

SB 254 by Bradley; (Identical to H 0161) Indecent Exposure

271514 A S CJ, Bradley Delete L.14 - 31. 03/27 12:34 PM

CS/SB 588 by CF, Richter; (Similar to CS/CS/H 0409) Offenses Against Vulnerable Persons

CS/SB 674 by HP, Bean; (Similar to CS/H 0463) Background Screening

169528 A S RCS CJ, Dean Delete L.85: 03/31 08:20 PM
301108 A S RCS CJ, Smith btw L.107 - 108: 03/31 08:20 PM
873382 A S RCS CJ, Bradley btw L.262 - 263: 03/31 08:20 PM
781948 A S RCS CJ, Dean Delete L.287 - 291: 03/31 08:20 PM

SB 698 by Stargel; (Compare to CS/H 0485) Sexual Misconduct with Students by Authority Figures

723890 A S RCS CJ, Bradley Delete L.18 - 41: 03/31 08:20 PM

CS/SB 764 by JU, Detert; (Similar to CS/CS/H 0429) Hearsay

866768 A S WD CJ, Smith Delete L.15 - 18: 03/31 08:20 PM

CS/SB 944 by HP, Sobel; (Similar to CS/CS/H 0837) Mental Health Treatment

676770 A S RCS CJ, Gibson Delete L.127: 03/31 08:20 PM
961578 A S RCS CJ, Gibson Delete L.164 - 316: 03/31 08:20 PM

CS/SB 1142 by CM, Lee (CO-INTRODUCERS) Soto; (Similar to CS/H 1057) Ticket Sales

SB 1426 by Flores (CO-INTRODUCERS) Bullard; (Compare to CS/H 1017) Public Records/ Human Trafficking Victims

857298 D S RCS CJ, Altman Delete everything after 03/31 08:20 PM

SB 1472 by Abruzzo; Identity Theft

119136 D S RCS CJ, Altman Delete everything after 03/31 08:20 PM

CS/SB 1594 by EP, Bradley (CO-INTRODUCERS) Dean, Latvala; (Similar to CS/H 1363) Vessel Safety

125370 D S RCS CJ, Bradley Delete everything after 03/31 08:20 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Evers, Chair
Senator Smith, Vice Chair

MEETING DATE: Monday, March 31, 2014
TIME: 4:00 —6:00 p.m.
PLACE: *Mallory Horne Committee Room, 37 Senate Office Building*

MEMBERS: Senator Evers, Chair; Senator Smith, Vice Chair; Senators Altman, Bradley, Dean, Gibson, and Simmons

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointments to the offices indicated.			
Capital Collateral Regional Counsel - Northern Region			
1	Friedman, Robert (Tallahassee)	01/17/2017	Recommend Confirm Yeas 7 Nays 0
Capital Collateral Regional Counsel - Middle Region			
2	Viggiano, James Vincent, Jr. ()	09/30/2015	Recommend Confirm Yeas 7 Nays 0
Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.			
3	Adamiak, Robert A. (Ocala)	09/30/2016	Recommend Confirm Yeas 7 Nays 0
4	Bush, Shawn D. (Orlando)	09/30/2016	Recommend Confirm Yeas 7 Nays 0
5	Garey, Alan L. (Parkland)	09/30/2015	Recommend Confirm Yeas 7 Nays 0
6	Holder, Carlyle I. (Clermont)	09/30/2017	Recommend Confirm Yeas 7 Nays 0
7	Lukis, Vicki L. (Tallahassee)	09/30/2014	Recommend Confirm Yeas 7 Nays 0
8	Muhammad, Tadar (Orlando)	09/30/2016	Recommend Confirm Yeas 7 Nays 0
9	Nicklaus, Harry Gregg (St. Pete Beach)	09/30/2014	Recommend Confirm Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, March 31, 2014, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	SB 254 Bradley (Identical H 161, Compare H 181, S 276)	Indecent Exposure; Increasing the classification of second and subsequent violations of the provision prohibiting unlawful exposure of sexual organs; authorizing an arrest without a warrant if there is probable cause to believe that a person has committed an exposure of sexual organs in violation of specified provisions, etc. CJ 03/31/2014 Not Considered ACJ AP	Not Considered
11	CS/SB 588 Children, Families, and Elder Affairs / Richter (Similar CS/CS/H 409, Compare CS/H 1029)	Offenses Against Vulnerable Persons; Revising when an out-of-court statement by an elderly person or disabled adult is admissible in certain proceedings; deleting a requirement that property of an elderly person or disabled adult be obtained by deception or intimidation in order to constitute exploitation of such a person; creating a presumption that certain inter vivos transfers are a result of exploitation, etc. CF 02/18/2014 Fav/CS CJ 03/31/2014 Favorable JU	Favorable Yeas 7 Nays 0
12	CS/SB 674 Health Policy / Bean (Similar CS/H 463)	Background Screening; Authorizing the Department of Highway Safety and Motor Vehicles to share reproductions of driver license images with the Department of Health and the Agency for Health Care Administration for specified purposes; exempting a person whose fingerprints are already enrolled in a certain Federal Bureau of Investigation program from the requirement that such fingerprints be forwarded to the bureau; requiring the fingerprints of an employee required to be screened by a specified agency and included in the clearinghouse also to be retained in the national retained print arrest notification program at a specified time, etc. HP 02/11/2014 Fav/CS TR 03/06/2014 Favorable CJ 03/31/2014 Fav/CS	Fav/CS Yeas 7 Nays 0
13	SB 698 Stargel (Compare CS/H 485)	Sexual Misconduct with Students by Authority Figures; Citing this act as the "Sexual Misconduct with Students by Authority Figures Act"; providing for reclassification of specified sexual offenses committed against a student by an authority figure; providing for severity ranking of offenses; providing for application of the severity ranking chart of the Criminal Punishment Code, etc. CJ 03/31/2014 Fav/CS ED ACJ AP	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, March 31, 2014, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
14	CS/SB 764 Judiciary / Detert (Similar CS/CS/H 429)	Hearsay; Providing that certain statements are an exception to the hearsay rule and thus admissible, etc. JU 03/18/2014 Fav/CS CJ 03/31/2014 Favorable RC	Favorable Yeas 6 Nays 1
15	CS/SB 944 Health Policy / Sobel (Similar CS/CS/H 837)	Mental Health Treatment; Authorizing forensic and civil facilities to order the continuation of psychotherapeutics for individuals receiving such medications in the jail before admission; providing timeframes within which competency hearings must be held; revising the time for dismissal of certain charges for defendants that remain incompetent to proceed to trial; providing a timeframe within which commitment hearings must be held, etc. HP 03/19/2014 Fav/CS CJ 03/31/2014 Fav/CS JU CA	Fav/CS Yeas 7 Nays 0
16	CS/SB 1142 Commerce and Tourism / Lee (Similar CS/H 1057, Compare H 1003, S 1136)	Ticket Sales; Providing that a person who counterfeits, forges, alters, clones, or possesses a ticket, card, wristband, or other medium that accesses or is associated with a specified ticket, token, or paper with the intent to defraud commits a misdemeanor of the first degree; providing enhanced criminal penalties for second and subsequent violations concerning fraudulent creation or possession of an admission ticket; prohibiting the sale, offer for sale, or transfer of certain multiuse tickets or a card, wristband, or other medium that accesses or is associated with such multiuse ticket, etc. CM 03/24/2014 Fav/CS CJ 03/31/2014 Favorable AP	Favorable Yeas 7 Nays 0
17	SB 1426 Flores (Compare CS/H 1017, CS/H 1021, Link S 1440)	Public Records/ Human Trafficking Victims; Providing an exemption from public records requirements for investigative information relating to criminal history records of human trafficking victims that have been ordered expunged; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CJ 03/31/2014 Fav/CS GO RC	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, March 31, 2014, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
18	SB 1472 Abruzzo	Identity Theft; Providing that possession of personal identification information without a legitimate business or professional purpose and with specified intent constitutes fraudulent use of personal identification information; providing criminal penalties; creating a rebuttable presumption that a person in possession of a specified quantity of personal identification information has fraudulent intent, etc. CJ 03/31/2014 Fav/CS ACJ AP	Fav/CS Yeas 7 Nays 0
19	CS/SB 1594 Environmental Preservation and Conservation / Bradley (Similar CS/H 1363)	Vessel Safety; Authorizing the Fish and Wildlife Conservation Commission and certain law enforcement agencies or officers to relocate or remove vessels that unreasonably or unnecessarily constitute a navigation hazard or interfere with another vessel; exempting the commission or a law enforcement agency or officer from liability for damages to such a vessel caused by the relocation or removal thereof; providing an exception; authorizing the commission and certain law enforcement agencies and officers to relocate or remove a derelict vessel from public waters if such vessel poses a danger to property or persons, etc. EP 03/13/2014 Fav/CS CJ 03/31/2014 Fav/CS AP	Fav/CS Yeas 7 Nays 0

