance, was inconsistent and not credible.

The materials presented did not include any substantiated evidence with regard to Mr. DuBoise being involved in the crime. Therefore, given the evidence provided during the claim bill process, which included:

- Testimony from Teresa Hall, the Supervising Attorney of the CRU for the Office of the State Attorney in the 13th Judicial Circuit in Florida;
- Testimony from Dr. Adam Freeman, a forensic odontologist.
- Testimony from Nancy Wilson, a Forensic DNA Analyst with Forensic Analytical Crime Lab in California;
- Testimony from Robert Earl DuBoise;
- CRU Fact Finding Report;

- Defendant's Motion for Postconviction Relief and to Vacate Judgment and Sentence Pursuant to Fla. R. Crim P. 3.850;
- State's Response to Defendant's Motion for Postconviction Relief and to Vacate Judgment and Sentence Pursuant to Fla. R. Crim. P. 3.850;
- Order Vacating Defendant's Judgment and Sentences (September 14, 2020);
- Forensic Analytical Crime Laboratory Reports;
- Sworn Affidavit of Dr. Adam Freeman, Board Certified Forensic Odontologist;
- Supplemental Exhibit, DuBoise Priors;
- Supplemental Exhibit, Is it a Human Bitemark Table; and
- Supplemental Exhibit, State v. Robert DuBoise, 83-CF-12669, Agreed Order to Modify Sentence,

the undersigned finds the claimant has demonstrated actual innocence by clear and convincing evidence.

The claimant was wrongfully incarcerated for 37 years.⁷⁹ The amount of \$1,850,000, calculated at the rate of \$50,000 per year is reasonable.

ATTORNEY FEES:

This bill does not allocate any funds for attorney or lobbying fees. Additionally, the claimant's attorney's submitted a Statement on Payment for Attorney and Lobbying Services, stating the claimant had retained attorney Seth Miller of the Innocence Project of Florida, to represent him during the Special Master portion of the Claim Bill Process. The claimant has retained attorneys Mark Delegal and Larry Sellers to perform legislative advocacy regarding passage of the claim bill. None of the aforementioned individuals are receiving any form of payment or compensation, and all representation is *pro bono*.⁸⁰

RECOMMENDATIONS:

Based upon the evidence submitted prior to and during the special master hearing, the undersigned finds the claimant has demonstrated actual innocence by clear and convincing

⁷⁹ Mr. DuBoise was arrested on October 22, 1983 and released from the Department of Corrections on August 27, 2020. Mr. DuBoise spent 36 years, 10 months and 5 days wrongfully incarcerated.

⁸⁰ See, Innocence Project of Florida, Inc. *Statement on Payment for Attorney and Lobbying Services* (2023).

evidence. There is clear and convincing evidence that the claimant committed neither the act nor the offense that served as the basis for the conviction and that the petitioner did not aid, abet, or act as an accomplice, and the relief sought is reasonable. Based upon the foregoing, the undersigned recommends SB 62 be reported FAVORABLY.

Respectfully submitted,

Amanda Stokes

Senate Special Master

cc: Secretary of the Senate

By Senator Grall

29-00290-23

202362__

A bill to be entitled

An act for the relief of Robert Earl DuBoise; providing an appropriation to compensate Mr. DuBoise for being wrongfully incarcerated for almost 37 years; directing the Chief Financial Officer to draw a warrant payable directly to Mr. DuBoise; providing for the waiver of certain tuition and fees for Mr. DuBoise; requiring the Chief Financial Officer to pay the directed funds without requiring that Mr. DuBoise sign a liability release; declaring that the Legislature does not waive certain defenses or increase the state's limits of liability with respect to the act; prohibiting funds awarded under the act to Mr. DuBoise from being used or paid for specified attorney or lobbying fees; prohibiting Mr. DuBoise from submitting a compensation application under certain provisions upon his receipt of payment under this act; requiring specific reimbursement to the state should a civil award be issued subsequent to Mr. DuBoise's receipt of payment under the act; requiring Mr. DuBoise to notify the Department of Legal Affairs upon filing certain civil actions; requiring the department to file a specified notice under certain circumstances; providing that certain benefits are vacated upon specified findings; providing an effective date.

WHEREAS, Robert Earl DuBoise was arrested on October 22, 1983, for the August 18, 1983, rape and murder of a Tampa Bay

Page 1 of 5

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

29-00290-23

202362__

woman and was convicted of capital murder and attempted sexual battery on March 7, 1985, and

WHEREAS, Mr. DuBoise spent 3 years on death row, and

WHEREAS, on March 10, 1988, the Florida Supreme Court issued a mandate vacating Mr. DuBoise's death sentence, and on April 4, 1988, he was resentenced to life imprisonment for murder and a consecutive 15-year sentence for attempted sexual battery, and

WHEREAS, Mr. DuBoise has maintained his innocence since his arrest and for the entirety of his incarceration for the past 37 years, and

WHEREAS, on September 11, 2020, the Conviction Review Unit (CRU) for the State Attorney's Office for the 13th Judicial Circuit issued a 49-page "CRU Summary Fact-Finding Report" based on a comprehensive investigation spanning nearly 1 year, culminating in the conclusion that "Robert DuBoise's conviction should be vacated and Robert DuBoise be exonerated of the charges against him," and

WHEREAS, on September 14, 2020, the Circuit Court for the 13th Judicial Circuit granted, with the concurrence of the state, a motion for postconviction relief, vacated the judgment and sentence of Mr. DuBoise, and ordered a new trial, and

WHEREAS, the CRU report found that there was no credible evidence of Mr. DuBoise's guilt and, likewise, that there was clear and convincing evidence of his innocence, and

WHEREAS, on September 14, 2020, as the result of the CRU report, the state orally pronounced a nolle prosequi with regard to the retrial of Mr. DuBoise, and

WHEREAS, the Legislature acknowledges that the state's

Page 2 of 5

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

29-00290-23 202362__

59 system of justice yielded an imperfect result that had tragic
60 consequences in this case, and

61 WHEREAS, the Legislature acknowledges that, as a result of
62 his physical confinement, Mr. DuBoise suffered significant
63 damages that are unique to him, and that the damages are due to
64 the fact that he was physically restrained and prevented from
65 exercising the freedom to which all innocent citizens are
66 entitled, and

67 WHEREAS, before his conviction for the aforementioned
68 crimes, Mr. DuBoise had prior convictions for unrelated
69 nonviolent felonies, and

70 WHEREAS, because of his prior nonviolent felony
71 convictions, Mr. DuBoise is ineligible for compensation under
72 chapter 961, Florida Statutes, and

73 WHEREAS, the Legislature apologizes to Mr. DuBoise on
74 behalf of the state, NOW, THEREFORE,

75
76 Be It Enacted by the Legislature of the State of Florida:

77
78 Section 1. The facts stated in the preamble to this act are
79 found and declared to be true.

80 Section 2. The sum of \$1.85 million is appropriated from
81 the General Revenue Fund to the Department of Financial Services
82 for the relief of Robert Earl DuBoise for his wrongful
83 incarceration. The Chief Financial Officer is directed to draw a
84 warrant in the sum of \$1.85 million payable directly to Robert
85 Earl DuBoise.

86 Section 3. Tuition and fees for Mr. DuBoise shall be waived
87 for up to a total of 120 hours of instruction at any career

29-00290-23 202362__

88 center established pursuant to s. 1001.44, Florida Statutes,
89 Florida College System institution established under part III of
90 chapter 1004, Florida Statutes, or state university. For any
91 educational benefit he receives, Mr. DuBoise must meet and
92 maintain the regular admission and registration requirements of
93 the career center, institution, or state university and make
94 satisfactory academic progress as defined by the educational
95 institution in which he is enrolled.

96 Section 4. The Chief Financial Officer shall pay the funds
97 directed by this act without requiring that the wrongfully
98 incarcerated person, Mr. DuBoise, sign a liability release.

99 Section 5. With respect to the relief for Mr. DuBoise as
100 described in this act, the Legislature does not waive any
101 defense of sovereign immunity or increase the limits of
102 liability on behalf of the state or any person or entity that is
103 subject to s. 768.28, Florida Statutes, or any other law. Funds
104 awarded under this act to Mr. DuBoise may not be used or be paid
105 for attorney fees or lobbying fees related to this claim.

106 Section 6. Upon his receipt of payment under this act, Mr.
107 DuBoise may not submit an application for compensation under
108 chapter 961, Florida Statutes.

109 Section 7. Claimant Mr. DuBoise must notify the Department
110 of Legal Affairs upon filing any civil action related to his
111 wrongful incarceration. If, after the time that monetary
112 compensation is paid under this act, a court enters a monetary
113 judgment in favor of Mr. DuBoise in a civil action related to
114 his wrongful incarceration, or Mr. DuBoise enters into a
115 settlement agreement with the state or any political subdivision
116 thereof related to his wrongful incarceration, Mr. DuBoise must

29-00290-23

202362__

117 reimburse the state for the monetary compensation awarded under
118 this act, less any sums paid for attorney fees or costs incurred
119 in litigating the civil action or obtaining the settlement
120 agreement. A reimbursement required under this section may not
121 exceed the amount of monetary award Mr. DuBoise received for
122 damages in the civil action or settlement agreement. The court
123 must include in the order of judgment an award to the state of
124 any amount required to be deducted under this section.

