

Agenda Order

<b>Tab 1</b>	<b>CS/SB 1198</b> by <b>CJ, DiCeglie</b> ; Similar to CS/H 01007 Fraudulent Use of Gift Cards
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<b>Tab 2</b>	<b>SB 1168</b> by <b>Leek</b> ; Similar to CS/H 00663 Installation or Use of Tracking Devices or Applications					
729004	A	S	RCS	ACJ, Leek	Delete L.27 - 30:	03/25 04:43 PM

<b>Tab 3</b>	<b>SB 774</b> by <b>Wright</b> ; Identical to H 00513 Electronic Transmittal of Court Orders					
780792	A	S	RCS	ACJ, Wright	Delete L.57 - 172:	03/25 09:01 AM

<b>Tab 4</b>	<b>CS/SB 806</b> by <b>JU, Yarborough</b> ; Identical to CS/H 01173 Florida Trust Code
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<b>Tab 5</b>	<b>SB 1286</b> by <b>Grall (CO-INTRODUCERS) Sharief</b> ; Similar to H 01191 Harming or Neglecting Children
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**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**  
**APPROPRIATIONS COMMITTEE ON CRIMINAL AND CIVIL**  
**JUSTICE**  
**Senator Garcia, Chair**  
**Senator Martin, Vice Chair**

**MEETING DATE:** Monday, March 24, 2025  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** Mallory Horne Committee Room, 37 Senate Building

**MEMBERS:** Senator Garcia, Chair; Senator Martin, Vice Chair; Senators Ingoglia, Osgood, Polsky, Rouson, Simon, Wright, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 1198</b> Criminal Justice / DiCeglie (Similar CS/H 1007)	Fraudulent Use of Gift Cards; Providing criminal penalties for persons who, with the intent to defraud, commit specified prohibited acts related to gift cards; providing criminal penalties for persons who, with the intent to defraud, use for certain purposes gift cards or gift card redemption information; providing enhanced criminal penalties if the value of such violation exceeds a specified amount, etc.  CJ 03/11/2025 Fav/CS ACJ 03/24/2025 Favorable RC	Favorable Yeas 9 Nays 0
2	<b>SB 1168</b> Leek (Similar CS/H 663)	Installation or Use of Tracking Devices or Applications; Providing enhanced penalties for a person who, in furtherance of a dangerous crime, knowingly installs or places a tracking device or tracking application on another person's property without consent or uses such a device or application to determine a person's or their property's location or movement without consent, etc.  CJ 03/11/2025 Favorable ACJ 03/24/2025 Fav/CS RC	Fav/CS Yeas 9 Nays 0
3	<b>SB 774</b> Wright (Identical H 513)	Electronic Transmittal of Court Orders; Requiring the clerk of the court, within 6 hours after a court issues an ex parte order for involuntary commitment, to submit the order electronically to the sheriff or law enforcement agency in the county where the order is to be served; requiring the clerk of the court, within 6 hours after a certain summons is issued, to submit the summons electronically and, if applicable, a copy of the petition for involuntary services and a notice of the hearing to a law enforcement agency to effect service on certain persons, etc.  JU 03/12/2025 Favorable ACJ 03/24/2025 Fav/CS FP	Fav/CS Yeas 9 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations Committee on Criminal and Civil Justice  
Monday, March 24, 2025, 4:00—6:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>CS/SB 806</b> Judiciary / Yarborough (Identical CS/H 1173)	Florida Trust Code; Specifying circumstances in which the Attorney General has the exclusive authority to represent certain interests relating to a charitable trust having its principal place of administration in this state; prohibiting certain public officers of another state from asserting such rights, etc.  JU 03/12/2025 Fav/CS ACJ 03/24/2025 Favorable RC	Favorable Yeas 9 Nays 0
5	<b>SB 1286</b> Grall (Similar H 1191)	Harming or Neglecting Children; Revising the definition of the term "harm" as it relates to a child's health or welfare; revising the definition of the term "neglect of a child", etc.  CF 03/19/2025 Favorable ACJ 03/24/2025 Favorable RC	Favorable Yeas 9 Nays 0

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Other Related Meeting Documents

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By the Committee on Criminal Justice; and Senator DiCeglie

591-02285-25

20251198c1

A bill to be entitled

An act relating to fraudulent use of gift cards; creating s. 817.091, F.S.; defining terms; providing criminal penalties for persons who, with the intent to defraud, commit specified prohibited acts related to gift cards; providing criminal penalties for persons who, with the intent to defraud, use for certain purposes gift cards or gift card redemption information; providing enhanced criminal penalties if the value of such violation exceeds a specified amount; providing an effective date.

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

Section 1. Section 817.091, Florida Statutes, is created to read:

817.091 Fraudulent use of gift cards.-

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

(a) "Cardholder" means a person to whom a physical or virtual gift card is sold, gifted, or issued following the authorized sale of the gift card.

(b) "Card issuer" means a person that issues a gift card or the agent of that person with respect to that card.

(c) "Gift card" means a card, code, or device that is issued to a consumer on a prepaid basis primarily for personal, family, or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment, and that is redeemable upon presentation by a consumer at a single merchant, a group of affiliated merchants,

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

591-02285-25

20251198c1

or a group of unaffiliated merchants.

(d) "Gift card redemption information" means information unique to each gift card which allows the cardholder to access, transfer, or spend the funds on that gift card.

(e) "Gift card seller" means a merchant that is engaged in the business of selling gift cards to consumers.

(f) "Value" means the greatest amount of economic loss the card issuer, gift card seller, or cardholder might reasonably suffer, including the full or maximum monetary face or load value of the gift card, regardless of whether the gift card has been activated.

(2) It is unlawful for a person, with the intent to defraud:

(a) To acquire or retain possession of a gift card or of gift card redemption information without the consent of the cardholder, card issuer, or gift card seller.

(b) To alter or tamper with a gift card or its packaging.

(c) To devise a scheme to obtain a gift card or gift card redemption information from a cardholder, card issuer, or gift card seller by means of false or fraudulent pretenses, representations, or promises.

(d) To use, for the purpose of obtaining money, goods, services, or anything else of value, a gift card or gift card redemption information that has been obtained in violation of paragraph (a), paragraph (b), or paragraph (c).

(3) (a) Except as provided in paragraph (b), a person who violates subsection (2) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the value of the money, goods, services, or other

Page 2 of 3

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

591-02285-25

20251198c1

59 things of value obtained as a result of violating subsection (2)  
60 exceeds \$750, the person commits a felony of the third degree,  
61 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

62 Section 2. This act shall take effect October 1, 2025.





**THE FLORIDA SENATE**  
**SENATOR NICK DICEGLIE**  
District 18

**Ben Albritton**  
President of the Senate

**Jason Brodeur**  
President Pro Tempore

March 20, 2025

Dear Chair Garcia,

I respectfully request that **SB 1198: Fraudulent Use of Gift Cards** be placed on the agenda of the Appropriations Committee on Criminal and Civic Justice. If my office can be of any assistance to the committee, please do not hesitate to contact me at [DiCeglie.Nick@flsenate.gov](mailto:DiCeglie.Nick@flsenate.gov) or (850) 487-5018. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Nick DiCeglie".

Nick DiCeglie

State Senator, District 18

*Proudly Serving Pinellas County*

Appropriations Committee on Transportation, Tourism, and Economic Development,  
Chair ~ Governmental Oversight and Accountability, Vice Chair ~ Appropriations ~  
Appropriations Committee on Agriculture, Environment, and General Government ~  
Commerce and Tourism ~ Environment and Natural Resources ~ Judiciary ~ Rules ~  
Joint Select Committee on Collective Bargaining

The Florida Senate

APPEARANCE RECORD

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

3/24/25 Meeting Date

1198 Bill Number or Topic

Criminal & Civil Justice Approps Committee

Amendment Barcode (if applicable)

Name Jon Steverson Phone (850) 294-7147

Address 315 S. Calhoun St. Street Email jon.steverson@Hklaw.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:

In Comm

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

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

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The Florida Senate

APPEARANCE RECORD

3/24/25

Meeting Date

1198

Bill Number or Topic

APPs. Criminal & Civil Justice

Committee

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Amendment Barcode (if applicable)

Name Tanner Warwick

Phone (850) 728-8419

Address 516 N Adams St

Email TWarwick@aif.com

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: Associated Industries of Florida

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

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

March 24, 2025

Meeting Date

Appropriations on Criminal and Civil Justice

Committee

Name Lorena Holley

Address 227 S. Adams St.

Street

Tallahassee

City

FL

State

32301

Zip

The Florida Senate  
**APPEARANCE RECORD**

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1198

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 850-443-1173

Email Lorena@FRF.org

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Florida Retail Federation**

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 JointRules.pdf \(flsenate.gov\)](#)*

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3/24/25- 4:00 PM

Meeting Date

Approp. Criminal & Civil J.

Committee

The Florida Senate  
**APPEARANCE RECORD**

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SB 1198 - Gift Cards

Bill Number or Topic

Amendment Barcode (if applicable)

Name **AARP - Karen Murillo**

Phone **850-567-0414**

Address **215 S. Monroe, Ste. 603**

Email **kmurillo@aarp.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:

**AARP**

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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3/24/25

Meeting Date

1198

Bill Number or Topic

Criminal & Civil Justice Approps.

Committee

Amendment Barcode (if applicable)

Name Chad Kunde

Phone (850) 766-7896

Address 136 S Bronough St

Email ckunde@flchamber.com

Street

Tallahassee

FL

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Chamber of Commerce

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

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

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S-001 (08/10/2021)

3-24-25

Meeting Date

# The Florida Senate APPEARANCE RECORD

1198

Bill Number or Topic

APPROPS Criminal & Civil

Committee

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Amendment Barcode (if applicable)

Name Jake Farmer

Phone 352 359 6835

Address 108 Wilmont Rd MS#1844

Email Jake Farmer @ Walgreens.com

Street

Deerfield

City

IL

State

60015

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:

Walgreens

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/24/25

Meeting Date

1198

Bill Number or Topic

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Approps. Comm. on Criminal

Committee

& Civil Justice

Amendment Barcode (if applicable)

Name Samantha Padgett

Phone 850-224-2250

Address 230 S. Adams St.

Street

Email spadgett@fr-la.org

Tallahassee, FL

City

State

32301

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Restaurant & Lodging Association

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

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

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**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.)

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

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BILL: CS/SB 1198

INTRODUCER: Criminal Justice Committee and Senator DiCeglie

SUBJECT: Fraudulent Use of Gift Cards

DATE: March 21, 2025

REVISED: \_\_\_\_\_

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

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1198 creates s. 817.091, F.S., relating to the fraudulent use of gift cards to establish guidelines and penalties for fraudulent activities involving gift cards. It is a first degree misdemeanor<sup>1</sup> for a person with intent to defraud to:

- Acquire or retain possession of a gift card or of gift card redemption information without the consent of the cardholder, card issuer, or gift card seller.
- To alter or tamper with a gift card or its packaging.
- To devise a scheme to obtain a gift card or gift card redemption information from a cardholder, card issuer, or gift card seller by means of fraudulent pretenses.
- To use, for the purpose of obtaining money, goods, or services or anything else of value,<sup>2</sup> a gift card or gift card redemption information that has been obtained in violation of the above.

If the value of the money, goods, services or other things of value obtained as a result of the violation exceeds \$750, the person is guilty of a third degree felony.<sup>3</sup>

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

<sup>2</sup> The bill defines "value" as the greatest amount of economic loss the card issuer, gift card seller, or cardholder might reasonably suffer, including the full or maximum monetary face or load value of the gift card, regardless of whether the gift card has been activated.

<sup>3</sup> A felony of the third degree is punishable by a term of imprisonment of 5 years, as provided in ss. 775.082, 775.083, and 775.083, F.S.

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

The bill takes effect on October 1, 2025.

## II. Present Situation:

### Gift Cards

A gift card is a prepaid debit card that contains a specific amount of money available for use for a variety of purchases. Store gift cards are designed to be used at specific merchants or retailers, while general-use prepaid gift cards are not affiliated with any specific merchant and can also be used to withdraw cash at automated teller machines (ATMs).<sup>4</sup>

### *Gift Card Scams*

According to a December 2020 analysis by the Federal Trade Commission (FTC), “About one in four who lost money to a fraud say they paid with a gift card. In fact, gift cards have topped the list of reported fraud payment methods every year since 2018. During that time, people reported losing a total of nearly \$245 million, with a median individual loss of \$840.” The FTC’s statistics exclude reports categorized as online shopping scams and come from consumer complaints directly to the FTC.<sup>5</sup> Scammers tamper with gift cards in stores using handheld scanners to capture card information, then periodically check the balance by calling the retailer's 800 number. Once the card is activated, they either clone and create counterfeit cards, use the information to shop online, or divert the funds to their own cards, leaving the unsuspecting buyer with an empty gift card.<sup>6</sup>

In June 2023, the Alachua County Sheriff’s Office conducted a traffic stop and seized 1,764 gift cards that were reportedly altered and forged, with a value of \$158,600. Another 208 gift cards were reportedly found, but deputies could not determine whether they had been altered; the known value of those cards is \$10,500, but only 77 of the 208 have dollar amounts on the cards.<sup>7</sup>

### *Theft and Fraud*

Theft and fraud are offenses that involve unlawfully taking or using someone else’s property and engaging in deceptive practices for gain or profit. These offenses are currently prosecuted under

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<sup>4</sup> Investopedia, *Gift Card: definition, types and scams to avoid*, available at <https://www.investopedia.com/terms/g/gift-card.asp> (last visited March 5, 2025).

<sup>5</sup> Better Business Bureau, *Gift Card Payment Scams*, available at <https://www.bbb.org/all/scamstudies/gift-card-scams/gift-card-scams-full-study> (last visited March 5, 2025).