Other Related Meeting Documents

Amended

A black and white copy of this document is not official

143

STATE OF FLORIDA
DEPARTMENT OF STATE

Division of Elections

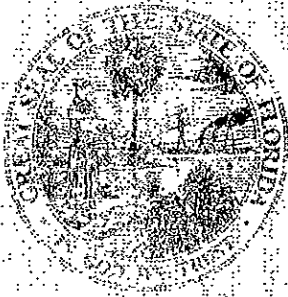
I, Ken Detzner, Secretary of State,
do hereby certify that

Robert Friedman

is duly appointed

**Capital Collateral Regional Counsel,
Northern Region**

for a term beginning on the
Seventeenth day of January, A.D., 2014,
until the Seventeenth day of January, A.D., 2017
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.



*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Seventh day of February, A.D., 2014.*

Ken Detzner

Secretary of State

DSDE 99- (3/03)

The original document has a reflective line mark in paper. Hold at an angle to view when checking.

State of Florida appears in small letters across the face of this 8 1/2 x 11" document.

If photocopied or chemically altered, the word "VOID" will appear.

MAILED

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of Leon

14 JAN 30 AM 11:26

JUDICIAL COLLECTIONS
SECRETARY OF STATE

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Capital Collateral Regional Counsel-Northern Region

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

[Signature]
Signature

Sworn to and subscribed before me this 20th day of January, 2014.

[Signature]
Signature of Officer Administering Oath or of Notary Public



Jessica L. Kranert
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced FL Driver's License

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

Robert Friedman
Print name as you desire commission issued

[Signature]
Signature



RICK SCOTT
GOVERNOR

14 JAN 23 AM 11:06

DIVISION OF COLLECTIONS
SECRETARY OF STATE

January 22, 2014

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following appointment under the provisions of Section 27.701, Florida Statutes:

Mr. Robert Friedman

as Capital Collateral Regional Counsel for the Northern Region, succeeding Michael P. Reiter, subject to confirmation by the Senate. This appointment is effective January 17, 2014, for a term ending January 17, 2017.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/rm

QUESTIONNAIRE FOR SENATE CONFIRMATION

RECEIVED

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

17 JAN 30 AM 11:26
1/30/14
DIVISION OF ELECTIONS
SECRETARY OF STATE

1. Name: Friedman Robert

Mr./Mrs./Ms. 4000 Last First Middle/Maiden

2. Business Address: Suite 2100, City Centre Bldg. 227 N. Bronough St. Tallahassee

Street Office # City
FL 32301 850-488-2415
Post Office Box State Zip Code Area Code/Phone Number

3

Specify the preferred mailing address:

(optional)

4. A. List all your places of residence for the last five (5) years.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>
			nt

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>
		8/80-5/83	

5. Date of Birth: 3/4/58 Place of Birth: Brooklyn, NY

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: FL

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain

9. Are you a United States citizen? Yes No If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1976 _____

11. Are you a registered Florida voter? Yes No If "Yes" list:

A. County of Registration: Leon B. Current Party Affiliation: Democrat

12. Education

A. High School: Baldwin High School Baldwin, NY Year Graduated: 1975
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
Oneonta College Oneonta, NY	1/76-5/77	
University of Florida Gainesville, FL	9/77-12/79	BA
Antioch School of Law Washington, D.C.	8/80-5/83	JD

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
Public Defender Office 301 S. Monroe St. Tallahassee, FL 32301		Lawyer	9/98-1/14

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
Lawyer	Public Defender Office Tallahassee, FL	9/98-1/14
Lawyer	CCRC-North Tallahassee, FL	1997-1998
Lawyer	Public Defender Office West Palm Beach, FL	1985-1993

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

I am an ethical, well prepared, knowledgeable, professional, and committed attorney who strongly believes in providing high quality legal representation to indigent individuals. I have always been respected by my peers, by my adversaries, and by the judiciary for my high quality work on some very difficult and complex cases. More importantly, I understand the nature of capital post conviction litigation; particularly in light of the fact that I have handled capital cases at the trial level and I have litigated a death warrant case in post conviction. I was also in private practice for four years so I understand the necessity of working within a budget and law office management.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

I am a member of the Florida Bar and I am admitted to practice before all state and federal courts in Florida. I am also admitted to practice before the 11th Circuit court of Appeals and the United States Supreme Court.