125 Section 8. The department must file a notice of payment of
126 monetary compensation in the civil action, and the notice shall
127 constitute a lien upon any judgment or settlement recovered
128 under the civil action which is equal to the sum of monetary
129 compensation paid to the claimant under this act, less any
130 attorney fees and litigation costs.

131 Section 9. If any future judicial determination finds that
132 Mr. DuBoise, by DNA evidence or otherwise, participated in any
133 manner in the death or sexual battery for which he was
134 incarcerated, the unused benefits to which he is entitled under
135 this act are vacated.

136 Section 10. This act shall take effect upon becoming a law.

The Florida Senate

APPEARANCE RECORD

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

3/20/23

Meeting Date

Sen's Appro's

Committee

280

Bill Number or Topic

627562

Amendment Barcode (if applicable)

Name Chelsea Murphy Phone _____

Address 601 Middleboroughs Cir Email _____

Street

TLH FL 32312

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:

Right on Crime.

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)

3/21/2023

Meeting Date

Appropriations Committee on Criminal and Civil Justice

Committee

Name Matt Dunagan

Address 2617 Mahan Drive

Street

Tallahassee

City

Speaking: For

I am appearing without compensation or sponsorship.

The Florida Senate

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280

Bill Number or Topic

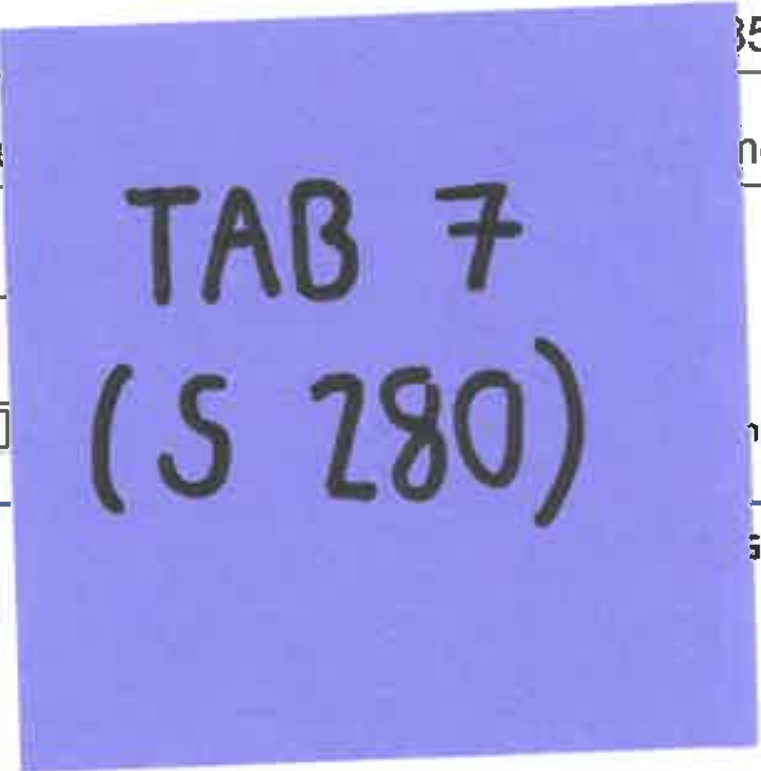
Amendment Barcode (if applicable)

850-877-2165

ndunagan@flsheriffs.org

ng: In Support Against

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 \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-Joint-Rules.pdf)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

280

03/21/23

Meeting Date

Bill Number or Topic

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Committee

Amendment Barcode (if applicable)

Name Lauren Jackson

Phone 931-265-8999

Address 205 S Adams St. Street

Email lauren@erichsconsultants.com

Tallahassee FL 32301 City State Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [X] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[X] 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:

Seminole County Sheriffs Office

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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3/21/23

Meeting Date

SB 280

Bill Number or Topic

Crim Justice Apprp

Committee

Amendment Barcode (if applicable)

Name LIBBY GUZZO

Phone 850 245 0155

Address 401 S MONROE ST

Street

Email libby.guzzo@myfloridalegal.com

City TtH

State FL

Zip 32399

Speaking: [] For [] Against [] Information OR Waive Speaking: [X] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing:

OFFICE OF ATTORNEY GENERAL

[] 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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March 21, 2023

Meeting Date

Criminal and Civil Justice Approps

Committee

Name Jonathan Webber

Address 400 Washington Ave

Street

Montgomery

City

AL

State

36104

Zip

Phone 954-593-4449

Email jonathan.webber@splcactionfund.org

The Florida Senate APPEARANCE RECORD

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SB 280 - Controlled Substances

Bill Number or Topic

Amendment Barcode (if applicable)

Speaking: [] For [x] Against [] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

SPLC Action Fund

[] 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)

3/21/23

The Florida Senate
APPEARANCE RECORD

280

Meeting Date

Appropriations on Criminal
and Committee Civil Justice

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Bill Number or Topic

Amendment Barcode (if applicable)

Name Christie Arnold Phone 407-312-5374

Address 201 W Park Avenue Email carold@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: FL 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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S-001 (08/10/2021)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JASON BRODEUR

10th District

February 15, 2023

The Honorable Jennifer Bradley, Chair
Appropriations Committee on Criminal and Civil Justice
410 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bradley,

I respectfully request that **Senate Bill 280, Controlled Substances**, be placed on the agenda of the Appropriations Committee on Criminal and Civil Justice meeting to be considered at your earliest convenience.

If you have any questions or concerns, please do not hesitate to reach out to me or my office.

Sincerely,

A handwritten signature in black ink that reads "Jason Brodeur".

Senator Jason Brodeur – District 10

CC: Marti Harkness– Staff Director
Rebecca Henderson– Administrative Assistant

COMMITTEES:

Appropriations Committee on Agriculture,
Environment, and General Government, *Chair*
Health Policy, *Vice Chair*
Appropriations
Appropriations Committee on Health
and Human Services
Children, Families, and Elder Affairs
Community Affairs
Regulated Industries
Rules

JOINT COMMITTEE:

Joint Legislative Auditing Committee

REPLY TO:

- 110 Timberlachen Circle, Suite 1012, Lake Mary, Florida 32746 (407) 333-1802
- 405 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5010

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 Appropriations Committee on Criminal and Civil Justice

BILL: CS/CS/SB 280

INTRODUCER: Appropriations Committee on Criminal and Civil Justice; Criminal Justice Committee;
and Senator Brodeur

SUBJECT: Controlled Substances

DATE: March 23, 2023

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 280 addresses prosecution and punishment of certain unlawful acts involving heroin, fentanyl, and fentanyl-related controlled substances.

The bill revises the causation requirement for the first degree murder offense of “death caused by the unlawful distribution of a controlled substance.” Under current law, a controlled substance is required to be the proximate cause of the death of the user. The bill, instead, only requires that the substance be a “substantial factor” in producing the death of the user. “Substantial factor” means that the use of a substance or mixture alone is sufficient to cause death or that the use of the substance or mixture contributed to the resulting death, regardless of whether any other substance or mixture used is also sufficient to cause death or contributed to the death. This definition may cover situations where a user dies with a combination of illegal substances in his or her body.

The bill also makes it a second degree felony or a first degree felony (second or subsequent offense) for an adult to unlawfully distribute, deliver, sell, or dispense heroin, fentanyl, fentanyl-related substances, and mixtures containing any of these substances, and an injury or overdose results, when such substance or mixture is proven to have caused or been a substantial factor in causing the injury or overdose.

The bill also specifies that this unlawful distribution, etc., may be from a person who directly, or indirectly through another person, provided the substance or mixture to the user who was injured or overdosed.

The bill provides that the administration of medical care by an emergency responder is prima facie evidence that the person receiving medical care was injured or overdosed.

Finally, the bill provides that a person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related or drug-related overdose and receives medical assistance, or a person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, an alcohol-related or drug-related overdose, is afforded the protections provided under s. 893.21, F.S., which currently provides that a person seeking such medical assistance may not be arrested, charged, prosecuted, or penalized for drug possession or use or possession of drug paraphernalia.