<sup>6</sup> Better Business Bureau, *BBB Tip: Don't get scammed out of a gift card*, available at <https://www.bbb.org/article/news-releases/14400-dont-get-scammed-out-of-a-gift-card-this-season> (last visited March 3, 2025).

<sup>7</sup> Alachua Chronicle, *Pair arrested with 1,764 fraudulent gift cards, may be part of organized ring*, available at <https://alachuachronicle.com/pair-arrested-with-1764-fraudulent-gift-cards-may-be-part-of-organized-ring/> (last visited March 5, 2025).



several different statutes including the Florida Communications Fraud Act,<sup>8</sup> theft,<sup>9</sup> and retail theft.<sup>10</sup> The penalties vary depending on the severity of the crime.

### ***Theft***

Theft is generally punished in s. 812.014, F.S., which provides that a person commits a theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to use the property.<sup>11</sup>

Generally, a person commits a third degree felony<sup>12</sup> crime of grand theft if the property stolen is valued at \$750 or more, but less than \$20,000.<sup>13</sup> If the property stolen is \$20,000 or more, but less than \$100,000, the offender commits a second degree felony,<sup>14</sup> and if the property stolen is \$100,000 or more, the offender commits a first degree felony.<sup>15</sup> Other items listed under this section such as the theft of a firearm, a motor vehicle, or a stop sign, may also constitute grand theft.<sup>16</sup>

Theft of any property not specified is a second degree misdemeanor,<sup>17</sup> and property stolen valued at \$100 or more but less than \$750 is a first degree misdemeanor.<sup>18, 19</sup>

### ***Retail Theft***

Section 812.015, F.S., is specifically directed at punishing “retail theft,”<sup>20</sup> which the statute defines as “the taking possession of or carrying away of merchandise,<sup>21</sup> property, money, or negotiable documents; altering or removing a label, universal product code, or price tag;

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<sup>8</sup> Section 817.034, F.S.

<sup>9</sup> Section 812.014, F.S.

<sup>10</sup> Section 812.015, F.S.

<sup>11</sup> Section 812.014(1), F.S.

<sup>12</sup> 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.

<sup>13</sup> Section 812.014(2)(c)1.-3., F.S.

<sup>14</sup> Section 812.014(2)(b), F.S.

<sup>15</sup> Section 812.014(2)(a)1., F.S.

<sup>16</sup> Section 812.014(2)(c), F.S.

<sup>17</sup> A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days, as provided in s. 775.082 or s. 775.083, F.S.

<sup>18</sup> Section 812.014(3)(a), F.S., Section 812.014(2)(f), F.S.

<sup>19</sup> A first degree misdemeanor is punishable by not more than one year in a county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

<sup>20</sup> Section 812.015, F.S.

<sup>21</sup> “Merchandise” means “any personal property, capable of manual delivery, displayed, held, or offered for retail sale by a merchant.” Section 812.015(1)(g), F.S.

transferring merchandise from one container to another; or removing a shopping cart, with intent to deprive the merchant<sup>22</sup> of possession, use, benefit, or full retail value.<sup>23, 24</sup>

Section 812.015(8), F.S., provides that it is a third degree felony to commit retail theft, if the property stolen is valued at \$750 or more, and the person:

- Individually, or in concert with one or more other persons, coordinates the activities of one or more individuals in committing the offense, which may occur through multiple acts of retail theft, in which the amount of each individual theft is aggregated within a 120-day period to determine the value of the property stolen and such value is \$750 or more;
- Conspires with another person to commit retail theft with the intent to sell the stolen property for monetary or other gain, and subsequently takes or causes such property to be placed in the control of another person in exchange for consideration, in which the stolen property taken or placed within a 120-day period is aggregated to determine the value of the stolen property and such value is \$750 or more;
- Individually, or in concert with one or more other persons, commits theft from more than one location within a 120-day period, in which the amount of each individual theft is aggregated to determine the value of the property stolen and such value is \$750 or more;
- Acts in concert with one or more other individuals within one or more establishments to distract the merchant, merchant's employee, or law enforcement officer in order to carry out the offense, or acts in other ways to coordinate efforts to carry out the offense and such value is \$750 or more;
- Commits the offense through the purchase of merchandise in a package or box that contains merchandise other than, or in addition to, the merchandise purported to be contained in the package or box and such value is \$750 or more;
- Individually, or in concert with one or more other persons, commits three or more retail thefts within a 120-day period and in committing such thefts obtains or uses 10 or more items of merchandise, and the number of items stolen during each theft is aggregated within the 120-day period to determine the total number of items stolen, regardless of the value of such merchandise, and two or more of the thefts occur at different physical merchant locations; or
- Acts in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, merchant's employee, or law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense.<sup>25</sup>

Section 812.015(9), F.S., provides that it is a second degree felony if the person has committed specified acts of retail theft, and has previously been convicted of retail theft.

Section 812.015(10), F.S., provides that if a person commits retail theft in more than one judicial circuit within a 120-day period, the value of the stolen property resulting from the thefts in each

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<sup>22</sup> "Merchant" means "an owner or operator, or the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises or apparatus used for retail purchase or sale of any merchandise." Section 812.015(1)(h), F.S.

<sup>23</sup> Section 812.015(1)(i), F.S.

<sup>24</sup> Section 812.015, F.S. defines "value of merchandise" as the sale price of the merchandise at the time it was stolen or otherwise removed, depriving the owner of her or his lawful right to ownership and sale of said item.

<sup>25</sup> Section 812.015(8)(a)-(g), F.S.

judicial circuit may be aggregated, and the person must be prosecuted by the Office of the Statewide Prosecutor in accordance with s. 16.56, F.S.

### ***Schemes to Defraud***

Section 817.034(3)(d), F.S., defines “scheme to defraud” means a systematic, ongoing course of conduct with intent to defraud one or more persons, or with intent to obtain property from one or more persons by false or fraudulent pretenses, representations, endorsements of nonconsenting parties, or promises or willful misrepresentations of a future act.<sup>26</sup> Any person who engages in a scheme to defraud and obtains property thereby commits organized fraud, punishable as follows:

- If the amount of property obtained has an aggregate value<sup>27</sup> of \$50,000 or more, the person commits a first degree felony.<sup>28</sup>
- If the amount of property obtained has an aggregate value<sup>29</sup> of \$20,000 or more, but less than \$50,000, the person commits a second degree felony.<sup>30</sup>
- If the amount of property obtained has an aggregate value<sup>31</sup> of less than \$20,000, the person commits a third degree felony.<sup>32,33</sup>

Section 832.05(3), F.S., provides if any person, by act or scheme, cashes or deposits any item in a bank or depository with intent to defraud commits a third degree felony.<sup>34</sup>

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<sup>26</sup> Section 817.034(3)(d), F.S.

<sup>27</sup> Section 817.034, F.S., defines “value” as the value determined according to any of the following: the market value of the property at the time and place of the offense, or, if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the offense; the value of a written instrument that does not have a readily ascertainable market value, in the case of an instrument such as a check, draft, or promissory note, is the amount due or collectible or is, in the case of any other instrument which creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation, the greatest amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument; the value of a trade secret that does not have a readily ascertainable market value is any reasonable value representing the damage to the owner, suffered by reason of losing an advantage over those who do not know of or use the trade secret; if the value of property cannot be ascertained, the trier of fact may find the value to be not less than a certain amount; if no such minimum value can be ascertained, the value is an amount less than \$300; amounts of value of separate properties obtained in one scheme to defraud, whether from the same person or from several persons, shall be aggregated in determining the grade of the offense under paragraph (4)(a).

<sup>28</sup> A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding \$10,000. When specifically provided by statute, a first degree felony may be punished by imprisonment for a term of years not exceeding life imprisonment. Sections 775.082 and 775.083, F.S.

<sup>29</sup> See *supra* note 28.

<sup>30</sup> A second degree felony is punishable by a term of imprisonment not exceeding 30 years and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>31</sup> See *supra* note 28.

<sup>32</sup> 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.

<sup>33</sup> Section 817.034(4)(a), F.S.

<sup>34</sup> 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.

### III. Effect of Proposed Changes:

The bill creates s. 817.091, F.S., relating to the fraudulent use of gift cards and establishes guidelines and penalties for fraudulent activities involving gift cards. It is a first degree misdemeanor<sup>35</sup> for a person with intent to defraud to:

- Acquire or retain possession of a gift card or of gift card redemption information without the consent of the cardholder, card issuer, or gift card seller.
- To alter or tamper with a gift card or its packaging.
- To devise a scheme to obtain a gift card or gift card redemption information from a cardholder, card issuer, or gift card seller by means of fraudulent pretenses.
- To use, for the purpose of obtaining money, goods, or services or anything else of value, a gift card or gift card redemption information that has been obtained in violation of the above.

If the value of the money, goods, services or other things of value obtained as a result of the violation exceeds \$750, the person is guilty of a third degree felony.<sup>36</sup>

Section 817.091, F.S., also provides definitions for the following terms:

- “Cardholder” means a person to whom a physical or virtual gift card is sold, gifted or issued following the authorized sale of a gift card;
- “Card issuer” means a person that issues a gift card or the agent of that person with respect to that card;
- “Gift card” as a card, code or device that is issued to a consumer on a prepaid basis primarily for personal, family, or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment, and that is redeemable upon presentation by a consumer at a single merchant, a group of affiliated merchants, or a group of unaffiliated merchants;
- “Gift card redemptive information” as information unique to each gift card which allows the cardholder to access, transfer, or spend the funds on that gift card;
- “Gift card seller” as a merchant that is engaged in the business of selling open-loop or closed-loop gift cards to consumers; and,
- “Value” as the greatest amount of economic loss the card issuer, gift card seller, or cardholder might reasonably suffer, including the full or maximum monetary face or load value of the gift card, regardless of whether the gift card has been activated.

The bill takes effect on October 1, 2025.

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<sup>35</sup> A first degree misdemeanor is punishable by not more than one year in a county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

<sup>36</sup> A felony of the third degree is punishable by a term of imprisonment of 5 years, as provided in ss. 775.082, 775.083, and 775.083, 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 Art. VII, s. 18 of the State 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.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

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

Under current law, these offenders are likely getting convicted under theft or fraud statutes, with that \$750 threshold falling under the Level 2, 3rd degree felony for grand theft (\$750 or more but less than \$5,000). Per DOC, in FY 23-24, there were 366 new commitments for violating this statute. Additionally, there were 197 new commitments for grand theft at or above the \$5,000 threshold,

with only 46 of those at the Level 7, 1st degree felony threshold (\$100,000 or more). Retail theft also begins at \$750 and could be where these offenses also currently exist. There were 58 new commitments for various retail theft offenses. Finally, fraud is another crime where these offenses could currently exist, and does not have a minimum monetary threshold. There were 114 new commitments to prison for fraud offenses in FY 23-24.

It is not known how many of these new commitments fit the criteria outlined in the bill, nor is it known how these new offenses will be used relative to the theft and fraud statutes, since theft and fraud become more serious felonies at higher monetary thresholds, while this remains a Level 1, 3rd degree felony for any value beyond the \$750 threshold.

Per DOC, in FY 23-24, the incarceration rate for a Level 1, 3rd degree felony was 9.7%.<sup>37</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 8179.091 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 11, 2025:**

- The amendment revises definitions in the bill and provides that it is a first degree misdemeanor for a person, with the intent to defraud, to perform specified acts relating to gift cards. It is a third degree felony if the value of the money or goods fraudulently obtained exceeds \$750.
- The amendment to the amendment adds language making it illegal to alter with gift card packaging.

**B. Amendments:**

None.

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<sup>37</sup> Office of Economic and Demographic Research, CS/SB 1198 – *Fraudulent Use of Gift Cards*, (on file with the Senate Appropriations Committee on Criminal and Civil Justice).

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

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By Senator Leek

7-01392-25

20251168\_\_

A bill to be entitled

An act relating to the installation or use of tracking devices or applications; amending s. 934.425, F.S.; providing enhanced penalties for a person who, in furtherance of a dangerous crime, knowingly installs or places a tracking device or tracking application on another person's property without consent or uses such a device or application to determine a person's or their property's location or movement without consent; providing an effective date.

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

Section 1. Subsection (6) is added to section 934.425, Florida Statutes, and subsections (2) and (5) of that section are republished, to read:

934.425 Installation or use of tracking devices or tracking applications; exceptions; penalties.—

(2) Except as provided in subsection (4), a person may not knowingly:

(a) Install or place a tracking device or tracking application on another person's property without that person's consent; or

(b) Use a tracking device or tracking application to determine the location or movement of another person or another person's property without that person's consent.

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

Page 1 of 2

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

7-01392-25

20251168\_\_

(6) A person who violates this section in furtherance of a dangerous crime as defined in s. 907.041(5)(a) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

Page 2 of 2

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







The Florida Senate

## Committee Agenda Request

**To:** Senator Ileana Garcia, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** March 11, 2025

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I respectfully request that **Senate Bill #1168**, relating to Installation or Use of Tracking Devices or Applications, be placed on the:

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Leek", written over a horizontal line.

Sen. Tom Leek  
Florida Senator, District 7



729004

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2025	.	
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The Appropriations Committee on Criminal and Civil Justice  
(Leek) recommended the following:

**Senate Amendment (with directory and title amendments)**

Delete lines 27 - 30

and insert:

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

(b) A person who violates this section to commit a  
dangerous crime or to facilitate the commission of a



729004

11 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

12 And the directory clause is amended as follows:

13 Delete lines 14 - 16

14 and insert:

15 Section 1. Subsection (5) of section 934.425, Florida  
16 Statutes, is amended, and subsection (2) of that section is  
17 republished, to read:

18

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

20 And the title is amended as follows:

21 Delete lines 4 - 5

22 and insert:

23 providing enhanced criminal penalties for a person  
24 who, to commit or facilitate the commission of a  
25 dangerous crime, knowingly installs

**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.)

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

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BILL: CS/SB 1168

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

SUBJECT: Installation or Use of Tracking Devices or Applications

DATE: March 25, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	<b>Favorable</b>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Fav/CS</b>
3.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

PLEASE MAKE SELECTION

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**I. Summary:**

CS/SB 1168 amends s. 934.425, F.S., to provide that a person who, in furtherance of, or facilitating the commission of, a dangerous crime as defined in s. 907.041(5)(a), F.S.,<sup>1</sup> knowingly installs or places a tracking device or tracking application on another person's property without consent or uses such a device or application to determine a person's location or their property's location or movement without consent, commits a second degree felony.<sup>2</sup>

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

The bill takes effect on October 1, 2025.