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes No If "Yes", list:

D. Identify all association memberships and association offices held by you that relate to this appointment:

Member of the Florida Bar

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
---------------------	--	-----------------------	----------------------------

N/A

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: N/A

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
_____	_____	_____
_____	_____	_____

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>
_____	_____	_____
_____	_____	_____

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____
B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No If "Yes", list:

A. Title of Office: _____
B. Term of Appointment: _____
C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes No If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title & Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
Florida Bar #500674	10/17/85	Florida	None
_____	_____	_____	_____

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
_____	_____	_____
_____	_____	_____

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>
N/A	

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Nancy Daniels			
Eddie Evans			
Andrew Thomas			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
N/A			

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

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14 JAN 30 AM 11:26

MEMORANDUM

DIVISION OF ELECTIONS
SECRETARY OF STATE

AS A GENERAL MATTER, APPLICATIONS FOR AISE POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) N/A

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

RECEIVED

CERTIFICATION

14 JAN 30 AM 11:26

STATE OF FLORIDA
COUNTY OF Leon

DIVISION OF ELECTIONS
SECRETARY OF STATE

Before me, the undersigned Notary Public of Florida, personally appeared
Robert Friedman
who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

[Signature]
Signature of Applicant-Affiant

Sworn to and subscribed before me this 30th day of January, 2014.

Jessica L. Kranert
Signature of Notary Public-State of Florida

Jessica L. Kranert
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: Aug. 19, 2017

Personally Known OR Produced Identification

Type of Identification Produced FL Driver's License

(seal)

CERTIFICATION

STATE OF FLORIDA, COUNTY OF Leon

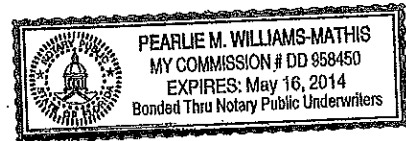
Before me, the undersigned Notary Public of Florida, personally appeared Robert Feldman

who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

[Signature]
Signature of Applicant-Affiant

Sworn to and subscribed before me this 31st day of January, 2014.

Pearlie M. Williams Mathis
Signature of Notary Public-State of Florida



(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: _____

Personally Known OR Produced Identification

Type of Identification Produced _____

(seal)

RECEIVED
DEPARTMENT OF STATE
2014 JAN 31 PM 4:07
DIVISION OF ELECTIONS
TALLAHASSEE, FLORIDA

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Robert Friedman
Capital Collateral Regional Counsel - Northern Region

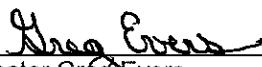
NOTICE OF HEARING

TO: Mr. Robert Friedman

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Monday, March 31, 2014, in the Mallory Horne Committee Room, 37 Senate Office Building, commencing at 4:00 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 26th day of March, 2014

Committee on Criminal Justice



Senator Greg Evers
As Chair and by authority of the committee

cc: Members, Committee on Criminal Justice
Office of the Sergeant at Arms

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Robert Friedman - (CCRC-North)

ANSWER:

Yes

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Senate Criminal Justice

DATE: March 31, 2014

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Committee on Criminal Justice
MEETING DATE: Monday, March 31, 2014
TIME: 4:00 —6:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

TO: The Honorable Don Gaetz, President

FROM: Committee on Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Capital Collateral Regional Counsel - Northern Region

Appointee: Friedman, Robert

Term: 1/17/2014-1/17/2017

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor.

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STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Ken Detzner, Secretary of State,
do hereby certify that

James V. Viggiano, Jr.

is duly appointed

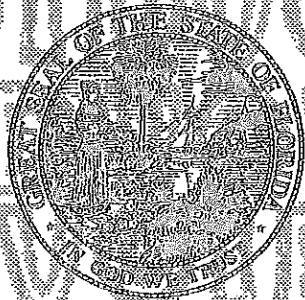
**Capital Collateral Regional Counsel,
Middle Region**

for a term beginning on the
Seventeenth day of January, A.D., 2014,
until the Thirtieth day of September, A.D., 2015
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Eleventh day of February, A.D., 2014*

Ken Detzner

Secretary of State



If photocopied or chemically altered, the word "VOID" will appear.

State of Florida appears in small letters across the face of this 8 1/2" x 11" document.



RICK SCOTT
GOVERNOR

14 JAN 23 AM 11:06

DIVISION OF COLLECTIONS
SECRETARY OF STATE

January 22, 2014

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following appointment under the provisions of Section 27.701, Florida Statutes:

Mr. James V. Viggiano, Jr.

A handwritten signature in black ink, appearing to read "Rick Scott".

as Capital Collateral Regional Counsel for the Middle Region, succeeding John W. Jennings, subject to confirmation by the Senate. This appointment is effective January 17, 2014, for a term ending September 30, 2015.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/rm

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

HAND DELIVERED

14 FEB 10 PM 2:14

DIVISION OF ELECTIONS
SECRETARY OF STATE

STATE OF FLORIDA

County of Pasco

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Capital Collateral Regional Counsel for the Middle Region

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

James Vincent Viggiano, Jr.
Signature

Sworn to and subscribed before me this 8th day of Feb, 2014.

Jon Calmbacher
Signature of Officer Administering Oath or of Notary Public

Jon Calmbacher
Print, Type, or Stamp Commissioned Name of Notary Public



Personally Known OR Produced Identification

Type of Identification Produced Florida Drivers License

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

Street or Post Office Box

City, State, Zip Code

James Vincent Viggiano, Jr.
Print name as you desire commission issued

James Vincent Viggiano, Jr.
Signature

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

RECEIVED
FEB 10 AM 2:11
DIVISION OF ELECTIONS
SECRETARY OF STATE

February 8, 2014

1. Name: Mr. Viggiano, Jr. James Vincent
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: _____
Street Office # City
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: _____
Street City County
Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business Residence Fax # _____ (optional)

4. A. List all your places of residence for the last five (5) years.

	Address	City & State	From	To
1				Present

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

	Address	City & State	From	To
2				

5. Date of Birth: May 22, 1956 Place of Birth: New York City, NY

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain

n/a

9. Are you a United States citizen? Yes No If "No" explain:

n/a

If you are a naturalized citizen, date of naturalization: n/a

10. Since what year have you been a continuous resident of Florida? 1987

11. Are you a registered Florida voter? Yes No If "Yes" list:

A. County of Registration: Pasco

B. Current Party Affiliation: Republican

12. Education

A. High School: Madison Township H.S., Old Bridge, New Jersey Year Graduated: 1974
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
College of New Jersey, Ewing, New Jersey	9/74 through 5/78	B.S. Criminal Justice
Golden Gate University, San Francisco, CA	1/80 through 12/81	M.S. Human Resources Management
Rutgers University, Camden, New Jersey	9/84 through 5/87	J.D. Law
University of South Florida, Tampa, Florida	9/99 through 12/03	M.A. Library and Information Science

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: 31 May 1978 through 1 February 1984

B. Branch or Component: United States Marine Corps

C. Date & type of discharge: 1 February 1984 Honorable

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
January 1974	Old Bridge, New Jersey	Breaking and Entering	Dismissed

I was with about ten other teenagers drinking beer (underage) in the woods adjacent to a railroad yard. We went into the yard and were climbing on the trains jumping from car to car. Some cars were open and we were going into the cars. The police came and caught about half the guys. The case was dismissed at a juvenile court hearing in Middlesex County, NJ.