The Legislature's Office of Economic and Demographic Research preliminarily estimates that the bill will 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:

Scheduling of Fentanyl as a Controlled Substance

Section 893.03, F.S., classifies controlled substances into five categories or classifications, known as schedules. The schedules regulate the manufacture, distribution, preparation, and dispensing of substances listed in the schedules. The most important factors in determining which schedule may apply to a substance are the "potential for abuse"¹ of the substance and whether there is a currently accepted medical use for the substance. The controlled substance schedules are described as follows:

- Schedule I substances (s. 893.03(1), F.S.) have a high potential for abuse and no currently accepted medical use in treatment in the United States. Use of these substances under medical supervision does not meet accepted safety standards.
- Schedule II substances (s. 893.03(2), F.S.) have a high potential for abuse and a currently accepted but severely restricted medical use in treatment in the United States. Abuse of these substances may lead to severe psychological or physical dependence.
- Schedule III substances (s. 893.03(3), F.S.) have a potential for abuse less than the Schedule I and Schedule II substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to moderate or low physical dependence or high psychological dependence. Abuse of anabolic steroids may lead to physical damage.
- Schedule IV substances (s. 893.03(4), F.S.) have a low potential for abuse relative to Schedule III substances and a currently accepted medical use in treatment in the United

¹ Section 893.035(3)(a), F.S., defines "potential for abuse" as a substance that has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of the substance being: used in amounts that create a hazard to the user's health or the safety of the community; diverted from legal channels and distributed through illegal channels; or taken on the user's own initiative rather than on the basis of professional medical advice.

States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule III substances.

- Schedule V substances (s. 893.03(5), F.S.) have a low potential for abuse relative to Schedule IV substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule IV substances.

“Fentanyl is a powerful synthetic opioid that is similar to morphine but is 50 to 100 times more potent. It is a prescription drug that is also used and made illegally.”² “Synthetic opioids, including fentanyl, are now the most common drugs involved in drug overdose deaths in the United States.”³ According to Florida’s Statewide Drug Policy Advisory Council, the majority of overdose deaths in Florida in 2021 were related to opioids, and “[t]he most significant increases [in overdose deaths relative to the previous year] were deaths involving fentanyl which increased by 11 percent, and deaths caused by fentanyl increased by 9 percent.”⁴

Fentanyl and fentanyl-related substances (e.g., alfentanil, carfentanil, and sufentanil) are Schedule (2)(b) controlled substances.⁵ Section 893.13, F.S., punishes various unlawful acts involving Schedule (2)(b) controlled substances:

- Selling, manufacturing, or delivering the substance, or possessing the substance with intent to sell, manufacture, or deliver⁶ it are generally second degree felonies;⁷
- Purchasing or possessing the substance with intent to purchase it are generally second degree felonies;⁸
- Bringing the substance into this state (importing) is generally a second degree felony;⁹
- Possessing 10 grams of more of the substance is generally a first degree felony¹⁰ but possessing a lesser amount is generally a third degree felony;¹¹ and

² *Fentanyl DrugFacts*, National Institute on Drug Abuse (footnotes omitted), available at <https://nida.nih.gov/publications/drugfacts/fentanyl> (last visited on Feb. 6, 2023). As a medicine, fentanyl is “typically used to treat patients with severe pain, especially after surgery[,]” and “is also sometimes used to treat patients with chronic pain who are physically tolerant to other opioids.” *Id.*

³ *Id.*

⁴ *2020 Annual Report* (Dec. 1, 2022), p. 8, Statewide Drug Policy Advisory Council, available at https://www.floridahealth.gov/provider-and-partner-resources/dpac/documents/2022_DPAC_Annual_Report.pdf (last visited on Feb. 6, 2023).

⁵ Section 893.03(2)(b)1., 6., 9., and 30., F.S.

⁶ “Deliver” means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship. Section 893.02(6), F.S.

⁷ Section 893.13(1)(a)1., F.S. A second degree felony is punishable by not more than 15 years in state prison and a fine not exceeding \$10,000. Section 775.082 and 775.083, F.S.

⁸ Section 893.13(2)(a)1., F.S.

⁹ Section 893.13(5)(a)1., F.S.

¹⁰ Section 893.13(6)(c), 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. Sections 775.082 and 775.083, F.S.

¹¹ Section 893.13(6)(a), F.S. A third degree felony is generally punishable by not more than 5 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).

- Distributing¹² the substance, except through an authorized order form, is generally a third degree felony.¹³

Section 893.135, F.S., punishes drug trafficking, which consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state (importing), or knowingly being in actual or constructive possession of, certain Schedule I or Schedule II controlled substances, in a statutorily-specified quantity. The statute only applies to a limited number of such controlled substances, including fentanyl and fentanyl-related substances. The controlled substance involved in the trafficking must meet a specified weight or quantity threshold. Most drug trafficking offenses are first degree felonies and are subject to a mandatory minimum term of imprisonment and a mandatory fine, which is determined by the weight or quantity range applicable to the weight or quantity of the substance involved in the trafficking.

Trafficking in 4 grams or more of:

- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;
- A fentanyl derivative;¹⁴
- A controlled substance analog¹⁵ of any previously-described substance or a fentanyl derivative; or
- A mixture containing any previously-described substance or a fentanyl derivative or analog.¹⁶

If the quantity involved in the drug trafficking violation is:

- 4 grams or more, but less than 14 grams, the person must be sentenced to a mandatory minimum term of imprisonment of 7 years, and must be ordered to pay a fine of \$50,000;
- 14 grams or more, but less than 28 grams, the person must be sentenced to a mandatory minimum term of imprisonment of 20 years, and must be ordered to pay a fine of \$100,000; or
- 28 grams or more, the person must be sentenced to a mandatory minimum term of imprisonment of 25 years, and must be ordered to pay a fine of \$500,000.¹⁷

Controlled Substance Analog

A “controlled substance analog” is a substance which, due to its chemical structure and potential for abuse, meets the following criteria:

¹² “Distribute” means to deliver, other than by administering or dispensing, a controlled substance. Section 893.02(8), F.S. “Dispense” means the transfer of possession of one or more doses of a medicinal drug by a pharmacist or other licensed practitioner to the ultimate consumer thereof or to one who represents that it is his or her intention not to consume or use the same but to transfer the same to the ultimate consumer or user for consumption by the ultimate consumer or user. Section 893.02(7), F.S. “Administer” means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a person or animal. Section 893.02(1), F.S.

¹³ Section 893.13(7)(a)4., F.S.

¹⁴ See s. 893.03(1)(a)62., F.S.

¹⁵ See s. 893.0356(2)(a), F.S.

¹⁶ Section 893.135(1)(c)4.a.(I)-(VII), F.S.

¹⁷ Section 893.135(1)(c)4.b.(I)-(III), F.S.

- The substance is substantially similar to that of a controlled substance listed in Schedule I or Schedule II of s. 893.03, F.S.; and
- The substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system or is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance listed in Schedule I or Schedule II of s. 893.03, F.S.¹⁸

Murder by Unlawful Distribution of Certain Controlled Substances

Section 782.04(1)(a)3., F.S., provides that first degree murder includes unlawfully killing of a human being which resulted from the unlawful distribution by a person 18 years of age or older of any of the following substances, or a mixture containing any of the following substances, when such substance or mixture is proven to be the *proximate cause* of the death of the user:

- A Schedule I controlled substance;¹⁹
- Cocaine;
- Opium or any synthetic or natural salt, compound, derivative, or preparation of opium;
- Methadone;
- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;
- Methamphetamine; or
- A controlled substance analog of any of the above-listed controlled substances.

First degree murder is a capital felony,²⁰ punishable by death or life imprisonment.²¹

Third Degree Murder – Exclusion of Unlawful Distribution of Certain Controlled Substances

Section 782.04(4), F.S., provides that it is third degree murder, a second degree felony, when an unlawful killing of a human being, was perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate any felony *other than* any felony listed in subsection (4). This list of excluded felonies includes unlawful distribution by a person 18 years of age or older of any of the following substances when such substance is proven to be the *proximate cause* of the death of the user:

- A Schedule I controlled substance;
- Cocaine;
- Opium or any synthetic or natural salt, compound, derivative, or preparation of opium;
- Methadone;
- Alfentanil;
- Carfentanil;
- Fentanyl;

¹⁸ Section 893.0356(2)(a), F.S.

¹⁹ See s. 893.03(1), F.S.

²⁰ Section 782.04(1)(a)3., F.S.

²¹ Section 782.082, F.S.