**II. Present Situation:**

In recent years, compact tracking devices like Apple AirTags have changed the way that we locate lost items. These devices have also opened avenues for misuse in the area of personal surveillance. Tracking devices and tracking applications can be used to follow the location or

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<sup>1</sup> Section 907.041(5)(a), F.S., defines "dangerous crime" to mean any of the following offenses: Arson, Aggravated assault, Aggravated battery, Illegal use of explosives, Child abuse or aggravated child abuse, Abuse of an elderly person or disabled adult, Aircraft piracy, Kidnapping; Homicide, Manslaughter, Sexual battery, Robbery, carjacking, and the remaining offenses listed under this section.

<sup>2</sup> A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine of \$10,000 as provided in ss. 775.082, 775.083, and 775.084, F.S.

movement of another person, potentially without that person's knowledge or consent. Some applications have legitimate uses, but may be accessed by third parties without the user's consent. Other applications are developed and marketed as surveillance applications, commonly targeting potential customers interested in using the technology to track the movements and communication of another without consent.

Bluetooth trackers like Apple AirTag, Google's Nest tags and Tile devices work by transmitting a signal to nearby phones or tablets, which report the tracker's location for the tracker's owner and display its moves in real time on a map.<sup>3</sup>

## **Location Tracking Technology**

### ***Global Positioning System***

The Global Positioning System (GPS) is a space-based radio navigation system, owned by the United States Government and operated by the United States Space Force. GPS consists of three segments, including the:

- Space Segment: A constellation of 31 operational satellites that circle the Earth at an altitude of approximately 11,000 miles every 12 hours;
- Control Segment: Stations on Earth that monitor and maintain the GPS satellites; and
- User Segment: Receivers that process the navigation signals from the GPS satellites and calculate position and time.<sup>4</sup>

Each GPS satellite transmits its position and time at regular intervals and the signals are intercepted by GPS receivers. The receiver is then able to determine its position by calculating how long it took for the signal to reach the receiver. GPS currently provides two levels of service: standard positioning service and precise positioning service. Access to precise positioning service is restricted to the United States Armed Forces, Federal agencies, and select allied armed forces and governments. Standard positioning service is available to all users on a continuous basis, free of any direct charge to users.<sup>5</sup>

GPS is widely used in a variety of applications because its capabilities are accessible using small, inexpensive equipment.<sup>6</sup>

### ***Wi-Fi Positioning***

Wi-Fi is a radio-frequency technology for wireless communication that is used by nearly all devices and network infrastructure, including smartphones, computers, Internet of Things

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<sup>3</sup> WUFT, *Florida cracking down on cyber stalking with Apple AirTags, other hidden tracking devices*, (April 7, 2024), available at: <https://www.wusf.org/politics-issues/2024-04-07/florida-cracking-down-on-cyber-stalking-with-apple-airtags-other-hidden-tracking-devices> (last visited March 5, 2025).

<sup>4</sup> NASA, *GPS-What is GPS*, Catherine G. Manning, September 25, 2023, available at: <https://www.nasa.gov/directorates/somd/space-communications-navigation-program/gps/> (last visited on March 5, 2025).

<sup>5</sup> *Id.*

<sup>6</sup> Federal Aviation Administration, *Satellite Navigation- Global Positioning System (GPS)*, available at: [https://www.faa.gov/about/office\\_org/headquarters\\_offices/ato/service\\_units/techops/navservices/gnss/gps](https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/techops/navservices/gnss/gps) (last visited on March 5, 2025).

devices, routers, and more can be used to transmit data between devices using radio waves.<sup>7</sup> Wi-Fi can be leveraged to detect and track the location of people, devices, and assets, and can be easily activated for indoor positioning with existing Wi-Fi access points. The most commonly used Wi-Fi positioning techniques determine a device's location by using a measure called received signal strength indicator (RSSI). In RSSI applications, multiple existing Wi-Fi access points or Wi-Fi enabled sensors deployed in a fixed position detect transmitting Wi-Fi devices and the received signal strength of a device's signal. The location data collected by the access points or sensors is sent to the central indoor positioning or realtime location system, which analyzes the data to estimate the position of the transmitting device. Alternatively, the signal strength of nearby access points can be used to determine a device's location.<sup>8</sup> Wi-Fi positioning technology is particularly popular in providing location services in indoor spaces where GPS may not work as effectively.

### **Unlawful Installation of a Tracking Device or Application**

Section 934.425, F.S., provides that the installation or placement of a tracking device or tracking application on another person's property without that person's consent; or use of a tracking device or tracking application to determine the location or movement of another person or another person's property without that person's consent is a third degree felony.<sup>9</sup>

A person's consent to be tracked is presumed to be revoked if:

- The consenting person and the person to whom consent was given are lawfully married and one person files a petition for dissolution of marriage from the other;<sup>10</sup> or
- The consenting person or the person to whom consent was given files an injunction for protection against the other person.<sup>11</sup>

The prohibition against installing a tracking device or tracking application does not apply to:

- A law enforcement officer, or any local, state, federal, or military law enforcement agency, that lawfully installs a tracking device or tracking application on another person's property as part of a criminal investigation;<sup>12</sup>
- A parent or legal guardian of a minor child who installs a tracking device or tracking application on the minor child's property if:
  - The parents or legal guardians are lawfully married to each other and are not separated or otherwise living apart, and either parent or legal guardian consents to the installation of the tracking device or tracking application;<sup>13</sup>

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<sup>7</sup> Inpixon Indoor Intelligence, *Wi-Fi RTLS, Location Tracking and Positioning, What is Wi-Fi Positioning*, available at: <https://www.inpixon.com/technology/standards/wifi> (last visited on March 5, 2025).

<sup>8</sup> *Id.*

<sup>9</sup> A third degree felony is punishable by a term of imprisonment of not exceeding 5 years and a fine of \$5,000, as provided in ss. 775.082, 775.083, and 775.084, F.S.

<sup>10</sup> Section 934.425(3)(a), F.S.

<sup>11</sup> Section 934.425(3)(b), F.S., references the following injunctions for protection: s. 741.30, F.S., relating to domestic violence; s. 741.315, F.S., relating to foreign protection orders; s. 784.046, F.S., relating to repeat violence, sexual violence, or dating violence; s. 784.048, F.S., relating to stalking.

<sup>12</sup> Section 934.425(4)(a), F.S.

<sup>13</sup> Section 934.425(4)(b)1., F.S.

- The parent or legal guardian is the sole surviving parent or legal guardian of the minor child;<sup>14</sup>
- The parent or legal guardian has sole custody of the minor child;<sup>15</sup> or
- The parents or legal guardians are divorced, separated, or otherwise living apart and both consent to the installation of the tracking device or tracking application.<sup>16</sup>
- A caregiver of an elderly person<sup>17</sup> or disabled adult,<sup>18</sup> if the elderly person or disabled adult's treating physician certifies that the installation of a tracking device or tracking application onto the elderly person or disabled adult's property is necessary to ensure the safety of the elderly person or disabled adult;<sup>19</sup>
- A person acting in good faith on behalf of a business entity for a legitimate business purpose;<sup>20</sup> or
- An owner or lessee of a motor vehicle that installs, or directs the installation of, a tracking device or tracking application on such vehicle during the period of ownership or lease, provided that:<sup>21</sup>
  - The tracking device or tracking application is removed before the vehicle's title is transferred or the vehicle's lease expires;<sup>22</sup>
  - The new owner or lessor of the vehicle consents in writing for the tracking device or tracking application to remain installed;<sup>23</sup> or
  - The owner of the vehicle at the time of the installation of the tracking device or tracking application was the original manufacturer of the vehicle.<sup>24</sup>

### III. Effect of Proposed Changes:

This bill amends s. 934.425, F.S., to provide that a person who, in furtherance of, or facilitating the commission of, a dangerous crime as defined in s. 907.041(5)(a), F.S., knowingly installs or places a tracking device or tracking application on another person's property without consent or uses such a device or application to determine a person's location or their property's location or movement without consent, commits a second degree felony.<sup>25</sup>

<sup>14</sup> Section 934.425(4)(b)2., F.S.

<sup>15</sup> Section 934.425(4)(b)3., F.S.

<sup>16</sup> Section 934.425(4)(b)4., F.S.

<sup>17</sup> Section 825.101(4), F.S., defines "Elderly person" to mean a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunction to the extent that the ability of the person to provide adequately for the person's own care or protection is impaired.

<sup>18</sup> Section 825.101(3), F.S., defines "Disabled adult" to mean a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person's ability to perform the normal activities of daily living.

<sup>19</sup> Section 934.425(4)(c), F.S.

<sup>20</sup> Section 934.425(4)(d), F.S., This paragraph does not apply to a person engaged in private investigation, as defined in s. 493.6101, F.S., on behalf of another person unless such activities would otherwise be exempt under this subsection if performed by the person engaging the private investigator.

<sup>21</sup> Section 934.425(4)(e), F.S.

<sup>22</sup> Section 934.425(4)(e)1., F.S.

<sup>23</sup> Section 934.425(4)(e)2., F.S.

<sup>24</sup> Section 934.425(4)(e)3., F.S.

<sup>25</sup> A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine of \$10,000 as provided in ss. 775.082, 775.083, and 775.084, F.S.



Section 907.041(5)(a), F.S., defines “dangerous crime” to mean any of the following:

- Arson;
- Aggravated assault;
- Aggravated battery;
- Illegal use of explosives;
- Child abuse or aggravated child abuse;
- Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult;
- Aircraft piracy;
- Kidnapping;
- Homicide;
- Manslaughter, including DUI manslaughter and BUI manslaughter;
- Sexual battery;
- Robbery;
- Carjacking;
- Lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years;
- Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority.
- Burglary of a dwelling;
- Stalking and aggravated stalking;
- Act of domestic violence as defined in s. 741.28, F.S.;
- Home invasion robbery;
- Act of terrorism as defined in s. 775.30, F.S.;
- Manufacturing any substances in violation of chapter 893, F.S.;
- Attempting or conspiring to commit any such crime;
- Human trafficking;
- Trafficking in any controlled substance described in s. 893.135(1)(c)4, F.S.;
- Extortion in violation of s. 836.05, F.S.; and
- Written threats to kill in violation of s. 836.10, F.S.

The bill takes effect on October 1, 2025.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

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

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

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

Under current law, this act is a Level 1, 3rd degree felony regardless of whether or not it is in furtherance of, or facilitates the commission of, a dangerous crime.

- Per the DOC, there were no new commitments to prison under the current Level 1, 3rd degree felony. However, this felony was added last session, and took effect on October 1, 2024.
- Per the FDLE, in FY 22-23, there were 30 arrests under s. 934.425, F.S., 5 guilty/convicted charges, and one adjudication withheld. In FY 23-24, there were 37 arrests, 8 guilty/convicted charges, and 4 adjudications withheld. These were while the offense was still a misdemeanor and before the expanded language for what constitutes this offense went into effect. From October 2024 through February 2025, there were 32 total arrests. When compared to the same time period in FY 23-24, there were 13 arrests, so these numbers seem to be trending up. There have been no guilty/convicted charges or adjudications withheld under the new felony. Of the 32 arrests in the October 2024 through February 2025 time period, 18 (56.3 percent) fit the criteria for the Level 4, 2nd degree felony, mostly due to stalking being one of the additional offenses the people were arrested for, which is defined as a dangerous crime under s. 907.041(5)(a), F.S.

- Per the DOC, in FY 23-24, the incarceration rate for a Level 4, 2nd degree felony was 29.5 percent.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 934.425 of the Florida Statutes.

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

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

**CS by Appropriations Committee on Criminal Justice on March 24, 2025:**

The committee substitute clarifies that the bill applies to a person who unlawfully installs, places, or uses a tracking device or tracking application to commit a dangerous crime or to facilitate the commission of a dangerous crime.

**B. Amendments:**

None.