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
State of Florida	Legal	Attorney	July 2002 - Feb. 2013
		Chief Assistant	Feb. 2013 - Sept. 2013
		Acting Director CCRC-M	Oct. 1, 2013 - Jan. 21, 2014
		Capital Collateral Regional Counsel	Jan. 22, 2014 - Present

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
Assistant State Attorney	Office of the State Attorney, 13th Judicial Circuit	July, 1987 to August 1991
Assistant Public Defender	Office of the Public Defender, 5th Judicial Circuit	Sept. 2001 to July 2002

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

I gained leadership training and experience as an officer and pilot in the United States Marine Corps where I had heavy responsibilities at a young age. To further develop my management skills, while in the Marines, I took a course of study in Human Resources Management. I was an Assistant State Attorney for four years, trying fifty jury trials. I then went into private law practice for ten years. I worked in a Public Defender's Office before coming to CCRC-M where I handled all aspects of death penalty collateral appeals. I held the position of Chief Assistant to the CCRC-M managing the daily administrative and personnel functions of the office during the CCRC's absence. After the CCRC retired in October 2013, I served as Acting Director before being appointed CCRC.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

Licensed - Florida Bar Association (October 1987); United States Supreme Court (November 2002); U.S; Court of Appeals for the 11th Circuit (February 2005); Federal District Court - Middle - Florida (July 1988); Federal District Court - Southern - Florida (August 2006)

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes No If "Yes", list:

Dean's List - Fall 1977 - The College of New Jersey; Dean's List - 1985 - 1986 - Rutgers Law School; Phi Kappa Phi Honor Society - University of South Florida; Designated Naval Aviator - Pensacola, Florida - August 1980; Sea Service Deployment Ribbon, Navy Unit Commendation, and Marine Corps Expeditionary Medal for service in Beirut, Lebanon in 1982-1983.

D. Identify all association memberships and association offices held by you that relate to this appointment:

Same as #17 B above.

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

n/a

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
n/a			

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: n/a

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
<u>n/a</u>		

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>
<u>n/a</u>		

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: n/a C. Reason for suspension: n/a

B. Date of suspension: n/a D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No If "Yes", list:

A. Title of Office: n/a

B. Term of Appointment: n/a

C. Confirmation results: n/a

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes No If "Yes", explain:

n/a

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title & Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
<u>Law License / 0715336</u>	<u>October 29, 1987</u>	<u>The Florida Bar</u>	<u>None</u>

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
<u>n/a</u>		

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>
n/a			

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>
Executive Office of the Governor	Capital Collateral Regional Counsel - Middle
Florida Senate	Capital Collateral Regional Counsel - Middle
Florida House of Representatives	Capital Collateral Regional Counsel - Middle

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Don Barksdale			
Vicki Butts			
Richard Kiley			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
The Florida Bar	651 E. Jefferson Street, Tallahassee, FL 32399		Since 1987
Florida Association of Criminal Defense Lawyers	P.O. Box 1528, Tallahassee, FL 32302		Since 2002

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

n/a

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

RECEIVED

CERTIFICATION

14 FEB 10 PM 2: 15

STATE OF FLORIDA
COUNTY OF Pasco

DIVISION OF ELECTIONS
SECRETARY OF STATE

Before me, the undersigned Notary Public of Florida, personally appeared
James Vincent Viggiano, Jr.
who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

James Vincent Viggiano, Jr.
Signature of Applicant-Affiant

Sworn to and subscribed before me this 9th day of Feb, 2014.

Jon Calmbacher
Signature of Notary Public-State of Florida

Jon Calmbacher
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: Oct 15, 2017

Personally Known OR Produced Identification

Type of Identification Produced Florida Drivers License



(seal)

RECEIVED

14 FEB 10 PM 2:15

MEMORANDUM

DIVISION OF ELECTIONS
SECRETARY OF STATE

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

- Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) 119.071 (4)(d)1.d

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
James Vincent Viggiano Jr.
Capital Collateral Regional Counsel - Middle Region


NOTICE OF HEARING

TO: Mr. James Vincent Viggiano Jr.

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Monday, March 31, 2014, in the Mallory Horne Committee Room, 37 Senate Office Building, commencing at 4:00 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 26th day of March, 2014

Committee on Criminal Justice



Senator Greg Evers
As Chair and by authority of the committee

cc: Members, Committee on Criminal Justice
Office of the Sergeant at Arms

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: James V. Viggiano, Jr. - (CCRC - Middle)

ANSWER: yes

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Senate Criminal Justice

DATE: March 31, 2014

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Committee on Criminal Justice
MEETING DATE: Monday, March 31, 2014
TIME: 4:00 —6:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

TO: The Honorable Don Gaetz, President

FROM: Committee on Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Capital Collateral Regional Counsel - Middle Region

Appointee: Viggiano Jr., James Vincent

Term: 1/17/2014-9/30/2015

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor.

1940

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Ken Detzner, Secretary of State,
do hereby certify that

Robert A. Adamiak

is duly appointed a member of the

**Board of Directors,
Prison Rehabilitative Industries and
Diversified Enterprises, Inc.**

for a term beginning on the
Sixth day of February, A.D., 2014,
until the Thirtieth day of September, A.D., 2016
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Twenty-Seventh day of February, A.D., 2014.*



Ken Detzner

Secretary of State

DSDE 99- (3/03)

if photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2 x 11" document

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED
DEPARTMENT OF STATE
2014 FEB 27 AM 9:40

STATE OF FLORIDA

County of Marion

FLORIDA
DIVISION OF ELECTIONS

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Member of the Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Robert Adamiak
Signature

Sworn to and subscribed before me this 24th day of February, 2014.

Mayra Carrion
Signature of Officer Administering Oath or of Notary Public

MAYRA CARRION
Print, Type, or Stamp Commissioned Name of Notary Public



Personally Known OR Produced Identification

Type of Identification Produced FL Driver License

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

PO Box 5683

Street or Post Office Box

Ocala, FL 34478

City, State, Zip Code

Robert A Adamiak

Print name as you desire commission issued

Robert A Adamiak
Signature



RICK SCOTT
GOVERNOR

RECORDED
STATE
2014 FEB 12 AM 10:11
DIVISION OF ELECTIONS
TALLAHASSEE, FL

February 6, 2014

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following appointment under the provisions of Section 1001.71, Florida Statutes:

Mr. Robert A. Adamiak

as a member of the Prison Rehabilitative Industries and Diversified Enterprises, Inc., Board of Directors, succeeding Richard Karvitz, subject to confirmation by the Senate. This appointment is effective February 6, 2014, for a term ending September 30, 2016.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/pb

9. Are you a United States citizen? Yes No If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1986 _____

11. Are you a registered Florida voter? Yes No If "Yes" list:

A. County of Registration: Marion B. Current Party Affiliation: Rep

12. Education

A. High School: Valley High, New Kensington, PA Year Graduated: 1973
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
<u>Penn State Univ, State College, PA</u>	<u>1973-1977</u>	<u>BS</u>
<u>Univ of TX, Arlington, TX</u>	<u>1986</u>	<u>None</u>