- Sufentanil;
- Methamphetamine; or
- A controlled substance analog of any of the above-listed controlled substances.²²

Crimes with an Element of Causation

The Florida Supreme Court has identified “two distinct subelements” of causation for crimes that include an element of causation.²³

As legal scholars have recognized, before a defendant can be convicted of a crime that includes an element of causation, the [s]tate must prove beyond a reasonable doubt that the defendant’s conduct was (1) the “cause in fact” and (2) the “legal cause” (often called “proximate cause” of the relevant harm.²⁴

Typically, to establish the “cause in fact” subelement, the state “must demonstrate that ‘but for’ the defendant’s conduct, the harm would not have occurred.”²⁵ “A defendant can rebut this showing by demonstrating that the harm would have occurred in any event, regardless of the defendant’s conduct.”²⁶ However, “[i]n those rare circumstances where ‘two causes, each alone sufficient to bring about the harmful result, operate together to cause it,’ the ‘but for’ test becomes impossible to prove”²⁷ and “the State may prove the “‘cause-in-fact’ causation by demonstrating that the defendant’s conduct was a ‘substantial factor’ in bringing about the harm.”²⁸

Additionally, the state must prove that the defendant’s conduct was the “proximate cause” of the harm. “Florida courts have considered two basic questions in determining proximate cause: (1) whether the prohibited result of the defendant’s conduct is beyond the scope of any fair assessment of the danger created by the defendant’s conduct and (2) whether it would be otherwise unjust, based on fairness and policy considerations, to hold the defendant criminally responsible for the prohibited result.”²⁹

Florida Standard Jury Instructions for Murder by Unlawful Distribution of Certain Controlled Substances

The Florida Standard Jury instructions for murder by unlawful distribution of certain controlled substances defines “proximate cause” as conduct “that was the *primary* or moving cause in

²² Section 782.04(4)(l), F.S.

²³ *Eversely v. State*, 748 So.2d 963, 966-67 (Fla. 1999) (citations omitted).

²⁴ *Id.* at 966-967 (citations omitted).

²⁵ *Id.* at 967 (citations omitted).

²⁶ *Id.* (citation omitted).

²⁷ *Id.*, quoting 1 Wayne R. LaFare & Austin W. Scott, Jr., *Substantive Criminal Law* s. 3.12, at 394 (footnote and other citations omitted).

²⁸ *Id.* (citations omitted).

²⁹ *Id.* (citations omitted).

producing the death, and without it, the death would not have happened.”³⁰ Because the instruction requires the substance be the *primary* cause of death, a prosecutor may encounter certain scenarios where he or she cannot prove a specific substance was the primary cause of death. A victim may, for example, have ingested lethal amounts of both cocaine and opium, each of which could have caused his or her death. Prosecutors have reported difficulty obtaining convictions in scenarios such as this, as it is virtually impossible to determine if something was the *primary* cause if there are multiple sufficient possibilities that were all equally lethal.³¹

Criminal Punishment Code

The Criminal Punishment Code³² (Code) is Florida’s primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).³³ Points are assigned and accrue based upon the offense severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses. The lowest permissible sentence is any nonstate prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.³⁴ Absent mitigation,³⁵ the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.³⁶

Medical Assistance for an Overdose -Immunity from Arrest, Charge, Prosecution, and Penalization

Section 893.21, F.S., provides that a person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, an alcohol-related or a drug-related overdose may not be arrested, charged, prosecuted, or penalized for drug possession or use or possession of drug paraphernalia, excluding possession of 10 grams or more of a Schedule (1)(a), (1)(b), or (2)(b) controlled substance, if the evidence for such offense was obtained as a result of the person’s seeking medical assistance.³⁷

³⁰ Fla. Std. Jury Instr. (Crim.) 7.3(a) (emphasis added by staff), available at <https://www.floridabar.org/rules/florida-standard-jury-instructions/criminal-jury-instructions-home/criminal-jury-instructions/sji-criminal-chapter-7/> (last visited on Feb. 6, 2023); and *Aumuller v. State*, 944 So 2d 1137, 1141-1142 (Fla. 2d DCA 2006).

³¹ Office Memorandum to Bob Cortes from Daniel E. Faggard, Assistant State Attorney, Eighteenth Judicial Circuit, Re: Substantial Factor Test (Feb. 5, 2021) (on file with the Senate Committee on Criminal Justice).

³² Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

³³ Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

³⁴ Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

³⁵ The court may “mitigate” or “depart downward” from the scored lowest permissible sentence, if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

³⁶ If the scored lowest permissible sentence exceeds the maximum penalty in s. 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment. Section 921.0024(2), F.S.

³⁷ Sections 893.21(1) and 893.13(6)(c), F.S.

A person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related or a drug-related overdose and is in need of medical assistance may not be arrested, charged, prosecuted, or penalized for drug possession or use or possession of drug paraphernalia, excluding possession of 10 grams or more of a Schedule (1)(a), (1)(b), or (2)(b) controlled substance, if the evidence for such offense was obtained as a result of the person's seeking medical assistance.³⁸

A person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related or a drug-related overdose and receives medical assistance, or a person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, an alcohol-related or a drug-related overdose, may not be penalized for a violation of a condition of pretrial release, probation, or parole if the evidence for such violation was obtained as a result of the person's seeking medical assistance.³⁹

Protection in this section from arrest, charge, prosecution, or penalization for an offense listed in this section may not be grounds for suppression of evidence in other criminal prosecutions.⁴⁰

III. Effect of Proposed Changes:

The bill addresses unlawful acts involving heroin, fentanyl, and fentanyl-related controlled substances.

The bill amends s. 782.04(1)(a), F.S., to revise the causation requirement for the first degree murder offense of "death caused by the unlawful distribution of a controlled substance." Under current law, a controlled substance is required to be the *proximate cause* of the death of the user. The bill, instead, only requires that the substance be a "substantial factor" in producing the death of the user. "Substantial factor" means that the use of a substance or mixture alone is sufficient to cause death or that the use of the substance or mixture contributed to the resulting death, regardless of whether any other substance or mixture used is also sufficient to cause death or contributed to the death. This definition may cover situations where a user dies with a combination of illegal substances in his or her body.

The bill also creates s. 893.131, F.S., which provides that it is a second degree felony or first degree felony (second or subsequent offense) for a person 18 years of age or older to unlawfully distribute, deliver, sell, or dispense any of the following substances if injury or overdose⁴¹ results, when such substance or mixture is proven to have caused or been a substantial factor⁴² in causing the injury or overdose:

- Heroin;⁴³

³⁸ Sections 893.21(2) and 893.13(6)(c), F.S.

³⁹ Section 893.21(3), F.S.

⁴⁰ Section 893.12(4), F.S.

⁴¹ "Injury or overdose" is defined in the bill as drug toxicity or the temporary loss of locomotor activity, motor coordination, or consciousness or cognitive impairment.

⁴² "Substantial factor" means that the use of a substance or mixture alone is sufficient to cause an injury or overdose or that the use of the substance or mixture contributed to a resulting injury or overdose, regardless of whether any other substance or mixture used is also sufficient to cause an injury or overdose.

⁴³ Heroin is a Schedule (1)(b) controlled substance. See s. 893.03(1)(b)11. F.S.

- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;
- Fentanyl derivatives;
- A controlled substance analog of any previously-described substance or a fentanyl derivative;
or
- A mixture containing any previously-described substance or a fentanyl derivative or analog.

Neither the second degree felony nor the first degree felony created by the bill are specifically ranked in the Code offense severity level ranking chart. Accordingly, both would be ranked under s. 921.0023, F.S. The second degree felony would be ranked in level 4, and the first degree felony would be ranked in level 7.⁴⁴

The bill also specifies that this unlawful distribution, etc., may be from a person who directly, or indirectly through another person, provided the substance or mixture to the user who was injured or overdosed.

The bill provides that the administration of medical care⁴⁵ by an emergency responder, including, but not limited to, a law enforcement officer, a paramedic, or an emergency medical technician, or the administration of an emergency opioid antagonist⁴⁶ by such emergency responder, is prima facie evidence that the person receiving medical care was injured or overdosed.⁴⁷

Finally, the bill provides that a person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related or a drug-related overdose and receives medical assistance, or a person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, an alcohol-related or a drug-related overdose, is afforded the protections provided under s. 893.21, F.S., which currently provides that a person seeking such medical assistance may not be arrested, charged, prosecuted, or penalized for drug possession or use or possession of drug paraphernalia.⁴⁸

The bill takes effect July 1, 2023.

⁴⁴ Section 921.0023(2) and (3), F.S.

⁴⁵ “Medical care” is defined as the administration of treatment for the purposes of preserving or sustaining life or the administration of an emergency opioid antagonist.

⁴⁶ “Emergency opioid antagonist” is defined in s. 381.887(1)(d), F.S., as naloxone hydrochloride or any similarly acting drug that blocks the effects of opioids administered from outside the body and that is approved by the United States Food and Drug Administration for the treatment of an opioid overdose.

⁴⁷ The bill appears to create a permissive inference. 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).

⁴⁸ Section 893.21, F.S., does not apply to possession of more than 10 grams of fentanyl, which is a Schedule (2)(b) controlled substance. See ss. 893.21, 893.03(2)(b)9., and 893.13(6)(c), F.S. There is no comparable exclusion for distribution of 10 grams or more fentanyl, though 10 grams or more of fentanyl exceeds the threshold quantity for charging drug trafficking and drug trafficking is not an offense covered by s. 893.21, F.S.

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 Article VII, s. 18, of the Florida Constitution.