By Senator Wright

8-00924-25

2025774\_\_

1 A bill to be entitled  
 2 An act relating to electronic transmittal of court  
 3 orders; amending s. 394.463, F.S.; requiring the clerk  
 4 of the court, within 6 hours after a court issues an  
 5 ex parte order for involuntary commitment, to submit  
 6 the order electronically to the sheriff or law  
 7 enforcement agency in the county where the order is to  
 8 be served; amending s. 397.68151, F.S.; requiring the  
 9 clerk of the court, within 6 hours after a certain  
 10 summons is issued, to submit the summons  
 11 electronically and, if applicable, a copy of the  
 12 petition for involuntary services and a notice of the  
 13 hearing to a law enforcement agency to effect service  
 14 on certain persons; amending s. 790.401, F.S.;  
 15 requiring the clerk of the court to transmit  
 16 electronically, within a certain timeframe after the  
 17 court issues a risk protection order and notice of  
 18 hearing, a copy of the order, notice of hearing,  
 19 petition to the appropriate law enforcement agency for  
 20 service upon the respondent; requiring the clerk of  
 21 the court to transmit electronically, within a certain  
 22 timeframe after the court issues a temporary ex parte  
 23 risk protection order or risk protection order, a copy  
 24 of the notice of hearing, petition, and temporary ex  
 25 parte risk protection order or risk protection order,  
 26 as applicable, to the sheriff; requiring that an  
 27 electronic copy of a temporary ex parte risk  
 28 protection order or a risk protection order be  
 29 certified by the clerk of the court and that the

Page 1 of 8

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30 electronic copy be served in the same manner as the  
 31 certified copy; providing an effective date.  
 32

33 Be It Enacted by the Legislature of the State of Florida:  
 34

35 Section 1. Paragraph (a) of subsection (2) of section  
 36 394.463, Florida Statutes, is amended to read:

37 394.463 Involuntary examination.—

38 (2) INVOLUNTARY EXAMINATION.—

39 (a) An involuntary examination may be initiated by any one  
 40 of the following means:

41 1. A circuit or county court may enter an ex parte order  
 42 stating that a person appears to meet the criteria for  
 43 involuntary examination and specifying the findings on which  
 44 that conclusion is based. The ex parte order for involuntary  
 45 examination must be based on written or oral sworn testimony  
 46 that includes specific facts that support the findings. If other  
 47 less restrictive means are not available, such as voluntary  
 48 appearance for outpatient evaluation, a law enforcement officer,  
 49 or other designated agent of the court, must ~~shall~~ take the  
 50 person into custody and deliver him or her to an appropriate, or  
 51 the nearest, facility within the designated receiving system  
 52 pursuant to s. 394.462 for involuntary examination. The order of  
 53 the court must ~~shall~~ be made a part of the patient's clinical  
 54 record. A fee may not be charged for the filing of an order  
 55 under this subsection. A facility accepting the patient based on  
 56 this order must send a copy of the order to the department  
 57 within 5 working days. Within 6 hours after the court issues an  
 58 order, the clerk of the court shall electronically submit the

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59 order to the sheriff or a law enforcement agency in the county  
 60 where the order is to be served ~~may be submitted electronically~~  
 61 ~~through existing data systems, if available.~~ The order is shall  
 62 ~~be~~ valid only until the person is delivered to the facility or  
 63 for the period specified in the order itself, whichever comes  
 64 first. If a time limit is not specified in the order, the order  
 65 is valid for 7 days after the date that the order was signed.

66 2. A law enforcement officer may take a person who appears  
 67 to meet the criteria for involuntary examination into custody  
 68 and deliver the person or have him or her delivered to an  
 69 appropriate, or the nearest, facility within the designated  
 70 receiving system pursuant to s. 394.462 for examination. A law  
 71 enforcement officer transporting a person pursuant to this  
 72 section shall restrain the person in the least restrictive  
 73 manner available and appropriate under the circumstances. If  
 74 transporting a minor and the parent or legal guardian of the  
 75 minor is present, before departing, the law enforcement officer  
 76 must shall provide the parent or legal guardian of the minor  
 77 with the name, address, and contact information for the facility  
 78 within the designated receiving system to which the law  
 79 enforcement officer is transporting the minor, subject to any  
 80 safety and welfare concerns for the minor. The officer shall  
 81 execute a written report detailing the circumstances under which  
 82 the person was taken into custody, which must be made a part of  
 83 the patient's clinical record. The report must include all  
 84 emergency contact information for the person that is readily  
 85 accessible to the law enforcement officer, including information  
 86 available through electronic databases maintained by the  
 87 Department of Law Enforcement or by the Department of Highway

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88 Safety and Motor Vehicles. Such emergency contact information  
 89 may be used by a receiving facility only for the purpose of  
 90 informing listed emergency contacts of a patient's whereabouts  
 91 pursuant to s. 119.0712(2)(d). Any facility accepting the  
 92 patient based on this report must send a copy of the report to  
 93 the department within 5 working days.

94 3. A physician, a physician assistant, a clinical  
 95 psychologist, a psychiatric nurse, an advanced practice  
 96 registered nurse registered under s. 464.0123, a mental health  
 97 counselor, a marriage and family therapist, or a clinical social  
 98 worker may execute a certificate stating that he or she has  
 99 examined a person within the preceding 48 hours and finds that  
 100 the person appears to meet the criteria for involuntary  
 101 examination and stating the observations upon which that  
 102 conclusion is based. If other less restrictive means, such as  
 103 voluntary appearance for outpatient evaluation, are not  
 104 available, a law enforcement officer must shall take into  
 105 custody the person named in the certificate and deliver him or  
 106 her to the appropriate, or nearest, facility within the  
 107 designated receiving system pursuant to s. 394.462 for  
 108 involuntary examination. The law enforcement officer shall  
 109 execute a written report detailing the circumstances under which  
 110 the person was taken into custody and include all emergency  
 111 contact information required under subparagraph 2. Such  
 112 emergency contact information may be used by a receiving  
 113 facility only for the purpose of informing listed emergency  
 114 contacts of a patient's whereabouts pursuant to s.  
 115 119.0712(2)(d). The report and certificate must shall be made a  
 116 part of the patient's clinical record. Any facility accepting

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117 the patient based on this certificate must send a copy of the  
118 certificate to the department within 5 working days. The  
119 document may be submitted electronically through existing data  
120 systems, if applicable.

121  
122 When sending the order, report, or certificate to the  
123 department, a facility shall, at a minimum, provide information  
124 about which action was taken regarding the patient under  
125 paragraph (g), which information must ~~shall~~ also be made a part  
126 of the patient's clinical record.

127 Section 2. Subsection (3) of section 397.68151, Florida  
128 Statutes, is amended to read:

129 397.68151 Duties of court upon filing of petition for  
130 involuntary services.—

131 (3) A copy of the petition and notice of the hearing must  
132 be provided to the respondent; the respondent's parent,  
133 guardian, or legal custodian, in the case of a minor; the  
134 respondent's attorney, if known; the petitioner; the  
135 respondent's spouse or guardian, if applicable; and such other  
136 persons as the court may direct. If the respondent is a minor, a  
137 copy of the petition and notice of the hearing must be  
138 personally delivered to the respondent. The clerk shall also  
139 issue a summons to the person whose admission is sought, and,  
140 unless a circuit court's chief judge authorizes disinterested  
141 private process servers to serve parties under this chapter,  
142 within 6 hours after the summons being issued, the clerk of the  
143 court shall electronically submit the summons and, if  
144 applicable, a copy of the petition and notice of hearing to a  
145 law enforcement agency to ~~must~~ effect such service on the person

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146 whose admission is sought for the initial treatment hearing.

147 Section 3. Paragraph (a) of subsection (3) and subsection  
148 (5) of section 790.401, Florida Statutes, are amended to read:  
149 790.401 Risk protection orders.—

150 (3) RISK PROTECTION ORDER HEARINGS AND ISSUANCE.—

151 (a) Upon receipt of a petition, the court must order a  
152 hearing to be held no later than 14 days after the date of the  
153 order and must issue a notice of hearing to the respondent for  
154 the same.

155 1. The clerk of the court shall electronically transmit  
156 within 6 hours after the court issues an order and notice of  
157 hearing ~~cause~~ a copy of the order, notice of hearing, and  
158 ~~petition to be forwarded on or before the next business day to~~  
159 the appropriate law enforcement agency for service upon the  
160 respondent as provided in subsection (5).

161 2. The court may, as provided in subsection (4), issue a  
162 temporary ex parte risk protection order pending the hearing  
163 ordered under this subsection. Such temporary ex parte order  
164 must be served concurrently with the notice of hearing and  
165 petition as provided in subsection (5).

166 3. The court may conduct a hearing by telephone pursuant to  
167 a local court rule to reasonably accommodate a disability or  
168 exceptional circumstances. The court must receive assurances of  
169 the petitioner's identity before conducting a telephonic  
170 hearing.

171 (5) SERVICE.—

172 (a) Within 6 hours after the court issues a temporary ex  
173 parte risk protection order or risk protection order, the clerk  
174 of the court shall electronically transmit ~~furnish~~ a copy of the

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175 notice of hearing, petition, and temporary ex parte risk  
 176 protection order or risk protection order, as applicable, to the  
 177 sheriff of the county where the respondent resides or can be  
 178 found, who shall serve it upon the respondent as soon thereafter  
 179 as possible on any day of the week and at any time of the day or  
 180 night. ~~An electronic~~ When requested by the sheriff, the clerk of  
 181 ~~the court may transmit a facsimile~~ copy of a temporary ex parte  
 182 risk protection order or a risk protection order must be that  
 183 ~~has been~~ certified by the clerk of the court, and the electronic  
 184 ~~this facsimile~~ copy must ~~may~~ be served in the same manner as a  
 185 certified copy. Upon receiving an electronic ~~a facsimile~~ copy,  
 186 the sheriff must verify receipt with the sender before  
 187 attempting to serve it upon the respondent. The clerk of the  
 188 court is ~~shall be~~ responsible for furnishing to the sheriff  
 189 information on the respondent's physical description and  
 190 location. Notwithstanding any other ~~provision of~~ law to the  
 191 contrary, the chief judge of each circuit, in consultation with  
 192 the appropriate sheriff, may authorize a law enforcement agency  
 193 within the jurisdiction to effect service. A law enforcement  
 194 agency effecting service pursuant to this section shall use  
 195 service and verification procedures consistent with those of the  
 196 sheriff. Service under this section takes precedence over the  
 197 service of other documents, unless the other documents are of a  
 198 similar emergency nature.

199 (b) All orders issued, changed, continued, extended, or  
 200 vacated after the original service of documents specified in  
 201 paragraph (a) must be certified by the clerk of the court and  
 202 delivered to the parties at the time of the entry of the order.  
 203 The parties may acknowledge receipt of such order in writing on

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204 the face of the original order. If a party fails or refuses to  
 205 acknowledge the receipt of a certified copy of an order, the  
 206 clerk must ~~shall~~ note on the original order that service was  
 207 effected. If delivery at the hearing is not possible, the clerk  
 208 must ~~shall~~ mail certified copies of the order to the parties at  
 209 the last known address of each party. Service by mail is  
 210 complete upon mailing. When an order is served pursuant to this  
 211 subsection, the clerk shall prepare a written certification to  
 212 be placed in the court file specifying the time, date, and  
 213 method of service and shall notify the sheriff.

214 Section 4. This act shall take effect July 1, 2025.

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The Florida Senate

## Committee Agenda Request

**To:** Senator Ileana Garcia, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** March 12, 2025

---

I respectfully request that **Senate Bill 774**, relating to Electronic Transmittal of Court Orders, be placed on the:

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

Thank you for your consideration.

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

---

Senator Tom A. Wright  
Florida Senate, District 8

The Florida Senate

# APPEARANCE RECORD

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

3/24/25  
Meeting Date

774  
Bill Number or Topic

CJ Appropriations  
Committee

780792  
Amendment Barcode (if applicable)

Name Jason Welty

Phone 850-386-2225

Address 2560 Barrington Circle #102  
Street

Email jwelty@flccoc.org

Tallahassee FL 32308  
City State Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Clerks of Court Operations Corporation

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.

The Florida Senate

# APPEARANCE RECORD

03/24/2025

774

Meeting Date

Appropriations Committee on Criminal and Civil Justice

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

Bill Number or Topic

780792

Committee

Amendment Barcode (if applicable)

Name Clerk Gwen Marshall Knight

Phone 850.606.4000

Address 301 S Monroe St

Email \_\_\_\_\_

Street

Tallahassee

FL

32301

City

State

Zip

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

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

03/24/2025

Meeting Date

Appropriations Committee on Criminal and Civil Justice

Committee

Name Sara Sanders Bremer

The Florida Senate

APPEARANCE RECORD

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

774

Bill Number or Topic

780792

Amendment Barcode (if applicable)

Phone 850.577.4516

Address 215 S Monroe St

Street

Email sbremer@flclerks.com

Tallahassee

City

FL

State

32301

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Court Clerks and Comptrollers

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.

3/24/2025

Meeting Date

Appropriations Committee on Criminal and Civil Justice

Committee

Name Matt Dunagan

Phone 850-877-2165

Address 2617 Mahan Drive

Email mdunagan@flsheriffs.org

Street

Tallahassee

FL

32308

City

State

Zip

# The Florida Senate APPEARANCE RECORD

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

774

Bill Number or Topic

Amendment Barcode (if applicable)

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 Sheriffs Association**

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

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

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

S-001 (08/10/2021)



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2025	.	
	.	
	.	
	.	

---

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

**Senate Amendment (with title amendment)**

Delete lines 57 - 172

and insert:

within 5 working days. Within 6 business hours after the court issues an order, the clerk of the court shall electronically submit the order to the sheriff or a law enforcement agency in the county where the order is to be served ~~may be submitted electronically through existing data systems, if available.~~ The order is ~~shall be~~ valid only until the person is delivered to



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11 the facility or for the period specified in the order itself,  
12 whichever comes first. If a time limit is not specified in the  
13 order, the order is valid for 7 days after the date that the  
14 order was signed.

15 2. A law enforcement officer may take a person who appears  
16 to meet the criteria for involuntary examination into custody  
17 and deliver the person or have him or her delivered to an  
18 appropriate, or the nearest, facility within the designated  
19 receiving system pursuant to s. 394.462 for examination. A law  
20 enforcement officer transporting a person pursuant to this  
21 section shall restrain the person in the least restrictive  
22 manner available and appropriate under the circumstances. If  
23 transporting a minor and the parent or legal guardian of the  
24 minor is present, before departing, the law enforcement officer  
25 must ~~shall~~ provide the parent or legal guardian of the minor  
26 with the name, address, and contact information for the facility  
27 within the designated receiving system to which the law  
28 enforcement officer is transporting the minor, subject to any  
29 safety and welfare concerns for the minor. The officer shall  
30 execute a written report detailing the circumstances under which  
31 the person was taken into custody, which must be made a part of  
32 the patient's clinical record. The report must include all  
33 emergency contact information for the person that is readily  
34 accessible to the law enforcement officer, including information  
35 available through electronic databases maintained by the  
36 Department of Law Enforcement or by the Department of Highway  
37 Safety and Motor Vehicles. Such emergency contact information  
38 may be used by a receiving facility only for the purpose of  
39 informing listed emergency contacts of a patient's whereabouts



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40 pursuant to s. 119.0712(2)(d). Any facility accepting the  
41 patient based on this report must send a copy of the report to  
42 the department within 5 working days.