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
<u>Marion Reg Mfg Assoc 3003 SW College Rd., Ocala, FL 34474;</u>	<u>Trade Assoc;</u>	<u>Executive Director</u>	<u>10/1/12 to present</u>
<u>Conimar Corporation 1724 NE 22nd Ave, Ocala, FL 34470;</u>	<u>Manufacturer;</u>	<u>VP Manufacturing;</u>	<u>11/1/94 to 2/7/12</u>

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

Thirty years manufacturing management experience in diverse industries including printing, corrugate box manufacturing, food processing, batch manufacturing, packaging, and fabrication-- all businesses PRIDE is involved in. I am also very strong in financial and operations analysis. As a board member of the Manufacturing Association of Florida, I have relationships with manufacturers throughout the state.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes No If "Yes", list:

D. Identify all association memberships and association offices held by you that relate to this appointment:

Board of Directors- Manufacturers Association of Florida
Board of Directors Marion Regional Manufacturers Association-Past President, Current Exec. Dir.
Advisory Board- Marion Technical Institute (high school)
Executive Committee of Workforce Board for Citrus, Levy, Marion counties
Board of Directors- Ocala Marion County EDC
College of Central Florida Scholarship Committee

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
---------------------	--	-----------------------	----------------------------

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: _____

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____
B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No If "Yes", list:

A. Title of Office: _____
B. Term of Appointment: _____
C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes No If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title & Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
G. Terry Crawford;			
Rusty Skinner;			
John Lightfoot;			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
Manufacturers Association of Florida;	1625 Summit Lake Dr. #300, Tallahassee, FL 32317;	BOD;	2006-present
Marion Regional Manufacturers Association;	PO Box 5683, Ocala, FL 34478;	BOD, Past President, Current Exec. Dir.;	1992-Present
Career Source Citrus/Levy/Marion;	3003 SW College Rd. Ste 205, Ocala, FL 34474;	Exec Committee of BOD;	2009-2012
Ocala, Marion County EDC;	3003 SW College Rd. Ste 105, Ocala, FL 34474;	BOD	2006-2008

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

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DEPARTMENT OF STATE
2014 FEB 27 AM 9:40
DEPARTMENT OF STATE
DIVISION OF ELECTIONS

CERTIFICATION

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DEPARTMENT OF STATE
2014 FEB 27 AM 9:40

STATE OF FLORIDA
COUNTY OF Marion

DEPARTMENT OF STATE
DIVISION OF ELECTIONS

Before me, the undersigned Notary Public of Florida, personally appeared

who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Robert Adamiah
Signature of Applicant-Affiant

Sworn to and subscribed before me this 24th day of February, 2014.

Mayra Carrion
Signature of Notary Public-State of Florida

MAYRA CARRION
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 12/27/2014

Personally Known OR Produced Identification

Type of Identification Produced FL Driver License



(seal)

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Committee on Criminal Justice
MEETING DATE: Monday, March 31, 2014
TIME: 4:00 —6:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

TO: The Honorable Don Gaetz, President
FROM: Committee on Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.
Appointee: Adamiak, Robert A.
Term: 2/6/2014-9/30/2016

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor.

1940

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Ken Detzner, Secretary of State,
do hereby certify that

Shawn Bush

is duly appointed a member of the

**Board of Directors,
Prison Rehabilitative Industries and Diversified
Enterprises, Inc.**

for a term beginning on the
Sixth day of February, A.D., 2014,
until the Thirtieth day of September, A.D., 2016
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Sixth day of March, A.D., 2014.*



Ken Detzner
Secretary of State

If photocopied or chemically altered, the word "VOID" will appear.

State of Florida appears in small letters across the face of this 8 1/2 x 11" document.

5 7 76
60
14 MAR -6 AM 10: 22
DIVISION OF COLLECTIONS
SECRETARY OF STATE

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of ORANGE

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

BOARD OF DIRECTORS, PRISON REHABILITATIVE INDUSTRIES AND DIVERSIFIED ENTERPRISES, INC

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Signature

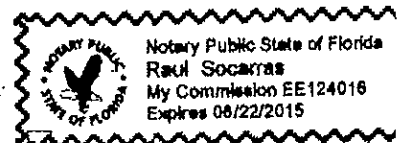
Sworn to and subscribed before me this 24th day of February, 2014

Signature of Officer Administering Oath or of Notary Public

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced



ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

3100 CAMP ROAD

Street or Post Office Box

Orlando, FL 32765

City, State, Zip Code

Shawn D. Bush

Print name as you desire commission issued

Signature



RICK SCOTT
GOVERNOR

RECEIVED
OFFICE OF THE
GOVERNOR
2014 FEB 12 AM 10:11
OFFICE OF ELECTIONS
TALLAHASSEE, FL

February 6, 2014

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following appointment under the provisions of Section 1001.71, Florida Statutes:

Mr. Shawn Bush

as a member of the Prison Rehabilitative Industries and Diversified Enterprises, Inc., Board of Directors, succeeding Radhika Mehta, subject to confirmation by the Senate. This appointment is effective February 6, 2014, for a term ending September 30, 2016.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/pb

31370

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

2-19-2014

Date Completed

1. Name: Bush, Shawn, David

Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 3100 Camp Road, Oviedo

Street Office # City

Florida, 32765 407-365-6241

Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address:

City County

Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business Residence Fax #

4. A. List all your places of residence for the last five (5) years.

Address City & State From To
June 2002 - March 2009

March 2009 - Present

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address City & State From To
Birth - 1985

1985 - 1990

1990 - 1992

1992 - Present

5. Date of Birth: 04-01-1967 Place of Birth: New Kensington, PA

6. Social Security Number:

7. Driver License Number: _____ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain

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SECRETARY OF STATE
14 MAR 14 PM 2:29

9. Are you a United States citizen? Yes No If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1992

11. Are you a registered Florida voter? Yes No If "Yes" list:

A. County of Registration: Orange B. Current Party Affiliation: Republican

12. Education

A. High School: Burrell High School - Lower Burrell, PA Year Graduated: 1985
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
<u>Gannon University</u>	<u>1985-1990</u>	<u>BS Mechanical Engineering</u>
<u>Gannon University</u>	<u>1985-1990</u>	<u>AS Robotic Engineering</u>

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: 1987-1993

B. Branch or Component: Army Reserves

C. Date & type of discharge: 1993 Honorable

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
<u>I-CON Systems, Inc.</u>	<u>Engineering/Manufacturing</u>	<u>President & CEO</u>	<u>1994-Present</u>
<u>Intelligent Conservation Systems, Inc.</u>	<u>Engineering/Contractor</u>	<u>Vice President</u>	<u>2007-Present</u>

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

Started an engineering and manufacturing company with 3 people and grew to currently over 50 employees located in a 65,000 square foot plant that designs and manufactures electronic control boards, electronic and manual valves, electronic sensors, stainless steel plumbing fixtures, and includes metal fabricating shop, machine and mold shop, injecting molding machines, laser cutting and bending machines as well as all business related departments. Through this company, I have been involved in the corrections industry for over 20 years.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

Engineering, Plumbing Contractor, London Business School, Harvard Business School.