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 estimates that the bill will have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds).⁴⁹

The EDR provided the following information relevant to its estimate:

In FY 18-19, the incarceration rate for a Level 4, 2nd degree felony was 28.7%, and in FY 19-20 the incarceration rate was 27.3%. In

⁴⁹ *HB 365 – Controlled Substances (Identical SB 280)*, Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).

FY 20-21, the incarceration rate for a Level 4, 2nd degree felony was 23.8%, and in FY 21-22 the incarceration rate was 29.7%. In FY 18-19, the incarceration rate for a Level 1, 1st degree felony was 67.1%, and in FY 19-20 the incarceration rate was 66.5%. In FY 20-21, the incarceration rate for a Level 1, 1st degree felony was 65.5%, and in FY 21-22 the incarceration rate was 63.1%.

Per [Department of Corrections], in FY 18-19, there was 1 new commitment under s. 782.04, F.S. relating to drugs, and no new commitments in FY 19-20, FY 20-21, or FY 21-22. Per Florida Department of Health, in CY 2021, there were 50,803 non-fatal drug overdose emergency department visits and 8,093 fatal drug overdoses. While it is not known what drug or drugs were in their systems, prior reports have indicated mixtures of the drugs included in this bill. The drugs listed under s. 782.04(1), F.S. and s. 893.131, F.S. showed similar high numbers as contributing to fatal overdoses, so it is likely that the non-fatal overdoses also have these drugs involved. It is not known how prison admissions will be impacted by this new language, nor is it known if this language will expand how a non-fatal overdose is defined.⁵⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 782.04 of the Florida Statutes.

This bill creates section 893.131 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 21, 2023:

The committee substitute provides that protections under s. 893.21, F.S., apply to the fentanyl-related distribution offense created by the bill in s. 893.13, F.S., to a person seeking medical assistance for an overdose. Section 893.21, F.S., provides immunity

⁵⁰ *Id.*

from arrest, prosecution, and punishment for drug possession or use or, possession of drug paraphernalia.

CS by Criminal Justice on February 14, 2023:

The CS specifies that the unlawful distribution, etc., of the fentanyl, etc., or mixture may be from a person who directly, or indirectly through another person, provided the substance or mixture to the user who was injured or overdosed.

B. Amendments:

None.



627562

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2023	.	
	.	
	.	
	.	

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

Senate Amendment

Between lines 181 and 182
insert:

(5) A person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related or a drug-related overdose and receives medical assistance, or a person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, an alcohol-related or a drug-related overdose, is afforded the



627562

11 protections provided under s. 893.21.

By the Committee on Criminal Justice; and Senator Brodeur

591-02080-23

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1 A bill to be entitled
 2 An act relating to controlled substances; amending s.
 3 782.04, F.S.; revising the elements that constitute
 4 the capital offense of murder in the first degree;
 5 revising the elements that constitute the offense of
 6 murder in the third degree and constitute a felony of
 7 the second degree; defining the term "substantial
 8 factor"; creating s. 893.131, F.S.; defining terms;
 9 providing criminal penalties for adults who unlawfully
 10 distribute, deliver, sell, or dispense specified
 11 substances or mixtures and an injury or overdose of
 12 the user results; providing enhanced criminal
 13 penalties for repeat offenders; providing
 14 applicability and construction; providing an effective
 15 date.
 16
 17 Be It Enacted by the Legislature of the State of Florida:
 18
 19 Section 1. Paragraph (a) of subsection (1) and subsections
 20 (4) and (5) of section 782.04, Florida Statutes, are amended to
 21 read:
 22 782.04 Murder.—
 23 (1) (a) The unlawful killing of a human being:
 24 1. When perpetrated from a premeditated design to effect
 25 the death of the person killed or any human being;
 26 2. When committed by a person engaged in the perpetration
 27 of, or in the attempt to perpetrate, any:
 28 a. Trafficking offense prohibited by s. 893.135(1),
 29 b. Arson,

Page 1 of 7

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

591-02080-23

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30 c. Sexual battery,
 31 d. Robbery,
 32 e. Burglary,
 33 f. Kidnapping,
 34 g. Escape,
 35 h. Aggravated child abuse,
 36 i. Aggravated abuse of an elderly person or disabled adult,
 37 j. Aircraft piracy,
 38 k. Unlawful throwing, placing, or discharging of a
 39 destructive device or bomb,
 40 l. Carjacking,
 41 m. Home-invasion robbery,
 42 n. Aggravated stalking,
 43 o. Murder of another human being,
 44 p. Resisting an officer with violence to his or her person,
 45 q. Aggravated fleeing or eluding with serious bodily injury
 46 or death,
 47 r. Felony that is an act of terrorism or is in furtherance
 48 of an act of terrorism, including a felony under s. 775.30, s.
 49 775.32, s. 775.33, s. 775.34, or s. 775.35, or
 50 s. Human trafficking; or
 51 3. Which resulted from the unlawful distribution by a
 52 person 18 years of age or older of any of the following
 53 substances, or mixture containing any of the following
 54 substances, when such substance or mixture is proven to have
 55 caused, or is proven to have been a substantial factor in
 56 producing, be the proximate cause of the death of the user:
 57 a. A substance controlled under s. 893.03(1);
 58 b. Cocaine, as described in s. 893.03(2) (a)4.;

Page 2 of 7

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59 c. Opium or any synthetic or natural salt, compound,
 60 derivative, or preparation of opium;
 61 d. Methadone;
 62 e. Alfentanil, as described in s. 893.03(2)(b)1.;
 63 f. Carfentanil, as described in s. 893.03(2)(b)6.;
 64 g. Fentanyl, as described in s. 893.03(2)(b)9.;
 65 h. Sufentanil, as described in s. 893.03(2)(b)30.;
 66 i. Methamphetamine, as described in s. 893.03(2)(c)5.; or
 67 j. A controlled substance analog, as described in s.
 68 893.0356, of any substance specified in sub-subparagraphs a.-i.,
 69
 70 is murder in the first degree and constitutes a capital felony,
 71 punishable as provided in s. 775.082.
 72 (4) The unlawful killing of a human being, when perpetrated
 73 without any design to effect death, by a person engaged in the
 74 perpetration of, or in the attempt to perpetrate, any felony
 75 other than any:
 76 (a) Trafficking offense prohibited by s. 893.135(1),
 77 (b) Arson,
 78 (c) Sexual battery,
 79 (d) Robbery,
 80 (e) Burglary,
 81 (f) Kidnapping,
 82 (g) Escape,
 83 (h) Aggravated child abuse,
 84 (i) Aggravated abuse of an elderly person or disabled
 85 adult,
 86 (j) Aircraft piracy,
 87 (k) Unlawful throwing, placing, or discharging of a

Page 3 of 7

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

591-02080-23

2023280c1

88 destructive device or bomb,
 89 (l) Unlawful distribution of any substance listed in sub-
 90 subparagraphs (1)(a)3.a.-j. by a person 18 years of age or
 91 older, when such substance is proven to have caused, or is
 92 proven to have been a substantial factor in producing, ~~be the~~
 93 ~~proximate cause of~~ the death of the user,
 94 (m) Carjacking,
 95 (n) Home-invasion robbery,
 96 (o) Aggravated stalking,
 97 (p) Murder of another human being,
 98 (q) Aggravated fleeing or eluding with serious bodily
 99 injury or death,
 100 (r) Resisting an officer with violence to his or her
 101 person, or
 102 (s) Felony that is an act of terrorism or is in furtherance
 103 of an act of terrorism, including a felony under s. 775.30, s.
 104 775.32, s. 775.33, s. 775.34, or s. 775.35,
 105
 106 is murder in the third degree and constitutes a felony of the
 107 second degree, punishable as provided in s. 775.082, s. 775.083,
 108 or s. 775.084.
 109 (5) As used in this section, the term:
 110 (a) "Substantial factor" means that the use of a substance
 111 or mixture alone is sufficient to cause death or that the use of
 112 the substance or mixture contributed to the resulting death,
 113 regardless of whether any other substance or mixture used is
 114 also sufficient to cause death or contributed to the death.
 115 (b) "Terrorism" means an activity that:
 116 ~~(a)~~1.a. Involves a violent act or an act dangerous to human

Page 4 of 7

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

591-02080-23

2023280c1

117 life which is a violation of the criminal laws of this state or
 118 of the United States; or
 119 ~~b.2-~~ Involves a violation of s. 815.06; and
 120 ~~2.(b)~~ Is intended to:
 121 ~~a.1-~~ Intimidate, injure, or coerce a civilian population;
 122 ~~b.2-~~ Influence the policy of a government by intimidation
 123 or coercion; or
 124 ~~c.3-~~ Affect the conduct of government through destruction
 125 of property, assassination, murder, kidnapping, or aircraft
 126 piracy.
 127 Section 2. Section 893.131, Florida Statutes, is created to
 128 read:
 129 893.131 Distribution of controlled substances resulting in
 130 injury or overdose.-
 131 (1) As used in this section, the term:
 132 (a) "Emergency opioid antagonist" has the same meaning as
 133 in s. 381.887.
 134 (b) "Injury or overdose" means drug toxicity or the
 135 temporary loss of locomotor activity, motor coordination, or
 136 consciousness or cognitive impairment.
 137 (c) "Medical care" means the administration of treatment
 138 for the purposes of preserving or sustaining life or the
 139 administration of an emergency opioid antagonist.
 140 (d) "Substantial factor" means that the use of a substance
 141 or mixture alone is sufficient to cause an injury or overdose or
 142 that the use of the substance or mixture contributed to a
 143 resulting injury or overdose, regardless of whether any other
 144 substance or mixture used is also sufficient to cause an injury
 145 or overdose.