43 3. A physician, a physician assistant, a clinical  
44 psychologist, a psychiatric nurse, an advanced practice  
45 registered nurse registered under s. 464.0123, a mental health  
46 counselor, a marriage and family therapist, or a clinical social  
47 worker may execute a certificate stating that he or she has  
48 examined a person within the preceding 48 hours and finds that  
49 the person appears to meet the criteria for involuntary  
50 examination and stating the observations upon which that  
51 conclusion is based. If other less restrictive means, such as  
52 voluntary appearance for outpatient evaluation, are not  
53 available, a law enforcement officer must ~~shall~~ take into  
54 custody the person named in the certificate and deliver him or  
55 her to the appropriate, or nearest, facility within the  
56 designated receiving system pursuant to s. 394.462 for  
57 involuntary examination. The law enforcement officer shall  
58 execute a written report detailing the circumstances under which  
59 the person was taken into custody and include all emergency  
60 contact information required under subparagraph 2. Such  
61 emergency contact information may be used by a receiving  
62 facility only for the purpose of informing listed emergency  
63 contacts of a patient's whereabouts pursuant to s.

64 119.0712(2)(d). The report and certificate must ~~shall~~ be made a  
65 part of the patient's clinical record. Any facility accepting  
66 the patient based on this certificate must send a copy of the  
67 certificate to the department within 5 working days. The  
68 document may be submitted electronically through existing data





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69 systems, if applicable.

70

71 When sending the order, report, or certificate to the  
72 department, a facility shall, at a minimum, provide information  
73 about which action was taken regarding the patient under  
74 paragraph (g), which information must ~~shall~~ also be made a part  
75 of the patient's clinical record.

76 Section 2. Subsection (3) of section 397.68151, Florida  
77 Statutes, is amended to read:

78 397.68151 Duties of court upon filing of petition for  
79 involuntary services.-

80 (3) A copy of the petition and notice of the hearing must  
81 be provided to the respondent; the respondent's parent,  
82 guardian, or legal custodian, in the case of a minor; the  
83 respondent's attorney, if known; the petitioner; the  
84 respondent's spouse or guardian, if applicable; and such other  
85 persons as the court may direct. If the respondent is a minor, a  
86 copy of the petition and notice of the hearing must be  
87 personally delivered to the respondent. The clerk shall also  
88 issue a summons to the person whose admission is sought, and,  
89 unless a circuit court's chief judge authorizes disinterested  
90 private process servers to serve parties under this chapter,  
91 within 6 business hours after the summons being issued, the  
92 clerk of the court shall electronically submit the summons and,  
93 if applicable, a copy of the petition and notice of hearing to a  
94 law enforcement agency to ~~must~~ effect such service on the person  
95 whose admission is sought for the initial treatment hearing.

96 Section 3. Paragraph (a) of subsection (3) and subsection  
97 (5) of section 790.401, Florida Statutes, are amended to read:



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98 790.401 Risk protection orders.-

99 (3) RISK PROTECTION ORDER HEARINGS AND ISSUANCE.-

100 (a) Upon receipt of a petition, the court must order a  
101 hearing to be held no later than 14 days after the date of the  
102 order and must issue a notice of hearing to the respondent for  
103 the same.

104 1. The clerk of the court shall electronically transmit  
105 within 6 business hours after the court issues an order and  
106 notice of hearing ~~cause~~ a copy of the order, notice of hearing,  
107 and petition ~~to be forwarded on or before the next business day~~  
108 to the appropriate law enforcement agency for service upon the  
109 respondent as provided in subsection (5).

110 2. The court may, as provided in subsection (4), issue a  
111 temporary ex parte risk protection order pending the hearing  
112 ordered under this subsection. Such temporary ex parte order  
113 must be served concurrently with the notice of hearing and  
114 petition as provided in subsection (5).

115 3. The court may conduct a hearing by telephone pursuant to  
116 a local court rule to reasonably accommodate a disability or  
117 exceptional circumstances. The court must receive assurances of  
118 the petitioner's identity before conducting a telephonic  
119 hearing.

120 (5) SERVICE.-

121 (a) Within 6 business hours after the court issues a  
122 temporary ex

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

125 And the title is amended as follows:

126 Delete lines 4 - 9



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127 and insert:  
128       of the court, within a certain timeframe after a court  
129       issues an ex parte order for involuntary commitment,  
130       to submit the order electronically to the sheriff or  
131       law enforcement agency in the county where the order  
132       is to be served; amending s. 397.68151, F.S.;  
133       requiring the clerk of the court, within a certain  
134       timeframe after a certain

**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 774

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

SUBJECT: Electronic Transmittal of Court Orders

DATE: March 25, 2025      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Fav/CS</b>
3.	_____	_____	<u>FP</u>	_____

**Please see Section IX. for Additional Information:**  
COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 774 requires the clerk of court to electronically deliver to the sheriff, within 6 business hours of entry of an order by a judge, certain court orders requiring prompt attention by the sheriff for the sake of public safety. The orders requiring prompt delivery are an order to detain an individual for involuntary mental health examination, an order to detain an individual for involuntary substance abuse evaluation, or an order to take possession of firearms and ammunition from an individual pursuant to a risk protection order. The 6 business hours limit always applies, including nights, weekends, holidays, and during natural disasters.

The bill does not have a fiscal impact on revenues or expenditures. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2025.

## II. Present Situation:

### Involuntary Mental Health Examination

In 1971, the Legislature adopted the Florida Mental Health Act, known as the Baker Act.<sup>1</sup> The Baker Act includes Florida's mental health commitment laws, and includes legal procedures for mental health examination and treatment, including voluntary and involuntary examinations.<sup>2</sup> The Baker Act also protects the rights of all individuals examined or treated for mental illness in Florida.<sup>3</sup>

Individuals suffering from an acute mental health crisis may require emergency treatment to stabilize their condition. Emergency mental health examination and stabilization services may be provided on a voluntary or involuntary basis.<sup>4</sup> An involuntary examination is required if there is reason to believe that the person has a mental illness and because of his or her mental illness:

- The person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination or is unable to determine whether examination is necessary; and
- Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or
- There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.<sup>5</sup>

The involuntary examination may be initiated by:

- A court entering an ex parte order stating that a person appears to meet the criteria for involuntary examination, based on sworn testimony;<sup>6</sup>
- A law enforcement officer taking a person who appears to meet the criteria for involuntary examination into custody and delivering the person or having him or her delivered to a receiving facility for examination;<sup>7</sup> or
- A physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker executing a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination, including a statement of the professional's observations supporting such conclusion.<sup>8</sup>

---

<sup>1</sup> Ch. 71-131, Laws of Fla. The Baker Act is contained in ch. 394, F.S. The "Baker Act" is named in honor of the legendary state representative Maxine Baker of Miami who served from 1963 to 1972. She was strongly interested in mental health issues, served as chair of the House Committee on Mental Health, and sponsored the bill.

<sup>2</sup> Sections 394.451-394.47891, F.S.

<sup>3</sup> Section 394.459, F.S.

<sup>4</sup> Sections 394.4625 and 394.463, F.S.

<sup>5</sup> Section 394.463(1), F.S.

<sup>6</sup> Section 394.463(2)(a)1., F.S. In addition, the order of the court must be made a part of the patient's clinical record.

<sup>7</sup> Section 394.463(2)(a)2., F.S.

<sup>8</sup> Section 394.463(2)(a)3., F.S.

A law enforcement officer who delivers an individual to a receiving facility must execute a written report detailing the circumstances under which the person was taken into custody, and the report must be made a part of the patient's clinical record.<sup>9</sup> Any facility accepting the patient based on this certificate must send a copy of the certificate to the DCF within 5 working days.<sup>10</sup> The same reporting requirements apply in instances where a law enforcement officer delivers a person to a receiving facility pursuant to a certificate executed by a health care professional.<sup>11</sup>

### **Involuntary Substance Abuse Examination**

In 1993, legislation was adopted to combine ch. 396 and 397, F.S., into a single law, the Hal S. Marchman Alcohol and Other Drug Services Act (Marchman Act).<sup>12</sup> The Marchman Act encourages individuals to seek services on a voluntary basis within the existing financial and space capacities of a service provider. An individual who wishes to enter treatment may apply to a service provider for voluntary admission.<sup>13</sup> Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.<sup>14</sup> However, denial of addiction is a prevalent symptom of substance use disorder (SUD), creating a barrier to timely intervention and effective treatment.<sup>15</sup> As a result, treatment typically must stem from a third party providing the intervention needed for SUD treatment.<sup>16</sup>

The Marchman Act establishes a variety of methods under which substance abuse assessment, stabilization, and treatment can be obtained on an involuntary basis. There are five involuntary admission procedures that can be broken down into two categories depending upon whether the court is involved.<sup>17</sup> Three of the procedures do not involve the court, while two require direct petitions to the circuit court. The same criteria for involuntary admission apply regardless of the admission process used.<sup>18</sup>

An individual meets the criteria for an involuntary admission under the Marchman Act if there is good faith reason to believe the individual is substance abuse impaired and, because of such impairment, has lost the power of self-control with respect to substance use, and either:

- Needs substance abuse services and, because of substance abuse impairment, his or her judgment has been so impaired that he or she is incapable of appreciating his or her need for such services and of making a rational decision in that regard;<sup>19</sup> or

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<sup>9</sup> Section 394.463(2)(a)2., F.S.

<sup>10</sup> *Id.*

<sup>11</sup> Section 394.463(2)(a)3., F.S.

<sup>12</sup> Ch. 93-39, s. 2, L.O.F. (creating ch. 397, F.S., effective October 1, 1993).

<sup>13</sup> Section 397.601(1), F.S.

<sup>14</sup> Section 397.601(2), F.S.

<sup>15</sup> Darran Duchene and Patrick Lane, *Fundamentals of the Marchman Act*, Risk RX, Vol. 6 No. 2 (Apr. – Jun. 2006) State University System of Florida Self-Insurance Programs, available at <http://flbog.sip.ufl.edu/risk-rx-article/fundamentals-of-the-marchman-act/> (last visited March 8, 2025) (hereinafter cited as “Fundamentals of the Marchman Act”).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> Section 397.675(2)(a), F.S. However, mere refusal to receive services does not constitute evidence of lack of judgment with respect to the person's need for such services.

- Without care or treatment:
  - The person is likely to suffer from neglect or refuse to care for himself or herself;
  - The neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and
  - It is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or
  - There is substantial likelihood that the person:
    - Has inflicted, or threatened to or attempted to inflict physical harm on himself, herself, or another; or
    - Is likely to inflict physical harm on himself, herself, or another unless he or she is admitted.<sup>20</sup>

### **Involuntary Seizure of Firearms from Certain Individuals**

In 2018, the Florida Legislature passed the Marjory Stoneman Douglas High School Public Safety Act (Act) in response to a tragic school shooting.<sup>21</sup> In addition to other provisions in the Act, the law addresses public safety by restricting firearm and ammunition possession by a person who poses a danger to himself or herself or others.

Section 790.401, F.S., contains a process for a law enforcement officer or a law enforcement agency to petition a circuit court for a temporary ex parte risk protection order and a final risk protection order.<sup>22</sup> The intent of the process and court intervention is to temporarily prevent a person from accessing firearms when there is demonstrated evidence that the person poses a significant danger to himself or herself or others, including significant danger as a result of a mental health crisis or violent behavior. The process strikes a balance between the rights of the person (respondent) including due process of law, and reducing death or injury as a result of his or her use of firearms during a mental health crisis.<sup>23</sup>

To issue a risk protection order the court must find by clear and convincing evidence that the respondent poses a significant danger of causing personal injury to himself or herself or others by having in his or her custody or control, or by purchasing, possessing, or receiving, a firearm.<sup>24</sup>

A court, in determining whether grounds for a risk protection order exist may consider any relevant evidence including, but not limited to:

- A recent act or threat of violence by the respondent against himself or herself or others, regardless of whether the violence or threat of violence involves a firearm;

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<sup>20</sup> Section 397.675(2)(b), F.S.

<sup>21</sup> Chapter 2018-3, s. 16, L.O.F.

<sup>22</sup> The law enforcement officer or law enforcement agency petitioning the court for a risk protection order (petitioner) must make a good faith effort to provide notice to a family or household member of the respondent and to any known third party who may be at risk of violence. The notice must state that the petitioner intends to petition the court for a risk protection order or has already done so and must include referrals to appropriate resources, including mental health, domestic violence, and counseling resources. The petitioner must attest in the petition to having provided such notice or must attest to the steps that will be taken to provide such notice. Section 790.401(2)(f), F.S.

<sup>23</sup> Chapter 2018-3, s. 14, L.O.F.

<sup>24</sup> Section 790.401(3)(b), F.S.