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes No If "Yes", list:

Published Nationally and internationally in several trade and other publications such as Orlando Business Journal, Trend, Corrections Today and others. I also have authored over 30 US and Foreign Patents.

D. Identify all association memberships and association offices held by you that relate to this appointment:

Young President's Organization (YPO)
American Society of Professional Engineers
American Society of Manufacturing Engineers
American Society of Plastic Engineers
American Society of Plumbing Engineers
National Association of Energy Service Companies

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
---------------------	--	-----------------------	----------------------------

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: _____

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
_____	_____	_____
_____	_____	_____

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>
_____	_____	_____
_____	_____	_____

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____
B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No If "Yes", list:

A. Title of Office: _____
B. Term of Appointment: _____
C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes No If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title & Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
#CFC1427717	2008	Dept. of Professional Regulation	None
_____	_____	_____	_____
_____	_____	_____	_____

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
I-CON Systems, Inc.	President	Sold product to the Dept. of Corrections
_____	_____	_____
_____	_____	_____

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Raul Socarras			
Marcos Marcenna			
Rick Walsh			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
Young President's Organization (YPO)		Board Member at Large/Education	2011 - Present

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

- Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

CERTIFICATION

STATE OF FLORIDA

COUNTY OF Seminole

Before me, the undersigned Notary Public of Florida, personally appeared

Shawn D. Bush

who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.



Signature of Applicant-Affiant

Sworn to and subscribed before me this 19th day of February, 2014.



Signature of Notary Public-State of Florida

Daniel E. Garcia
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 2-7-2018

Personally Known **OR** Produced Identification

Type of Identification Produced _____



(seal)

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Committee on Criminal Justice
MEETING DATE: Monday, March 31, 2014
TIME: 4:00 —6:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

TO: The Honorable Don Gaetz, President

FROM: Committee on Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.

Appointee: Bush, Shawn D.

Term: 2/6/2014-9/30/2016

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor.

1940

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Ken Detzner, Secretary of State,
do hereby certify that

Alan L. Garey

is duly appointed a member of the
**Board of Directors,
Prison Rehabilitative Industries and Diversified
Enterprises, Inc.**

for a term beginning on the
Sixth day of February, A.D., 2014,
until the Thirtieth day of September, A.D., 2015
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Sixth day of March, A.D., 2014.*



Ken Detzner

Secretary of State

If photocopied or chemically altered, the word "VOID" will appear.

State of Florida' appears in small letters across the face of this 8 1/2 x 11" document

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

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DEPARTMENT OF STATE

2014 MAR -6 AM 10:03

DIVISION OF ELECTIONS
TALLAHASSEE, FL

STATE OF FLORIDA

County of Broward

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Director of Board of Public Utilities
(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Alan L. Carey
Signature

Sworn to and subscribed before me this 5th day of March, 2014

Monica Devi
Signature of Officer Administering Oath or of Notary Public



Notary Public State of Florida Commissioned Name of Notary Public

Monica Devi

My Commission Expires 06/17/2017 OR

Produced Identification

Type of Identification Produced

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address, Home Office

2640 N. IOWERLIME ROAD
Street or Post Office Box

Pompano Beach, FL 33069
City, State, Zip Code

ALAN L. CAREY
Print name as you desire commission issued

Alan L. Carey
Signature



RICK SCOTT
GOVERNOR

2014 FEB 12 AM 10:11
TALLAHASSEE, FL

February 6, 2014

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following appointment under the provisions of Section 1001.71, Florida Statutes:

Mr. Alan Garey

as a member of the Prison Rehabilitative Industries and Diversified Enterprises, Inc., Board of Directors, succeeding Rochelle Matza, subject to confirmation by the Senate. This appointment is effective February 6, 2014, for a term ending September 30, 2015.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/pb

31371

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

28/28/14

Date Completed

1. Name: Mr. Garey Alan Lee
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 2640 North Powerline Road Pompano Beach
Street Office # City
FL 33069 954-975-7992
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address
Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business Residence Fax # _____ (optional)

4. A. List all your places of residence for the last five (5) years.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>
N/A			

5. Date of Birth: 03/20/1963 Place of Birth: Ft. Lauderdale, Florida

6. Social Security Number _____

7. Driver License Number: _____ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain

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SECRETARY OF STATE

RECEIVED

9. Are you a United States citizen? Yes No If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1963 _____

11. Are you a registered Florida voter? Yes No If "Yes" list:

A. County of Registration: Broward B. Current Party Affiliation: Republican

12. Education

A. High School: St. Thomas Aquinas Ft. Lauderdale, Florida Year Graduated: 1981
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
Florida Southern College - Lakeland, FL	1981-1985	BS in Accounting
_____	_____	_____
_____	_____	_____

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
Decimal Engineering, Inc.	Manufacturing	CEO/President	1980 - Present
_____	_____	_____	_____
_____	_____	_____	_____

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

I have worked in the manufacturing industry for over 30 years. Currently, I am CEO/President of Decimal Engineering, Inc., a manufacturer of sheetmetal, machining and stamped components for several diverse industries. For the past 20 years I have extensive experience in leading employees, suppliers and customers to resolve many different business issues. This together with my accounting background should serve very useful in being a Director on Pride Enterprises Board.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes No If "Yes", list:

- 2008 - SFMA Manufacturer of the Year Winner
- 2009 - MAF Manufacturer of the Year Finalist
- 2009 - Movers & Shakers - South Florida Business Leader Magazine
- 2011 & 2012 - Fab 40 - Rank # 32 in the US - Fabricator Magazine

D. Identify all association memberships and association offices held by you that relate to this appointment:

- SFMA - South Florida Manufacturers Association - Past Chairman and current Director
- MAF - Manufacturers Association of Florida - Current Director
- Greater Ft. Lauderdale Chamber of Commerce 2012 & 2013 Director
- Vistage Florida - Current Member

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: Monthly

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
100	8	Family

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No If "Yes", list:

A. Title of Office: _____

B. Term of Appointment: _____

C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes No If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title & Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Jeff Strohecker			
Vinnie Morris			
June Wolfe			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
Lambda Chi Alpha			1985 - Present
SFMA		Chairman / Current Director	
MAF		Current Director	
March of Dimes		Past Director	

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

CERTIFICATION

STATE OF FLORIDA
COUNTY OF Broward

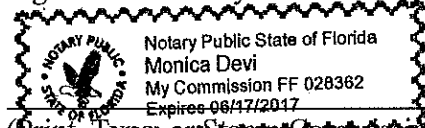
Before me, the undersigned Notary Public of Florida, personally appeared

_____,
who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Alan T. Gandy
Signature of Applicant-Affiant

Sworn to and subscribed before me this 28th day of February, 2014.