Page 5 of 7

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591-02080-23

2023280c1

146 (2) (a) Except as provided in paragraph (b), a person 18
 147 years of age or older who unlawfully distributes, delivers,
 148 sells, or dispenses:
 149 1. Heroin, as described in s. 893.03(1) (b)11.;
 150 2. Alfentanil, as described in s. 893.03(2) (b)1.;
 151 3. Carfentanil, as described in s. 893.03(2) (b)6.;
 152 4. Fentanyl, as described in s. 893.03(2) (b)9.;
 153 5. Sufentanil, as described in s. 893.03(2) (b)30.;
 154 6. Fentanyl derivatives, as described in s.
 155 893.03(1) (a)62.;
 156 7. A controlled substance analog, as described in s.
 157 893.0356, of any substance specified in subparagraphs 1.-6.; or
 158 8. A mixture containing any substance specified in
 159 subparagraphs 1.-7.,
 160 and an injury or overdose of the user results, commits a felony
 161 of the second degree, punishable as provided in s. 775.082, s.
 162 775.083, or s. 775.084, when such substance or mixture is proven
 163 to have caused or been a substantial factor in causing the
 164 injury or overdose suffered by the user.
 165 (b) A person 18 years of age or older who commits a
 166 violation of paragraph (a) and who has previously been convicted
 167 of a violation of paragraph (a) commits a felony of the first
 168 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 169 775.084.
 170 (3) The unlawful distribution, delivery, sale, or
 171 dispensing of a substance or mixture specified in subparagraphs
 172 (2) (a)1.-8. may be from a person who directly, or indirectly
 173 through another person, provided the substance or mixture to the
 174

Page 6 of 7

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

591-02080-23

2023280c1

175 user who was injured or overdosed.

176 (4) The administration of medical care by an emergency
177 responder, including, but not limited to, a law enforcement
178 officer, a paramedic, or an emergency medical technician, or the
179 administration of an emergency opioid antagonist by such
180 emergency responder, is prima facie evidence that the person
181 receiving medical care was injured or overdosed.

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

The Florida Senate

APPEARANCE RECORD

3/21/23

Meeting Date

SB 486

Bill Number or Topic

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

Senate Appropriations Committee on Criminal + Civil Justice

Committee

Amendment Barcode (if applicable)

Name Jeff Naill

Phone 850-255-1267

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City Gulf Breeze State FL Zip 32561

Speaking: [] For [] Against [] Information OR Waive Speaking: [X] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

- [X] I am appearing without compensation or sponsorship. [] I am a registered lobbyist, representing: [] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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

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The Florida Senate

APPEARANCE RECORD

3/21/2023

Meeting Date

486

Bill Number or Topic

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Committee

Amendment Barcode (if applicable)

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32583

City

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3-21-23

Meeting Date

SPB 484

Bill Number or Topic

Criminal Civil

Committee

Amendment Barcode (if applicable)

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PCB

FL

32407

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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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/21/23

Meeting Date

SB 486

Bill Number or Topic

Criminal + Civil

Committee

Amendment Barcode (if applicable)

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Email: cccrmlb@gmail.com

Street

PC

City

FL

State

32402

Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[x] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

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

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The Florida Senate

APPEARANCE RECORD

03/21/23

Meeting Date

Senate Appropriations Committee on
Criminal and Civil Justice
Committee

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SB 486

Bill Number or Topic

Amendment Barcode (if applicable)

Name Theresa Moran

Phone (927) 599-8895

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Email _____

Dunedin
City

FL
State

34698
Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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The Florida Senate

APPEARANCE RECORD

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3-21-2023

Meeting Date

SP 486

Bill Number or Topic

Sen Appropriations

Committee

Amendment Barcode (if applicable)

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State FL

Zip 32503

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. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

12/21/2023
Meeting Date

The Florida Senate APPEARANCE RECORD

SPB 486
Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

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Gulf Breeze, FL 32563
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. 511.045 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: CS/SB 486

INTRODUCER: Criminal Justice Committee and Senator Bradley and others

SUBJECT: Solicitation of Minors to Commit Lewd or Lascivious Acts

DATE: March 20, 2023

REVISED: 3/22/23

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</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>	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 486 creates s. 794.053, F.S., which prohibits lewd or lascivious written solicitation of certain minors. Under the bill, a person 24 years of age or older who solicits a person who is 16 or 17 years of age in writing to commit a lewd and lascivious act commits the offense of lewd or lascivious solicitation, a felony of the third degree,¹ punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

The bill amends s. 921.0022, F.S., ranking the offense on the offense severity ranking chart of the Criminal Punishment Code as a level 3 offense.

The bill may have a positive, indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

This bill is effective October 1, 2023.

II. Present Situation:

The Florida Supreme Court has held that the terms “lewd” and “lascivious” mean a wicked, lustful, unchaste, licentious, or sensual intent on the part of the perpetrator.² The words “lewd”

¹ 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, 775.083, and 775.084, F.S.

² *Chesebrough v. State*, 255 So.2d 675 (Fla. 1971).

and “lascivious” behavior when used in a statute to define an offense has been held to have the same meaning, that is, an indulgence in lust, eager for sexual indulgence.³

Florida law currently contains a variety of statutes that prohibit acts relating to lewd or lascivious offenses.

Lewd or Lascivious Offenses Targeting Persons Under 16 Years of Age

Section 800.04, F.S., criminalizes various acts targeting persons under 16 years of age, including: lewd or lascivious battery;⁴ lewd or lascivious molestation;⁵ lewd or lascivious conduct;⁶ and lewd or lascivious exhibition.⁷

Lewd or Lascivious Conduct

A person who intentionally touches a person under 16 years of age in a lewd or lascivious manner or solicits a person under 16 years of age to commit a lewd or lascivious act commits lewd or lascivious conduct.⁸

An offender who is:

- Eighteen years of age or older who commits lewd or lascivious conduct commits a second degree felony.⁹
- Less than 18 years of age who commits lewd or lascivious conduct commits a third degree felony.¹⁰

The Florida Standard Jury Instructions for soliciting a person under 16 years of age to commit a lewd or lascivious act provides that to “solicit” means to command, encourage, hire, or request another person to engage in specific conduct.¹¹

³ *Buchanan v. State*, 111 So.2d 51 (Fla. 1st DCA 1959).

⁴ Section 800.04(4), F.S., defines lewd or lascivious battery as engaging in sexual activity with a person 12 years or older but less than 16 years of age; or encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity. An offender who commits lewd or lascivious battery commits a felony of the second degree.

⁵ Section 800.04(5), F.S., defines lewd or lascivious molestation as a person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.

⁶ Section 800.04(6), F.S.

⁷ Section 800.04(7), F.S., defines lewd or lascivious exhibition as a person who intentionally masturbates; intentionally exposes the genitals in a lewd or lascivious manner; or intentionally commits any sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity in the presence of a victim who is less than 16 years of age, commits lewd or lascivious exhibition. An offender 18 years of age or older who commits a lewd or lascivious exhibition commits a felony of the second degree, generally punishable by not more than fifteen years in state prison. An offender less than 18 years of age who commits a lewd or lascivious exhibition commits a felony of the third degree.

⁸ *Supra*, Note 6.

⁹ A felony of the second degree is generally punishable by a term of imprisonment not exceeding 15 years, as provided in s. 775.082, s. 775.083, and s. 775.084, F.S.

¹⁰ A felony of the third degree is generally punishable by a term of imprisonment not exceeding 5 years, as provided in s. 775.082, s. 775.083, and s. 775.084, F.S.

¹¹ Fla. Std. Jury Instr. (Crim.) 11.10(d), Lewd or Lascivious Conduct, s. 800.04(6), F.S.

Prohibited Computer Usage

Section 847.0135, F.S., in part, prohibits certain solicitation offenses. Specifically, it provides that it is a third degree felony for any person to knowingly use a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to seduce, *solicit*, lure, or entice or attempt to seduce, solicit, lure, or entice, a child or another person believed by the person to be a child, to commit any illegal act described in ch. 794, ch. 800, or ch. 827, F.S., or to otherwise engage in any unlawful sexual conduct with a child or with another person believed to be a child.¹²

Unlawful Acts with Persons 16 and 17 Years of Age

Section 794.05, F.S., provides that a person who is 24 years of age or older who engages in sexual activity with a person 16 or 17 years of age commits a second degree felony.¹³ A person convicted of unlawful sexual activity with a minor must register as a sexual offender under s. 943.0435, F.S.