- An act or threat of violence by the respondent within the past 12 months, including, but not limited to, acts or threats of violence by the respondent against himself or herself or others;
- Evidence of the respondent being seriously mentally ill or having recurring mental health issues;
- A violation by the respondent of a protection order or a no contact order issued under ss. 741.30, 784.046, or 784.0485, F.S.;
- A previous or existing risk protection order issued against the respondent;
- A violation of a previous or existing risk protection order issued against the respondent;
- Whether the respondent, in this state or any other state, has been convicted of, had adjudication withheld on, or pled nolo contendere to a crime that constitutes domestic violence as defined in s. 741.28, F.S.;
- Whether the respondent has used, or has threatened to use, against himself or herself or others any weapons;
- The unlawful or reckless use, display, or brandishing of a firearm by the respondent;
- The recurring use of, or threat to use, physical force by the respondent against another person, or the respondent stalking another person;
- Whether the respondent, in this state or any other state, has been arrested, convicted of, had adjudication withheld on, or pled nolo contendere to a crime involving violence or a threat of violence;
- Corroborated evidence of the abuse of controlled substances or alcohol by the respondent;
- Evidence of recent acquisition of firearms by the respondent;
- Any relevant information from family and household members concerning the respondent; and
- Witness testimony, taken while the witness is under oath, relating to the matter before the court.<sup>25</sup>

If the court issues a risk protection order, it may do so for a period that it deems appropriate, up to and including but not exceeding 12 months.<sup>26</sup>

Florida law allows the petitioner to request that a court issue a temporary ex parte risk protection order, without notice to the respondent, before the hearing for a final risk protection order has occurred. To issue the ex parte order, the court must find that the respondent poses a significant danger of causing personal injury to himself or herself or to others in the near future by having in his or her custody or control or by purchasing, possessing, or receiving a firearm or ammunition.<sup>27</sup> The court must consider all relevant evidence, including the evidence described above, in determining whether to issue an ex parte risk protection order.<sup>28</sup>

Upon issuance of a risk protection order, including a temporary ex parte risk protection order, the court must order the respondent to surrender to the local law enforcement agency all firearms and ammunition in the respondent's custody, control, or possession, and any license to carry a concealed weapon or firearm issued under s. 790.06, F.S.<sup>29</sup>

<sup>25</sup> Section 790.401(3)(c)1.-15., F.S.

<sup>26</sup> Section 790.401(3)(b), F.S.

<sup>27</sup> Section 790.401(4)(a), F.S.

<sup>28</sup> Section 790.401(4)(b), F.S.

<sup>29</sup> Sections 790.401(3)(g), (4)(e), and (7)(a), F.S.



The law enforcement officer serving a risk protection order, including a temporary ex parte risk protection order, must request that the respondent immediately surrender all firearms and ammunition in his or her custody, control, or possession and any license to carry a concealed weapon or firearm issued under s. 790.06, F.S. The law enforcement officer must take possession of all firearms and ammunition belonging to the respondent that are surrendered.<sup>30</sup>

### **Time for Transmittal of Court Orders**

The risk protection order law requires the clerk to furnish the court order, petition, and notice of hearing to the sheriff on or before the next business day.<sup>31</sup> The Baker Act and the Marchman Act do not address the issue of when the clerk must transmit the operative paperwork to the sheriff for the sheriff to take custody of the individual. These orders can and are often sought on an expedited or emergency basis requiring prompt action by the sheriff. Judicial circuits are required to have one or more judges available to serve nights, weekends, holidays, and during natural disasters.<sup>32</sup>

### **III. Effect of Proposed Changes:**

The bill amends ss. 394.463, 397.68151, and 790.401, F.S., relating to involuntary mental health examinations, involuntary substance abuse examinations, and the issuance of risk protection orders, respectively, to require that the clerk of the circuit court transmit the operative paperwork to the county sheriff by electronic means and no later than 6 business hours after the court entered the order. No exception is made for nights, weekends, holidays, or natural disasters.

The bill is effective July 1, 2025.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

#### **D. State Tax or Fee Increases:**

None.

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<sup>30</sup> Section 790.401(7)(b), F.S.

<sup>31</sup> Section 790.401(3)(a)1., F.S.

<sup>32</sup> Section 26.20, F.S.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not have an impact on revenues or expenditures.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 394.463, 397.68151, and 790.401.

**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 Justice on March 24, 2025:**

The committee substitute requires the clerk of the circuit court to transmit the operative paperwork for involuntary mental health examinations, involuntary substance abuse examinations, and the issuance of risk protection orders to the county sheriff by electronic means and no later than 6 business hours, rather than 6 hours, after the court entered the order.

B. Amendments:

None.

By the Committee on Judiciary; and Senator Yarborough

590-02320-25

2025806c1

A bill to be entitled

An act relating to the Florida Trust Code; amending s. 736.0110, F.S.; specifying circumstances in which the Attorney General has the exclusive authority to represent certain interests relating to a charitable trust having its principal place of administration in this state; prohibiting certain public officers of another state from asserting such rights; amending s. 736.0106, F.S.; conforming provisions to changes made by the act; amending s. 736.0405, F.S.; providing construction; reenacting s. 738.303(2)(b) and (d), F.S., relating to authority of a fiduciary, to incorporate the amendment made to s. 736.0110, F.S., in references thereto; providing an effective date.

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

Section 1. Subsection (3) of section 736.0110, Florida Statutes, is amended to read:

736.0110 Others treated as qualified beneficiaries.—

(3)(a) The Attorney General may assert the rights of a qualified beneficiary with respect to a charitable trust having its principal place of administration in this state. The Attorney General has standing to assert such rights in any judicial proceedings.

(b) Where the Attorney General asserts the rights of a qualified beneficiary as provided in paragraph (a), the Attorney General has the exclusive authority to represent the general public, unnamed charitable beneficiaries, and any person having

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590-02320-25

2025806c1

a special interest in a charitable trust, in any judicial proceedings within this state or elsewhere, with respect to all matters relating to the administration of the charitable trust, including and without limitation, contract and trust law claims relating to charitable distributions and the exercise of trustee powers. The Attorney General of another state or any other public officer of another state does not have standing to assert such rights or interests.

Section 2. Section 736.0106, Florida Statutes, is amended to read:

736.0106 Common law of trusts; principles of equity.—The common law of trusts and principles of equity supplement this code, except to the extent modified by this code or another law of this state, including, but not limited to, s. 736.0110(3).

Section 3. Subsection (3) of section 736.0405, Florida Statutes, is amended to read:

736.0405 Charitable purposes; enforcement.—

(3) The settlor of a charitable trust, among others, has standing to enforce the trust. This subsection may not be construed to afford standing to the Attorney General of any other state, or another public officer of another state, with respect to any charitable trust having its principal place of administration in this state.

Section 4. For the purpose of incorporating the amendment made by this act to section 736.0110, Florida Statutes, in references thereto, paragraphs (b) and (d) of subsection (2) of section 738.303, Florida Statutes, are reenacted to read:

738.303 Authority of fiduciary.—

(2) A fiduciary may take an action under subsection (1) if

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59 all of the following apply:

60 (b) The fiduciary sends a notice in a record to the  
61 qualified beneficiaries determined under ss. 736.0103 and  
62 736.0110 in the manner required by s. 738.304, describing and  
63 proposing to take the action.

64 (d) At least one member of each class of the qualified  
65 beneficiaries determined under ss. 736.0103 and 736.0110, other  
66 than the Attorney General, receiving the notice under paragraph

67 (b) is:

- 68 1. If an individual, legally competent;
  - 69 2. If not an individual, in existence; or
  - 70 3. Represented in the manner provided in s. 738.304(2).
- 71 Section 5. This act shall take effect upon becoming a law.





The Florida Senate

## Committee Agenda Request

**To:** Senator Ileana Garcia, Chair  
Appropriations Committee on Criminal and Civil Justice


**Subject:** Committee Agenda Request

**Date:** March 12, 2025

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I respectfully request that **Senate Bill #806**, relating to Florida Trust Code , be placed on the:

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

  
\_\_\_\_\_  
Senator Clay Yarborough  
Florida Senate, District 4

**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.)

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

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BILL: CS/SB 806

INTRODUCER: Judiciary Committee and Senator Yarborough

SUBJECT: Florida Trust Code

DATE: March 23, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bond</u>	<u>Cibula</u>	<u>JU</u>	<b>Fav/CS</b>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 806 provides that, where the Attorney General has asserted his or her authority to enforce the terms of a charitable trust having its principal place of administration in this state, the Attorney General has the exclusive standing to assert the interests of the general public in the trust. The term “standing” means the legal right to pursue a particular civil action. This would have the effect of limiting the common law special interest rule that gives a person having a “special interest” in a charitable trust standing to file an action to enforce the terms of the charitable trust.

The bill does not have a fiscal impact on state revenues or expenditures. See Section V. Fiscal Impact Statement.

The bill is effective upon becoming a law.

**II. Present Situation:**

**Trust Law – In General**

A trust is an entity established by a settlor to hold, invest, and distribute property on behalf of one or more beneficiaries, in compliance with the terms of the trust as established by the settlor.<sup>1</sup>

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<sup>1</sup> The settlor is the person who created the trust. The settlor provides the funding or assets of the trust and drafts the terms of the trust.

Where the beneficiary of the trust is a charitable organization or a general charitable purpose, the trust is known as a “charitable trust.” An individual or entity managing a trust is known as a trustee.

Most trust arrangements operate privately, without oversight by the courts or any regulatory authority. However, interested parties may turn to the courts to enforce the terms of a trust. A person who has the legal right to be a party to a lawsuit regarding enforcement of a trust is known as one who has “standing” to appear in the lawsuit.<sup>2</sup> In a private trust arrangement, only the settlor, or any of the individual named beneficiaries, has legal standing to appear in the probate court to enforce the terms of the trust. As to a charitable trust, the settlor, a named charitable organization beneficiary, and the Attorney General have statutory standing to enforce a charitable trust.<sup>3</sup>

The Attorney General is not required to enforce the terms of a charitable trust. He or she simply has the option to enforce the terms of a charitable trust. The reason that the Attorney General has standing is that, “unlike a private trust, where there are identifiable beneficiaries who are the equitable owners of the trust property, the beneficiaries of a charitable trust are the public at large.”<sup>4</sup>

Florida courts recognize a common law exception to the limits of standing whereby a person alleging a special interest, an interest beyond the general interest possessed by the public at large, may be granted standing to enforce the terms of a charitable trust.<sup>5</sup> The reason for requiring a special interest is: “If it were otherwise there would be no end to potential litigation against a given [charitable trust], whether he be a public official or otherwise, brought by individuals or residents, all possessed by the same general interest . . . .”<sup>6</sup>

The common law “special interest” exception to the general rule of standing to file an action to enforce a trust provision in a charitable trust has not been codified in the Trust Code, although it is alluded to in s. 736.0405(3), F.S. In a 2024 case, a district court of appeal noted that the special interest rule had not been changed by statute, and stated that the Legislature could change or eliminate that common law rule by amending the Trust Code.<sup>7</sup>

### **The Attorney General**

The Attorney General is a statewide elected official whose office is created by the state constitution.<sup>8</sup> The Attorney General is the chief state’s legal officer, and represents the general interests of the citizens of the state.

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<sup>2</sup> The concept of standing is not unique to trust litigation. It applies to all civil litigation.

<sup>3</sup> Sections 736.0110 and 736.0405, F.S.; *State of Del. ex rel. Gebelein v. Fla. First Nat. Bank of Jacksonville*, 381 So. 2d 1075, 1077 (Fla. 1st DCA 1979).

<sup>4</sup> *Id.*

<sup>5</sup> See *United States Steel Corp. v. Save Sand Key*, 303 So.2d 9 (Fla. 1974).

<sup>6</sup> *Askew v. Hold the Bulkhead-Save our Bays*, 269 So.2d 696 (Fla. 2d DCA 1972).

<sup>7</sup> *Jennings v. Durden*, No. 5D2023-0064, 2024 WL 2788198, at \*6 (Fla. 5th DCA May 31, 2024), review denied sub nom. *Uthmeier v. Jennings*, No. SC2024-1372, 2025 WL 561329 (Fla. Feb. 20, 2025). In this case, the State of Delaware claims a special interest in enforcing the terms of a charitable trust that includes the condition “first consideration, in each instance, being given to beneficiaries who are residents of Delaware.”

<sup>8</sup> Article IV, s. 4(b), STATE CONST.



### III. Effect of Proposed Changes:

The bill amends s. 736.0110, F.S., to change the common law special interest rule regarding standing to enforce the terms of a charitable trust. The bill provides that where the Florida Attorney General has assumed the role of enforcing the terms of a charitable trust, the Attorney General has exclusive standing to assert the rights of a qualified beneficiary<sup>9</sup> related to that charitable trust. Where the Florida Attorney General has assumed the role, the Attorney General represents the interests of the general public, unnamed charitable beneficiaries, and any person with a common law special interest in the trust. The Attorney General may seek relief in all matters regarding the charitable trust, including contract and trust law claims relating to charitable distributions and the exercise of trustee powers.

The bill specifies that neither the Attorney General of another state, nor any other state official of another state, may assert the rights of a qualified beneficiary as to a Florida charitable trust.

The bill amends s. 736.0106, F.S., to conform provisions to changes made by the act. The bill also amends s. 736.0405, F.S., to reiterate that the Attorney General of any other state, or any other public official of another state, may not seek enforcement of the terms of a Florida charitable trust.

The bill is effective upon becoming a law.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

#### E. Other Constitutional Issues:

None.

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<sup>9</sup> A "qualified beneficiary" is a beneficiary who has standing to enforce the terms of a trust.

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

None.

**B. Private Sector Impact:**

Should the Florida Attorney General act, the bill would prohibit the Attorney General of the State of Delaware from continuing to enjoy special interest standing in the trust action regarding the trust created by the will of Alfred I. duPont, which created the Nemours Foundation. The Nemours Foundation operates children's hospitals and health care facilities in multiple states.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 736.0110, 736.0106, and 736.0405.

This bill reenacts part of section 738.303 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 Judiciary on March 12, 2025:**

The amendment removed the exclusive standing of the Florida Attorney General to enforce the terms of a charitable trust applicable to all charitable trusts. Instead the exclusive standing of the Attorney General applies only when he or she asserts the right to enforce the charitable trust. The amendment preserves the special interest rule when the Attorney General is not involved in litigation regarding a charitable trust.

**B. Amendments:**

None.