Monica Devi
Signature of Notary Public-State of Florida



(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 06/17/17

Personally Known OR Produced Identification

Type of Identification Produced _____

(seal)

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Committee on Criminal Justice
MEETING DATE: Monday, March 31, 2014
TIME: 4:00 —6:00 p.m.
PLACE: Mallory Home Committee Room, 37 Senate Office Building

TO: The Honorable Don Gaetz, President

FROM: Committee on Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.

Appointee: Garey, Alan L.

Term: 2/6/2014-9/30/2015

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor.

1940

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Ken Detzner, Secretary of State,
do hereby certify that

Carlyle I. Holder

is duly appointed a member of the

**Board of Directors,
Prison Rehabilitative Industries and Diversified
Enterprises, Inc.**

for a term beginning on the
Sixth day of February, A.D., 2014,
until the Thirtieth day of September, A.D., 2017
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Fifth day of March, A.D., 2014.*



Ken Detzner
Secretary of State

DSDE 99 (3/03)

If photocopied or chemically altered, the word "VOID" will appear

State of Florida appears in small letters across the face of this 8 1/2 x 11" document.

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED
DEPARTMENT OF
2014 MAR -3 AM 11:
DIVISION OF ELECTIONS

STATE OF FLORIDA

County of Lake

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

[Signature]
Signature

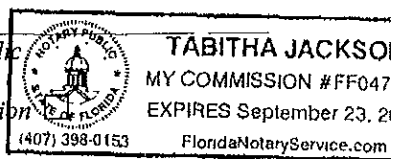
Sworn to and subscribed before me this 25th day of February, 2014.

[Signature]
Signature of Officer Administering Oath or of Notary Public

Tabitha Jackson
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR Produced Identification

Type of Identification Produced _____



ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

Carlyle J. Holder
Print name as you desire commission issued
[Signature]
Signature



RICK SCOTT
GOVERNOR

RECEIVED
GOVERNOR'S OFFICE
2014 FEB 12 AM 10:11
TALLAHASSEE, FL

February 6, 2014

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following appointment under the provisions of Section 1001.71, Florida Statutes:

Mr. Carlyle I. Holder

as a member of the Prison Rehabilitative Industries and Diversified Enterprises, Inc., Board of Directors, succeeding Walter Hill, subject to confirmation by the Senate. This appointment is effective February 6, 2014, for a term ending September 30, 2017.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/pb

31372

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire MUST BE COMPLETED IN FULL. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

02/19/2014

Date Completed

1. Name: Mr. Holder Carlyle Ian
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 604 N. Highway 27 Minneola
Street Office # City
Florida 34715 352 988 5921
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address:
Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business Residence Fax #

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To
			Present

14 MAR 14 PM 2:29
DIVISION OF ELECTIONS
SECRETARY OF STATE

RECEIVED

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To

5. Date of Birth: 11/14/1957 Place of Birth: Trinidad

6. Social Security Number:

7. Driver License Number: _____ ig State: Florida

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain

9. Are you a United States citizen? Yes No If "No" explain:

If you are a naturalized citizen, date of naturalization: 08/29/1979

10. Since what year have you been a continuous resident of Florida? 2000

11. Are you a registered Florida voter? Yes No If "Yes" list:

A. County of Registration: Lake B. Current Party Affiliation: Independent

12. Education

A. High School: St. Josephs High School Year Graduated: 1974
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
Allan Hancock, California	1980-1982	Associate's Degree
New York University, NY	1989-1989	N/A
Aspen Insitute, Colorado	1997-1997	Certificate
Harvard University, Mass	1989-1989	Certificate

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: 09/16/1975 - 09/16/1979

B. Branch or Component: United States Marine Corps

C. Date & type of discharge: 09/16/1979 Honorable

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
Correctional Management & Communications Group, LLC		Consulting CEO/President	1/2008 - Present

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

Former Warden - Senior Executive Service for the largest Federal Correctional Complex. Responsible for
co-management of five institution at the Federal Correctional Complex, Coleman, Florida. Currently, CEO
and President of Correctional Management and Communications Group, LLC, which provides a one-stop
network for private, public security and criminal justice needs for both juvenile and adult offenders. Also, provides
training in leadership development, staff development, correctional training and prisoner re-entry.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

Certificate from Aspen Institute Executive Leadership Course
Certificate from Dale Carnegie Corporate Leadership Seminar
Certificate from Harvard University - Labor Management Relations Course

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes No If "Yes", list:

Warden's Excellence in Cost Containment Award, U. S. Department of Justice Public Service Award,
United States Attorney General's Award for Equal Employment Opportunity, Staff Development Award (Federal
Bureau of Prisons), Two Citations from the President of the Borough of Brooklyn, New York, Proclamation from the City
Council - City of New York, New York

D. Identify all association memberships and association offices held by you that relate to this appointment:

National Association of Blacks in Criminal Justice - Currently serving as National President
Past President of the Caribbean Alliance of Social & Criminal Justice Professionals
American Correctional Association - Members of Awards and Affirmative Action Committees

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

Office Title Date of Election or Appointment Term of Office Level of Government

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: _____

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
_____	_____	_____
_____	_____	_____

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>
_____	_____	_____
_____	_____	_____

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____
B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No If "Yes", list:

A. Title of Office: _____
B. Term of Appointment: _____
C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes No If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title & Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
_____	_____	_____	_____
_____	_____	_____	_____

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
_____	_____	_____
_____	_____	_____

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Bruce Pearson			
Margaret Harding			
Justin Rison			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
National Association of Blacks in Criminal Justice	1801 Fayetteville Street P.O. Box 19788 Durham, N.C. 27707	President 2012 - 2015	May 1986
American Correctional Association	206 N. Washington Street, Alexandria, Virginia 22314		1996

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

CERTIFICATION

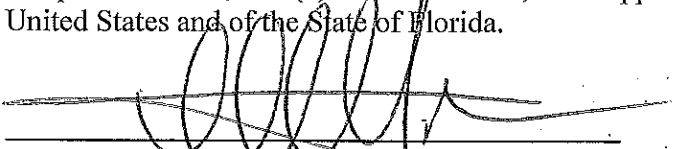
STATE OF FLORIDA

COUNTY OF Lake

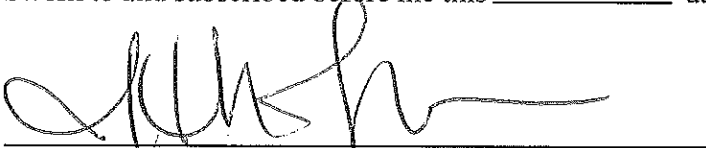
Before me, the undersigned Notary Public of Florida, personally appeared

Carlyle J. Holder

who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.