“Sexual activity” means oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object. Sexual activity does not include an act done for a bona fide medical purpose.

Evidence of a victim’s prior sexual conduct is not relevant in a prosecution for unlawful sexual activity with a minor. If an offender’s unlawful sexual activity with a minor directly results in the victim giving birth to a child, paternity of the child must be determined under ch. 742, F.S., and the offender must pay child support as provided in ch. 61, F.S.

Criminal Punishment Code

Felony offenses which are subject to the Criminal Punishment Code¹⁴ are listed in a single offense severity ranking chart (OSRC),¹⁵ which uses 10 offense levels to rank felonies from least severe to most severe. Each felony offense, listed in the OSRC is assigned a level according to the severity of the offense.^{16, 17} A person’s primary offense, any other current offenses, and prior convictions are scored using the points designated for the offense severity level of each current

¹² Section 847.0135(3), F.S., A person misrepresenting his or her age commits a second degree felony.

¹³ Section 794.05, F.S.

¹⁴ All felony offenses, with the exception of capital felonies, committed on or after October 1, 1998, are subject to the Criminal Punishment Code.

¹⁵ Section 921.0022, F.S.

¹⁶ Section 921.0022(2) and (3)(e), F.S.

¹⁷ Felony offenses that are not listed in the OSCR default to statutorily assigned levels, as follows: an unlisted third degree felony defaults to a level 1; an unlisted second degree felony defaults to a level 4; an unlisted first degree felony defaults to a level 7; an unlisted first degree felony punishable by life defaults to a level 9; and an unlisted life felony defaults to a level 10. Section 921.0023, F.S.

offense.^{18, 19} The final score calculation, following the scoresheet formula, determines the lowest permissible sentence that a trial court may impose, absent a valid reason for departure.²⁰

III. Effect of Proposed Changes:

This bill creates s. 794.053, F.S., which prohibits the lewd or lascivious written solicitation of certain minors. Under the bill, a person 24 years of age or older who solicits a person who is 16 or 17 years of age in writing to commit a lewd and lascivious act commits the offense of lewd or lascivious solicitation, a felony of the third degree,²¹ punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

The bill amends s. 921.0022, F.S., ranking the offense on the offense severity chart of the Criminal Punishment Code as a level 3 offense.

This newly created section is not a registerable offense on the sex offender registry.

The bill is effective October 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.

¹⁸ Sections 921.0022 and 921.0024, F.S.

¹⁹ A person may also accumulate points for factors such as victim injury points, community sanction violation points, and certain sentencing multipliers. Section 921.0024(2), F.S.

²⁰ If a person scores more than 44 points or fewer, the lowest permissible sentence is a specified term of months in state prison, determined by a formula. If a person scores 44 points or fewer, the court may impose a nonprison sanction, such as a county jail sentence, probation, or community control. *Id.*

²¹ 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, 775.083, and 775.084, F.S.

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 estimates that the bill will have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds).²²

The EDR provided the following information relevant to its estimate:

In Fiscal Year 2018-19, the incarceration rate for a Level 3, 3rd degree felony was 9.5%, and in Fiscal Year 2019-20 the incarceration rate was 8.8%. In Fiscal Year 2020-21, the incarceration rate for a Level 3, 3rd degree felony was 8.7%, and in Fiscal Year 2021-22 the incarceration rate was 9.6%.

Section 847.0135, F.S., has multiple felonies that share similarities with the language added by this bill. A Level 6, 3rd degree felony exists for a person who uses a computer to facilitate sexual conduct of or with a minor, or the visual depiction of such conduct. This does not state an age for the offender, nor does it state an age for the minor, other than the person would be under 18 years of age. A Level 7, 3rd degree felony exists for the solicitation of a child, via a computer service, to commit an unlawful sex act. This also does not provide an age range for the offender or the minor. Finally, there is a Level 5, 2nd degree felony for lewd or lascivious exhibition using a computer, where the offender is 18 years or older, and the minor is less than 16 years old. None of these three felonies fit the specified age ranges, nor does the language under current statute specify different ways an offender might contact a minor through writing, but the number of new commitments for these offenses could provide supplemental information on the potential number of offenders.

According to the Department of Corrections, in Fiscal Year 2018-19, there were 49 new commitments for the felonies described above, and there were 32 new commitments in Fiscal Year 2019-20. In Fiscal Year 2020-21, there were 18 new commitments, and in Fiscal Year 2021-22, there were 31 new commitments. It is not known how the offender pool might be expanded or how prison admissions might be impacted by this new language.

²² CS/SB 486 – *Solicitation of Minors to Commit Lewd or Lascivious Acts (Preliminary Analysis)*, Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 921.0022 of the Florida Statutes.

This bill creates section 794.053 of the Florida Statutes.

IX. Additional Information:

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

CS by Criminal Justice on March 13, 2023:

The committee substitute:

- Punishes the lewd or lascivious written solicitation of certain minors. A person 24 years of age or older who solicits a person who is 16 or 17 years of age in writing to commit a lewd or lascivious act commits a felony of the third degree.
- Provides that the offense is ranked as a level 3 on the offense severity ranking chart.
- As amended, this offense is not a registerable offense on the sex offender registry.

- B. **Amendments:**

None.

By the Committee on Criminal Justice; and Senators Bradley and Martin

591-02502-23 2023486c1

1 A bill to be entitled
 2 An act relating to solicitation of minors to commit
 3 lewd or lascivious acts; creating s. 794.053, F.S.;
 4 prohibiting a person 24 years of age or older from
 5 soliciting a person 16 or 17 years of age in writing
 6 to commit a lewd or lascivious act; providing criminal
 7 penalties; amending s. 921.0022, F.S.; ranking an
 8 offense on the offense severity chart of the Criminal
 9 Punishment Code; providing an effective date.
 10
 11 Be It Enacted by the Legislature of the State of Florida:
 12
 13 Section 1. Section 794.053, Florida Statutes, is created to
 14 read:
 15 794.053 Lewd or lascivious written solicitation of certain
 16 minors.—A person 24 years of age or older who solicits a person
 17 who is 16 or 17 years of age in writing to commit a lewd or
 18 lascivious act commits a felony of the third degree, punishable
 19 as provided in s. 775.082, s. 775.083, or s. 775.084.
 20 Section 2. Paragraph (c) of subsection (3) of section
 21 921.0022, Florida Statutes, is amended to read:
 22 921.0022 Criminal Punishment Code; offense severity ranking
 23 chart.—
 24 (3) OFFENSE SEVERITY RANKING CHART
 25 (c) LEVEL 3
 26
 27 Florida Felony
 Statute Degree Description

591-02502-23 2023486c1

119.10(2)(b) 3rd Unlawful use of
 confidential information
 from police reports.
 28
 316.066 3rd Unlawfully obtaining or
 (3)(b)-(d) using confidential crash
 reports.
 29
 316.193(2)(b) 3rd Felony DUI, 3rd conviction.
 30
 316.1935(2) 3rd Fleeing or attempting to
 elude law enforcement
 officer in patrol vehicle
 with siren and lights
 activated.
 31
 319.30(4) 3rd Possession by junkyard of
 motor vehicle with
 identification number plate
 removed.
 32
 319.33(1)(a) 3rd Alter or forge any
 certificate of title to a
 motor vehicle or mobile
 home.
 33
 319.33(1)(c) 3rd Procure or pass title on
 stolen vehicle.
 34

	591-02502-23		2023486c1
	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
35			
	327.35(2)(b)	3rd	Felony BUI.
36			
	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
37			
	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
38			
	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
39			
	379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell,

	591-02502-23		2023486c1
			molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
40			
	379.2431 (1)(e)6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.
41			
	379.2431 (1)(e)7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
42			
	400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
43			
	400.9935(4)(e)	3rd	Filing a false license application or other required information or failing to report

	591-02502-23		2023486c1	information.
44				
	440.1051(3)	3rd		False report of workers' compensation fraud or retaliation for making such a report.
45				
	501.001(2)(b)	2nd		Tampers with a consumer product or the container using materially false/misleading information.
46				
	624.401(4)(a)	3rd		Transacting insurance without a certificate of authority.
47				
	624.401(4)(b)1.	3rd		Transacting insurance without a certificate of authority; premium collected less than \$20,000.
48				
	626.902(1)(a) & (b)	3rd		Representing an unauthorized insurer.
49				
	697.08	3rd		Equity skimming.
50				
	790.15(3)	3rd		Person directs another to

Page 5 of 13

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

	591-02502-23		2023486c1	discharge firearm from a vehicle.
51				
	<u>794.053</u>	<u>3rd</u>		<u>Lewd or lascivious written solicitation of a person 16 or 17 years of age by a person 24 years of age or older.</u>
52				
	806.10(1)	3rd		Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
53				
	806.10(2)	3rd		Interferes with or assaults firefighter in performance of duty.
54				
	810.09(2)(c)	3rd		Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
55				
	812.014(2)(c)2.	3rd		Grand theft; \$5,000 or more but less than \$10,000.
56				
	812.0145(2)(c)	3rd		Theft from person 65 years of age or older; \$300 or

Page 6 of 13

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	591-02502-23		2023486c1	
			more but less than \$10,000.	
57	812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with others.	
58	812.081(2)	3rd	Theft of a trade secret.	
59	815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.	
60	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.	
61	817.233	3rd	Burning to defraud insurer.	
62	817.234 (8)(b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.	
63	817.234(11)(a)	3rd	Insurance fraud; property value less than \$20,000.	
64	817.236	3rd	Filing a false motor vehicle insurance application.	