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

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By Senator Grall

29-00916-25

20251286\_\_

1 A bill to be entitled  
 2 An act relating to harming or neglecting children;  
 3 amending s. 39.01, F.S.; revising the definition of  
 4 the term "harm" as it relates to a child's health or  
 5 welfare; amending s. 827.03, F.S.; revising the  
 6 definition of the term "neglect of a child";  
 7 reenacting ss. 390.01114(2)(b) and 984.03(2), F.S.,  
 8 relating to the definitions of the terms "child abuse"  
 9 and "abuse," respectively, to incorporate the  
 10 amendment made to s. 39.01, F.S., in references  
 11 thereto; providing an effective date.  
 12  
 13 Be It Enacted by the Legislature of the State of Florida:  
 14  
 15 Section 1. Paragraphs (a) and (f) of subsection (37) of  
 16 section 39.01, Florida Statutes, are amended to read:  
 17 39.01 Definitions.—When used in this chapter, unless the  
 18 context otherwise requires:  
 19 (37) "Harm" to a child's health or welfare can occur when  
 20 any person:  
 21 (a) Inflicts or allows to be inflicted upon the child  
 22 physical, mental, or emotional injury. In determining whether  
 23 harm has occurred, the following factors must be considered in  
 24 evaluating any physical, mental, or emotional injury to a child:  
 25 the age of the child; any prior history of injuries to the  
 26 child; the location of the injury on the body of the child; the  
 27 multiplicity of the injury; and the type of trauma inflicted.  
 28 Such injury includes, but is not limited to:  
 29 1. Willful acts that produce the following specific

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30 injuries:  
 31 a. Sprains, dislocations, or cartilage damage.  
 32 b. Bone or skull fractures.  
 33 c. Brain or spinal cord damage.  
 34 d. Intracranial hemorrhage or injury to other internal  
 35 organs.  
 36 e. Asphyxiation, suffocation, or drowning.  
 37 f. Injury resulting from the use of a deadly weapon.  
 38 g. Burns or scalding.  
 39 h. Cuts, lacerations, punctures, or bites.  
 40 i. Permanent or temporary disfigurement.  
 41 j. Permanent or temporary loss or impairment of a body part  
 42 or function.  
 43  
 44 As used in this subparagraph, the term "willful" refers to the  
 45 intent to perform an action, not to the intent to achieve a  
 46 result or to cause an injury.  
 47 2. Purposely giving a child poison, alcohol, drugs, or  
 48 other substances that substantially affect the child's behavior,  
 49 motor coordination, or judgment or that result in sickness or  
 50 internal injury. For the purposes of this subparagraph, the term  
 51 "drugs" means prescription drugs not prescribed for the child or  
 52 not administered as prescribed, and controlled substances as  
 53 outlined in Schedule I or Schedule II of s. 893.03.  
 54 3. Leaving a child without adult supervision or arrangement  
 55 appropriate for the child's age or mental or physical condition,  
 56 so that the child is unable to care for the child's own needs,  
 57 is subjected to obvious danger of which the child's caregiver  
 58 knew or should have known, ~~or another's basic needs~~ or is unable

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59 to exercise reasonable ~~good~~ judgment to avoid serious harm to  
 60 himself or others in responding to any kind of physical or  
 61 emotional crisis. This subparagraph may not be construed to  
 62 restrict a caregiver from allowing a child of sufficient  
 63 maturity and physical condition from engaging in independent  
 64 unsupervised activities, including, but not limited to,  
 65 traveling to or from school or nearby locations by bicycle or on  
 66 foot, playing outdoors, or remaining at home or any other  
 67 location for a reasonable period of time, unless allowing such  
 68 activities constitutes conduct that is so reckless as to  
 69 endanger the health or safety of the child.

70 4. Inappropriate or excessively harsh disciplinary action  
 71 that is likely to result in physical injury, mental injury as  
 72 defined in this section, or emotional injury. The significance  
 73 of any injury must be evaluated in light of the following  
 74 factors: the age of the child; any prior history of injuries to  
 75 the child; the location of the injury on the body of the child;  
 76 the multiplicity of the injury; and the type of trauma  
 77 inflicted. Corporal discipline may be considered excessive or  
 78 abusive when it results in any of the following or other similar  
 79 injuries:

- 80 a. Sprains, dislocations, or cartilage damage.
- 81 b. Bone or skull fractures.
- 82 c. Brain or spinal cord damage.
- 83 d. Intracranial hemorrhage or injury to other internal  
84 organs.
- 85 e. Asphyxiation, suffocation, or drowning.
- 86 f. Injury resulting from the use of a deadly weapon.
- 87 g. Burns or scalding.

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- 88 h. Cuts, lacerations, punctures, or bites.
- 89 i. Permanent or temporary disfigurement.
- 90 j. Permanent or temporary loss or impairment of a body part  
91 or function.
- 92 k. Significant bruises or welts.
- 93 (f) Neglects the child. Within the context of the  
94 definition of "harm," the term "neglects the child" means that  
95 the parent or other person responsible for the child's welfare  
96 fails to supply the child with adequate food, clothing, shelter,  
97 or health care, although financially able to do so or although  
98 offered financial or other means to do so; however, the term  
99 does not include a caregiver allowing a child to engage in  
100 independent and unsupervised activities unless allowing such  
101 activities constitutes reckless conduct that endangers the  
102 health or safety of the child. Such independent and unsupervised  
103 activities include, but are not limited to, traveling to or from  
104 school or nearby locations by bicycle or on foot, playing  
105 outdoors, or remaining at home or any other location for a  
106 reasonable period of time. ~~However,~~ A parent or legal custodian  
107 who, by reason of the legitimate practice of religious beliefs,  
108 does not provide specified medical treatment for a child may not  
109 be considered abusive or neglectful for that reason alone, but  
110 such an exception does not:
  - 111 1. Eliminate the requirement that such a case be reported  
112 to the department;
  - 113 2. Prevent the department from investigating such a case;  
114 or
  - 115 3. Preclude a court from ordering, when the health of the  
116 child requires it, the provision of medical services by a

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

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117 physician, as defined in this section, or treatment by a duly  
 118 accredited practitioner who relies solely on spiritual means for  
 119 healing in accordance with the tenets and practices of a well-  
 120 recognized church or religious organization.

121 Section 2. Paragraph (e) of subsection (1) of section  
 122 827.03, Florida Statutes, is amended to read:

123 827.03 Abuse, aggravated abuse, and neglect of a child;  
 124 penalties.—

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

126 (e) "Neglect of a child" means:

127 1. A caregiver's willful failure or omission to provide a  
 128 child with the care, supervision, and services necessary to  
 129 maintain the child's physical and mental health, including, but  
 130 not limited to, food, nutrition, clothing, shelter, supervision,  
 131 medicine, and medical services that a prudent person would  
 132 consider essential for the well-being of the child. The term  
 133 does not include a caregiver allowing a child to engage in  
 134 independent and unsupervised activities unless allowing such  
 135 activities constitutes willful and wanton conduct that endangers  
 136 the health or safety of the child. Such independent and  
 137 unsupervised activities include, but are not limited to,  
 138 traveling to or from school or nearby locations by bicycle or on  
 139 foot, playing outdoors, or remaining at home or any other  
 140 location for a reasonable period of time; or

141 2. A caregiver's failure to make a reasonable effort to  
 142 protect a child from abuse, neglect, or exploitation by another  
 143 person.

144  
 145 Except as otherwise provided in this section, neglect of a child

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146 may be based on repeated conduct or on a single incident or  
 147 omission that results in, or could reasonably be expected to  
 148 result in, serious physical or mental injury, or a substantial  
 149 risk of death, to a child.

150 Section 3. For the purpose of incorporating the amendment  
 151 made by this act to section 39.01, Florida Statutes, in a  
 152 reference thereto, paragraph (b) of subsection (2) of section  
 153 390.01114, Florida Statutes, is reenacted to read:

154 390.01114 Parental Notice of and Consent for Abortion Act.—

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

156 (b) "Child abuse" means abandonment, abuse, harm, mental  
 157 injury, neglect, physical injury, or sexual abuse of a child as  
 158 those terms are defined in ss. 39.01, 827.04, and 984.03.

159 Section 4. For the purpose of incorporating the amendment  
 160 made by this act to section 39.01, Florida Statutes, in a  
 161 reference thereto, subsection (2) of section 984.03, Florida  
 162 Statutes, is reenacted to read:

163 984.03 Definitions.—When used in this chapter, the term:

164 (2) "Abuse" means any willful act that results in any  
 165 physical, mental, or sexual injury that causes or is likely to  
 166 cause the child's physical, mental, or emotional health to be  
 167 significantly impaired. Corporal discipline of a child by a  
 168 parent or guardian for disciplinary purposes does not in itself  
 169 constitute abuse when it does not result in harm to the child as  
 170 defined in s. 39.01.

171 Section 5. This act shall take effect July 1, 2025.





The Florida Senate

## Committee Agenda Request

**To:** Senator Ileana Garcia, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** March 19, 2025

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I respectfully request that **Senate Bill #1286**, relating to Harming of Neglecting Children, be placed on the:

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

A handwritten signature in blue ink that reads "Erin K. Grall".

---

Senator Erin Grall  
Florida Senate, District 29



**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.)

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

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BILL: SB 1286

INTRODUCER: Senators Grall and Sharief

SUBJECT: Harming or Neglecting Children

DATE: March 23, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Rao</u>	<u>Tuszynski</u>	<u>CF</u>	<b>Favorable</b>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 1286 amends the definition of harm and neglect of a child in ch. 39, F.S., to allow caregivers to let a sufficiently mature child partake in independent, unsupervised activities without considering these actions as harm or neglect of a child.

The bill considers independent, unsupervised activities as harm if the child is subjected to obvious danger of which the caregiver knew or should have known, or the child cannot exercise the reasonable judgment required to avoid serious harm upon responding to physical or emotional crises.

The bill considers independent, unsupervised activities as neglect of a child if such activities constitute reckless conduct that endangers the health or safety of the child.

Additionally, the bill amends the definition of neglect of a child in criminal statute to add a willful standard in a caregiver's failure or omission to provide a child with the necessary services to maintain the child's physical and mental health.

The bill also excludes independent, unsupervised activities that a child engages in from the definition of neglect of a child in ch. 827, F.S., unless the activities constitute a willful and wanton conduct that endangers the health or safety of the child.

The bill is not expected to have a fiscal impact on the government or private sector. See Section V. Fiscal Impact Statement.

The bill provides an effective date of July 1, 2025.

## II. Present Situation:

### Florida's Child Welfare System

Chapter 39, F.S., creates Florida's dependency system charged with protecting children who have been abused, abandoned, or neglected.<sup>1</sup> Florida's child welfare system identifies children and families in need of services through reports to the central abuse hotline and child protective investigations. The Department of Children and Families (DCF) and community-based care lead agencies (CBCs) work with those families to address the problems endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children.<sup>2</sup>

Child welfare services are directed toward the prevention of child abuse, abandonment, and neglect.<sup>3</sup> The DCF practice model is based on increasing the safety of the child within his or her home, using in-home services, such as parenting coaching and counseling to maintain and strengthen the child's natural supports in the home environment.<sup>4</sup> These services are coordinated by DCF-contracted CBCs. The DCF is responsible for many child welfare services, including operating the central abuse hotline, performing child protective investigations, and providing children's legal services.<sup>5</sup> Ultimately, the DCF is responsible for program oversight and the overall performance of the child welfare system.<sup>6</sup>

When child welfare necessitates that the DCF remove a child from the home to ensure his or her safety, a series of dependency court proceedings must occur to place that child in an out-of-home placement, adjudicate the child dependent, and if necessary, terminate parental rights and free the child for adoption. Steps in the dependency process usually include:

- A report to the Florida Abuse Hotline.
- A child protective investigation to determine the safety of the child.
- The court finding the child dependent.
- Case planning for the parents to address the problems resulting in the child's dependency.
- Placement in out-of-home care, if necessary.
- Reunification with the child's parent or another option to establish permanency, such as adoption after termination of parental rights.<sup>7, 8</sup>

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<sup>1</sup> Chapter 39, F.S.

<sup>2</sup> Chapter 39, F.S.

<sup>3</sup> Section 39.001, F.S.

<sup>4</sup> See generally The Department of Children and Families, *Florida's Child Welfare Practice Model*, available at: <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/floridas-child-welfare-practice-model> (last visited 2/25/25).

<sup>5</sup> Office of Program Policy Analysis and Government Accountability, *Child Welfare System Performance Mixed in First Year of Statewide Community-Based Care*, Report 06-50, June 2006, available at: <https://oppaga.fl.gov/Products/ReportDetail?rn=06-50> (last visited 2/25/25).

<sup>6</sup> *Id.*

<sup>7</sup> See generally Ch. 39, F.S.

<sup>8</sup> The state has a compelling interest in providing stable and permanent homes for adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and in holding parents accountable for meeting the needs of children. See Section 63.022, F.S.

### ***Central Abuse Hotline***

The DCF is required to operate and maintain a central abuse hotline (hotline)<sup>9</sup> to receive reports of known or suspected instances of child abuse,<sup>10</sup> abandonment,<sup>11</sup> or neglect,<sup>12</sup> or instances when a child does not have a parent, legal custodian, or adult relative available to provide supervision and care.<sup>13</sup> The hotline must operate 24 hours a day, 7 days a week, and accept reports through a single statewide toll-free telephone number or through electronic reporting.<sup>14</sup>

If the hotline determines a report meets the statutory criteria for child abuse, abandonment, or neglect, a DCF child protective investigator (CPI) must complete a child protective investigation.<sup>15</sup>

### ***Child Maltreatment Index***

The Child Maltreatment Index (Index) is utilized by central abuse hotline counselors and CPIs to determine if a report of abuse, abandonment, or neglect meets the criteria for verifying child maltreatment.<sup>16</sup> The Index defines each maltreatment, factors to consider in the assessment of each maltreatment, and also frequently correlated maltreatments.<sup>17</sup>

There are 27 maltreatment types that can be assigned to a report. A report of abuse, abandonment, or neglect must contain at least one of the following maltreatment types; however, a report may include multiple maltreatment types. The maltreatment types are as follows:

- Abandonment.
- Asphyxiation.

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<sup>9</sup> Hereinafter cited as “hotline.” The “Central Abuse Hotline” is the DCF’s central abuse reporting intake assessment center, which receives and processes reports of known or suspected child abuse, neglect or abandonment 24 hours a day, seven days a week. Chapter 65C-30.001, F.A.C. and Section 39.101, F.S.

<sup>10</sup> Section 39.01(2), F.S. defines “abuse” as any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired.

<sup>11</sup> Section 39.01(1), F.S. defines “abandoned” or “abandonment” as a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child’s care and maintenance or has made no significant contribution to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both. “Establish or maintain a substantial and positive relationship” means, in part, frequent and regular contact with the child, and the exercise of parental rights and responsibilities.

<sup>12</sup> Section 39.01(53), F.S. states “neglect” occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired, except when such circumstances are caused primarily by financial inability unless services have been offered and rejected by such person.

<sup>13</sup> Section 39.201(1), F.S.

<sup>14</sup> Section 39.101(1), F.S.

<sup>15</sup> Prior to July 1, 2023, seven counties allowed the local sheriff’s office to perform child protective investigations. The 2023 legislative session transitioned this responsibility fully back to the Department after changes in Florida’s child welfare system aimed to integrate child protective investigations within existing crisis-oriented systems the DCF maintains. *See generally*: Laws of Fla. 2023-77.

<sup>16</sup> Florida Department of Children and Families, *CFOP 170-4*, available at: <https://prod.myflfamilies.com/sites/default/files/2024-05/CFOP%20170-04%20Child%20Maltreatment%20Index.pdf> (last visited 3/12/25).

<sup>17</sup> *Id.*

- Bizarre Punishment.
- Bone Fracture.
- Burns.
- Death.
- Environmental Hazards.
- Failure to Protect.
- Failure to Thrive/Malnutrition/Dehydration.
- Household Violence Threatens Child.
- Human Trafficking — CSEC.
- Human Trafficking — Labor.
- Inadequate Supervision.
- Internal Injuries
- Intimate Partner Violence Threatens Child.
- Medical Neglect.
- Mental Injury.
- Physical Injury.
- Sexual Abuse: Sexual Battery.
- Sexual Abuse: Sexual Exploitation.
- Sexual Abuse: Sexual Molestation.
- Substance-Exposed Newborn.
- Substance Misuse.
- Substance Misuse — Alcohol.
- Substance Misuse — Illicit Drugs.
- Substance Misuse — Prescription Drugs.
- Threatened Harm.<sup>18</sup>

Hotline counselors utilize the definitions of these maltreatment types to determine if the reported information meets the criteria for acceptance of an investigation or special conditions report.<sup>19</sup> Upon determination that the report should be accepted for investigation, the central abuse hotline notifies the DCF staff responsible for protective investigations.<sup>20</sup>

### ***Child Protective Investigations***

Once a report is accepted by the hotline staff, the CPIs conduct a child protective investigation.<sup>21</sup> These investigations consist of the following:

- A review of all relevant, available information specific to the child, family, and alleged maltreatment; family child welfare history; local, state, and federal criminal records check; and requests for law enforcement assistance provided by the abuse hotline.
  - Based on a review of available information, including the allegations in the current report, a determination shall be made as to whether immediate consultation should occur

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<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Section 39.301, F.S.

<sup>21</sup> Section 39.301, F.S.

- with law enforcement, the Child Protection Team, a domestic violence shelter or advocate, or a substance abuse or mental health professional.<sup>22</sup>
- Face-to-face interviews with the child; other siblings, if any; and the parents, legal custodians, or caregivers.
  - Assessment of the child’s residence, including a determination of the composition of the family and household.
  - Determine whether there is any indication that any child in the family or household has been abused, abandoned, or neglect; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse, abandonment, or neglect.
  - Documentation of the present and impending dangers to each child based on the identification of inadequate protective capacity through utilization of a standardized safety assessment instrument (the Index).<sup>23</sup>

CPIs utilize the definitions of maltreatment types to make a determination regarding each of the alleged maltreatments and make one of the following findings:

- **“Verified”** is used when a preponderance of the credible evidence results in a determination the specific harm or threat of harm was the result of abuse, abandonment, or neglect.
- **“Not Substantiated”** is used when there is credible evidence which does not meet the standard of being a preponderance to support that the specific harm was the result of abuse, abandonment, or neglect.
- **“No Indicators”** is used when there is no credible evidence to support that the specific harm was the result of abuse, abandonment, or neglect.<sup>24</sup>

The findings of CPIs are used to determine the next course of action. If the CPI identifies present or impending danger, the CPI must implement a safety plan or take the child into custody. If impending danger is identified and the child is not removed, the CPI must create and implement a safety plan before leaving the home or location where there is present danger.<sup>25</sup> If impending danger is identified, the CPI must create and implement a safety plan as soon as necessary to protect the safety of the child. The safety plan may be modified by the CPI if necessary.<sup>26</sup>

The CPI must either implement a safety plan for the child, which allows the child to remain in the home with in-home services or take the child into custody. If the child cannot safely remain in the home with a safety plan, the DCF must file a shelter petition and remove the child from his or her current home and temporarily place them in out-of-home care.<sup>27</sup>

### ***Harm to a Child’s Health or Welfare***

The Index utilizes the statutory definition of “harm” in the findings of a report of abuse, abandonment, or neglect as Verified, Not Substantiated, or No Indicators. Generally, the current

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<sup>22</sup> Section 39.301(9)(a), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Section 39.301, F.S.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

definition of harm includes actions such as the following that negatively affect a child's health or welfare:

- Inflicts or allows to be inflicted upon the child physical, mental, or emotional injury.
- Commits, or allows to be committed, sexual battery, as defined in ch. 794, F.S., or lewd or lascivious acts, as defined in ch. 800, F.S., against the child.
- Abandons the child.
- Neglects the child.
- Exposes a child to a controlled substance or alcohol.
- Engages in violent behavior that demonstrates a wanton disregard for the presence of a child and could reasonably result in serious injury to the child.
- Negligently fails to protect a child in his or her care from inflicted physical, mental, or sexual injury caused by the acts of another.
- Makes the child unavailable for the purpose of impeding or avoiding a protective investigation unless the court determines that the parent, legal custodian, or caregiver was fleeing from a situation involving domestic violence.<sup>28</sup>

The definition of harm includes specific instances in which harm to a child has occurred, including willful acts that produce specific injuries.<sup>29</sup> As used in this definition, the term "willful" refers to the intent to perform an action, not to the intent to achieve a result or to cause an injury.<sup>30</sup>

Current law considers leaving a child without adult supervision so that the child is unable to care for the child's own needs or another's basic needs, or is unable to exercise good judgment in responding to any kind of physical or emotional crisis as meeting the criteria of harm. The current statutory language does not specify any independent or unsupervised actions that a child may partake in that do not meet the criteria for harm, or includes any language about the caregiver's knowledge of obvious danger.

### ***Neglect of the Child***

Neglect of the child is included in the definition of harm. Current law defines the term "neglects the child" to mean that the parent or other person responsible for the child's welfare fails to supply the child with adequate food, clothing, shelter, or health care, although financially able to do so or offered financial or other means to do so.<sup>31</sup> The current statutory language does not provide exceptions to this term that relate to the independent and unsupervised activities of a child.

### ***Abuse of Children - Criminal Law***

Chapter 827, F.S., criminalizes the abuse of children. Current law defines "neglect of a child" for use in ch. 827, F.S., as:

- A caregiver's failure or omission to provide a child with the care, supervision, and services necessary to maintain the child's physical and mental health, including, but not limited to,

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<sup>28</sup> Section 39.01(37), F.S.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child; or

- A caregiver's failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.<sup>32</sup>

Neglect of a child may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.<sup>33</sup>

Current law does not provide exceptions relating to the independent and unsupervised activities of a child.

### ***Offenses Relating to the Abuse of Children***

Florida law provides the following penalties for the abuse of children:

- A person who commits aggravated child abuse commits a felony of the first degree, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.
- A person who willfully or by culpable negligence neglects a child and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the second degree, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.
- A person who knowingly or willfully abuses a child without causing great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the third degree, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.<sup>34</sup>

### **III. Effect of Proposed Changes:**

**Section 1** of the bill amends the definition of harm in s. 39.01, F.S., to exclude circumstances in which a caregiver allows a child of sufficient maturity and physical condition from engaging in independent unsupervised activities from the definition of harm. Such independent unsupervised activities include, but are not limited to:

- Traveling to or from school or nearby locations by bicycle or on foot;
- Playing outdoors; or
- Remaining at home or any other location for a reasonable period of time, unless allowing such activities constitutes conduct that is so reckless as to endanger the health or safety of the child.

The bill specifies instances in which leaving a child without adult supervision or arrangement appropriate for the child's age, mental, or physical condition is considered harm. The bill establishes that a caregiver has harmed a child's health or welfare when the child is subjected to obvious danger of which the child's caregiver knew or should have known, or the child is unable to exercise reasonable judgment to avoid serious harm to himself or others in responding to any kind of physical or emotional crisis. The bill requires that a child must be able to exercise

<sup>32</sup> Section 827.03(1)(e), F.S.

<sup>33</sup> *Id.*

<sup>34</sup> Section 827.03(2), F.S.

reasonable judgment to avoid serious harm to himself or others; meaning, a child cannot be left alone without adult supervision or arrangement appropriate for his or her age if he or she cannot exercise reasonable judgment to avoid harm to himself or others.

The bill specifies that allowing a child to engage in these independent and unsupervised activities does not constitute neglect of a child within the definition of harm, unless allowing such activities constitutes reckless conduct that endangers the health or safety of the child.

**Section 2** of the bill amends s. 827.03, F.S., to include a willful standard to the definition of neglect of a child in criminal statute, ch. 827, F.S. This change provides that a caregiver must *willfully* fail or omit to provide a child with the care, supervision, and services necessary to maintain the child's physical and mental health to be considered as harm. The bill excludes independent and unsupervised activities that a caregiver allows a child to engage in from constituting the neglect of a child, unless allowing such activities constitutes willful and wanton conduct that endangers the health and safety of the child.

The bill considers independent and unsupervised activities to include, but not be limited to:

- Traveling to or from school or nearby locations by bicycle or on foot;
- Playing outdoors; or
- Remaining at home or any other location for a reasonable period of time.

**Section 3** of the bill reenacts s. 390.01114, F.S., relating to the definition of the term "child abuse," to incorporate the amendment made to s. 39.01, F.S., by the bill.

**Section 4** of the bill reenacts s. 984.03, F.S., relating to the definition of the term "abuse," to incorporate the amendment made to s. 39.01, F.S., by the bill.

**Section 5** of the bill provides an effective date of July 1, 2025.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.



E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 39.01 and 827.03.

**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.

# CourtSmart Tag Report

Room: SB 37

Case No.:

Type:

Caption: Senate Appropriations Committee on Criminal and Civil Justice

Judge:

Started: 3/24/2025 4:00:04 PM

Ends: 3/24/2025 4:22:44 PM

Length: 00:22:41

4:00:05 PM Sen. Garcia (Chair)  
4:00:58 PM S 1168  
4:01:12 PM Sen. Leek  
4:02:04 PM Sen. Garcia  
4:02:07 PM Sen. Rouson  
4:02:34 PM Sen. Leek  
4:02:43 PM Sen. Garcia  
4:02:48 PM Am. 729004  
4:02:57 PM Sen. Leek  
4:03:06 PM Sen. Garcia  
4:04:28 PM S 1286  
4:04:43 PM Sen. Grall  
4:05:03 PM Sen. Garcia  
4:05:43 PM S 1198  
4:05:59 PM Sen. DiCeglie  
4:06:22 PM Jon Steverson, In COMM (waives in support)  
4:06:31 PM Tanner Warwick, Associated Industries of Florida (waives in support)  
4:06:38 PM Lorena Holley, Florida Retail Foundation (waives in support)  
4:06:49 PM Karen Murillo, AARP (waives in support)  
4:06:50 PM Chad Kunde, Florida Chambers of Commerce (waives in support)  
4:06:56 PM Jake Farmer, Walgreens (waives in support)  
4:07:03 PM Samantha Padgett, FL Restaurant & Lodgirs Association (waives in support)  
4:07:24 PM Sen. Rouson  
4:07:42 PM Sen. Garcia  
4:08:16 PM S 774  
4:08:28 PM Sen. Wright  
4:10:18 PM Sen. Garcia  
4:10:36 PM Am. 780792  
4:10:55 PM Sen. Wright  
4:10:57 PM Sen. Garcia  
4:11:01 PM Jason Welty, Florida Clerks of Court Operations Corporation (waives in support)  
4:11:09 PM Marshall Knight (waives in support)  
4:11:11 PM Sara Bremer, Florida Court Clerks and Comptrollers (waives in support)  
4:11:19 PM Matt Dunagan, Florida Sheriffs Association (waives in support)  
4:11:32 PM Sen. Garcia  
4:12:03 PM Sen. Wight  
4:12:08 PM Sen. Garcia  
4:12:43 PM S 806  
4:12:47 PM Sen. Yarborough  
4:14:31 PM Sen. Garcia  
4:14:33 PM Sen. Rouson  
4:15:29 PM Sen. Yarborough  
4:15:34 PM Sen. Rouson  
4:16:19 PM Sen. Yarborough  
4:16:40 PM Sen. Rouson  
4:17:00 PM Sen. Yarborough  
4:18:02 PM Sen. Rouson  
4:19:02 PM Sen. Yarborough  
4:19:40 PM Sen. Garcia  
4:20:10 PM Sen. Rouson  
4:21:33 PM Sen. Garcia  
4:21:35 PM Sen. Simon