Page 7 of 13

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	591-02502-23		2023486c1	
65	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.	
66	817.413(2)	3rd	Sale of used goods of \$1,000 or more as new.	
67	817.49(2)(b)1.	3rd	Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.	
68	831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.	
69	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.	
70	836.13(2)	3rd	Person who promotes an altered sexual depiction of	

Page 8 of 13

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71	591-02502-23		2023486c1	an identifiable person without consent.
72	838.021(3)(b)	3rd		Threatens unlawful harm to public servant.
73	843.19	2nd		Injure, disable, or kill police, fire, or SAR canine or police horse.
74	860.15(3)	3rd		Overcharging for repairs and parts.
75	870.01(2)	3rd		Riot.
76	870.01(4)	3rd		Inciting a riot.
77	893.13(1)(a)2.	3rd		Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs).
78	893.13(1)(d)2.	2nd		Sell, manufacture, or

79	591-02502-23		2023486c1	deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university.
80	893.13(1)(f)2.	2nd		Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of public housing facility.
81	893.13(4)(c)	3rd		Use or hire of minor; deliver to minor other controlled substances.
82	893.13(6)(a)	3rd		Possession of any controlled substance other than felony possession of cannabis.
	893.13(7)(a)8.	3rd		Withhold information from practitioner regarding

591-02502-23

2023486c1

previous receipt of or
prescription for a
controlled substance.

83

893.13(7)(a)9.

3rd

Obtain or attempt to obtain
controlled substance by
fraud, forgery,
misrepresentation, etc.

84

893.13(7)(a)10.

3rd

Affix false or forged label
to package of controlled
substance.

85

893.13(7)(a)11.

3rd

Furnish false or fraudulent
material information on any
document or record required
by chapter 893.

86

893.13(8)(a)1.

3rd

Knowingly assist a patient,
other person, or owner of
an animal in obtaining a
controlled substance
through deceptive, untrue,
or fraudulent
representations in or
related to the
practitioner's practice.

87

893.13(8)(a)2.

3rd

Employ a trick or scheme in

Page 11 of 13

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591-02502-23

2023486c1

the practitioner's practice
to assist a patient, other
person, or owner of an
animal in obtaining a
controlled substance.

88

893.13(8)(a)3.

3rd

Knowingly write a
prescription for a
controlled substance for a
fictitious person.

89

893.13(8)(a)4.

3rd

Write a prescription for a
controlled substance for a
patient, other person, or
an animal if the sole
purpose of writing the
prescription is a monetary
benefit for the
practitioner.

90

918.13(1)

3rd

Tampering with or
fabricating physical
evidence.

91

944.47
(1)(a)1. & 2.

3rd

Introduce contraband to
correctional facility.

92

944.47(1)(c)

2nd

Possess contraband while
upon the grounds of a

Page 12 of 13

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591-02502-23

2023486c1

correctional institution.

93

985.721

3rd

Escapes from a juvenile
facility (secure detention
or residential commitment
facility).

94

95

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

CourtSmart Tag Report

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

Case No.:

Type:
Judge:

Started: 3/21/2023 11:02:46 AM

Ends: 3/21/2023 11:51:35 AM

Length: 00:48:50

11:02:49 AM Sen. Bradley (Chair)
11:03:31 AM S 62
11:03:38 AM Sen. Grall
11:05:21 AM Robert DuBoise
11:06:12 AM Aaron Wayt, FL Association of Criminal Defense Lawyers (waives in support)
11:06:39 AM Sen. Grall
11:07:30 AM Sen. Bradley
11:08:25 AM TAB 1 - Review and Discussion of Fiscal Year 2023-2024 Budget Issues
11:08:55 AM Sen. Bradley
11:09:09 AM Marti Harkness, Staff Director, Senate Appropriations Committee on Criminal and Civil Justice
11:16:17 AM Sen. Bradley
11:17:21 AM Sen. Powell
11:17:32 AM S 7034
11:17:43 AM Sen. Bradley
11:19:10 AM Sen. Powell
11:20:17 AM S 7036
11:20:30 AM Sen. Bradley
11:20:57 AM Sen. Powell
11:21:35 AM S 7038
11:21:58 AM Sen. Bradley
11:22:04 AM Sen. Powell
11:22:43 AM Sen. Bradley
11:22:55 AM S 7016
11:23:03 AM Sen. Martin
11:24:37 AM Sen. Pizzo
11:24:50 AM Marti Harkness, Staff Director, Senate Appropriations Committee on Criminal and Civil Justice
11:25:08 AM Am. 325492
11:25:19 AM Sen. Martin
11:26:19 AM Am. 138604
11:26:25 AM Sen. Martin
11:26:49 AM S 7016 (cont.)
11:27:05 AM Sen. Powell
11:27:42 AM Sen. Martin
11:27:43 AM Sen. Powell
11:27:57 AM Jake Felder, Florida Department of Corrections (waives in support)
11:28:04 AM Jeff Nall (waives in support)
11:28:09 AM Jean Siebenaler (waives in support)
11:28:14 AM Cherie Crim (waives in support)
11:28:16 AM Sara Elliott (waives in support)
11:28:20 AM Chelsea Murphy, Right on Crime (waives in support)
11:28:24 AM Theresa Moran (waives in support)
11:28:27 AM Margie J Purkerson (waives in support)
11:28:32 AM Lorrie Newman (waives in support)
11:28:47 AM Sen. Martin
11:29:48 AM Sen. Powell
11:29:55 AM S 486
11:30:06 AM Sen. Bradley
11:30:42 AM Sen. Powell
11:31:09 AM Jeff Nall (waives in support)
11:31:23 AM Jean Siebenaler (waives in support)
11:31:29 AM Sara Elliott (waives in support)
11:31:40 AM Cherie Crim (waives in support)

11:31:45 AM Theresa Moran (waives in support)
11:31:51 AM Lorrie Newman (waives in support)
11:31:56 AM Margie J Purkerson (waives in support)
11:32:09 AM Sen. Bradley
11:32:12 AM Sen. Powell
11:32:48 AM Sen. Bradley
11:33:05 AM S 280
11:33:08 AM Sen. Brodeur
11:34:09 AM Am. 627562
11:34:18 AM Sen. Ingoglia
11:34:28 AM Sen. Pizzo
11:36:41 AM Sen. Bradley
11:36:47 AM Sen. Pizzo
11:37:28 AM Marti Harkness, Staff Director, Senate Appropriations Committee on Criminal and Civil Justice
11:37:47 AM Sen. Pizzo
11:38:02 AM Sen. Ingoglia
11:39:13 AM Sen. Pizzo
11:39:32 AM Sen. Brodeur
11:39:55 AM Sen. Pizzo
11:40:34 AM Sen. Brodeur
11:41:22 AM Sen. Pizzo
11:42:21 AM Sen. Ingoglia
11:42:41 AM Sen. Pizzo
11:42:49 AM Sen. Ingoglia
11:43:04 AM Sen. Bradley
11:43:06 AM Sen. Ingoglia
11:43:53 AM Sen. Bradley
11:44:08 AM Sen. Brodeur
11:44:52 AM Sen. Bradley
11:45:04 AM Chelsea Murphy, Right on Crime (waives in support)
11:45:25 AM S 280 (cont.)
11:45:31 AM Sen. Brodeur
11:46:16 AM Matt Dunagan, Florida Sherrifs Association (waives in support)
11:46:19 AM Lauren Jackson, Seminole County Sheriffs Office (waives in support)
11:46:24 AM Libby Guzzo, Office of Attorney General (waives in support)
11:46:28 AM Jonathan Webber, SPLC Action Fund
11:48:08 AM Christie Arnold, FL Conference of Catholic Bishops (waives in opposition)
11:48:15 AM Sen. Bradley
11:48:19 AM Sen. Pizzo
11:49:28 AM Sen. Brodeur
11:50:38 AM Sen. Bradley
11:51:14 AM Sen. Rouson
11:51:20 AM Sen. Bradley