Signature of Applicant-Affiant

Sworn to and subscribed before me this 20th day of February, 2014.

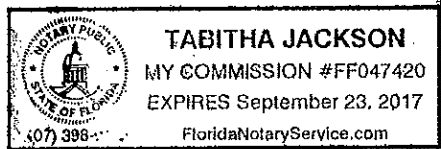

Signature of Notary Public-State of Florida

Tabitha Jackson
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: September 23, 2017

Personally Known OR Produced Identification

Type of Identification Produced _____



(seal)

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Committee on Criminal Justice
MEETING DATE: Monday, March 31, 2014
TIME: 4:00 —6:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

TO: The Honorable Don Gaetz, President

FROM: Committee on Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.

Appointee: Holder, Carlyle I.

Term: 2/6/2014-9/30/2017

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor.

1940

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Ken Detzner, Secretary of State,
do hereby certify that

Vicki Lopez Lukis

is duly appointed a member of the
**Board of Directors,
Prison Rehabilitative Industries and Diversified
Enterprises, Inc.**

for a term beginning on the
Sixth day of February, A.D., 2014,
until the Thirtieth day of September, A.D., 2014
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Sixth day of March, A.D., 2014.*



Ken Detzner

Secretary of State

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2" x 11" document

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED
DEPARTMENT OF STATE

2014 MAR -6 AM 9:36

DIVISION OF ELECTIONS

STATE OF FLORIDA

County of Leon

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Board Member, Prison Rehabilitative Industries and Diversified Enterprises

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Vicki L. Lukis

Signature



Sworn to and subscribed before me this 26th day of February, 2014

Alison R. Holland

Signature of Officer Administering Oath or of Notary Public

Alison R. Holland

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known OR

Produced Identification

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

Vicki Lopez Lukis

Print name as you desire commission issued

Vicki L. Lukis

Signature



RICK SCOTT
GOVERNOR

SECRETARY OF STATE
2014 FEB 12 AM 10:12
RECEIVED ELECTIONS
TALLAHASSEE, FL

February 6, 2014

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following reappointment under the provisions of Section 1001.71, Florida Statutes:

Mrs. Vicki L. Lukis

as a member of the Prison Rehabilitative Industries and Diversified Enterprises, Inc., Board of Directors, subject to confirmation by the Senate. This appointment is effective February 6, 2014, for a term ending September 30, 2014.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/pb

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

February 13, 2014

Date Completed

1. Name: Ms. Lukis Vicki Lopez
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 836 Madrid Street Coral Gables
Street Office # City
Florida 33134 305-216-7794
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address

Post Office Box

Specify the preferred m.

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To
		8/13	Present
		5/03	8/13

(optional)

DIVISION OF ELECTIONS
 SECRETARY OF STATE
 14 MAR 14 PM 2:29

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To
	Chevy Chase, MD	05/95	06/96
	Chevy Chase, MD	03/94	05/95
	Chevy Chase, MD	02/93	03/94
	Chicago, IL	08/78	05/79

5. Date of Birth: 03/28/58 Place of Birth: Tampa, FL

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain

Vicki Lynn Lopez - Birth name

Vicki Lopez Wolfe - Former married name

9. Are you a United States citizen? Yes No If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1996

11. Are you a registered Florida voter? Yes No If "Yes" list:

A. County of Registration: Leon

B. Current Party Affiliation: Republican

12. Education

A. High School: Cypress Lake High School Fort Myers, FL Year Graduated: 1974
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
<u>University of Notre Dame Notre Dame, IN</u>	<u>08/74-05/78</u>	<u>Bachelors of Business Administration</u> Major: Accounting

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
<u>March 1994</u>	<u>Fort Myers, FL</u>	<u>18 U.S.C. Sec. 1341 & 1346</u>	<u>Conviction vacated</u>

In April 1997, I was convicted on one count of honest service fraud. I was sentenced to 27 months in a federal prison and served more than 16.5 months before President Clinton commuted my sentence in November 2000. My conviction was vacated in its entirety on February 14, 2011 by the U.S. District Court, which found that the trial court had acted without legal authority in my prosecution. The court concluded that my actions were not a crime under the law and that I was wrongfully accused and convicted for a non-existent crime.

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
<u>Sylvester Lukis & Associates LLC</u> <u>836 Madrid Street, Coral Gables, FL</u>	<u>Government/Public Affairs</u>	<u>Partner</u>	<u>11/09- Present</u>
<u>Girls Advocacy Project, Inc. Miami, FL</u>	<u>Non-profit</u>	<u>Executive Director</u>	<u>07/06-11/09</u>

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

I have been working on prisoner reentry issues since 2005. I currently serve as a PRIDE board member/treasurer. I have also served as an advisory board member for the Florida TaxWatch Center for Smart Justice and a member of the former Smart Justice Coalition of the Collins Center for Public Policy. I served as the vice chairman of the Florida Department of Corrections and as the chairman of Governor Bush's Ex-Offender Task Force. My efforts have included working closely with the Florida Legislature and executive agencies on juvenile & criminal justice issues, with an emphasis on employment and education issues and how they relate to reentry.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

I hold an accounting degree and have considerable business experience. I am a nationally recognized juvenile and criminal justice expert. I was appointed by Governor Bush as well as by DOC Secretary McNeil to lead the reentry efforts in Florida. I have served as a PRIDE board member since 2008 and as its treasurer since 2013. I was also appointed by former Miami-Dade Mayor Alvarez as his representative on the Miami-Dade Blue Ribbon Corrections Committee.

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes No If "Yes", list:

I was recognized by President Bush's administration for my efforts in prisoner reentry.

D. Identify all association memberships and association offices held by you that relate to this appointment:

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

Office Title	Date of Election or Appointment	Term of Office	Level of Government
Board Member/Treasurer, PRIDE	04/08	04/08 - Present	State
Vice Chair, DOC Reentry Advisory Council	03/08	03/08 - 02/11	State
Mayor's Appointee, Blue Ribbon Corrections Committee	02/07	02/07 - 03/08	Local (County)
Chair, Governor Bush's Ex-Offender Task Force	05/05	05/05 - 02/07	State
Lee County Commissioner	11/90 - 1/93	11/90 - 01/93	Local (County)

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: Monthly/Quarterly/Annually

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
360	32	vacation

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____
B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No
If "Yes", list:

A. Title of Office: Prison Rehabilitative Industries & Diversified Enterprises (PRIDE)
B. Term of Appointment: _____
C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes No If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No
If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title & Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
Girls Advocacy Project, Inc.	Employee/Officer	Department of Juvenile Justice vendor

VICKI LOPEZ LUKIS

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>
All Executive Agencies /Florida Legislature	Florida Network of Youth and Family Services
All Executive Agencies /Florida Legislature	The Pew Charitable Trusts
All Executive Agencies /Florida Legislature	The Rockit Fund
All Executive Agencies /Florida Legislature	The Southern Poverty Law Center

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Wansley Walters			
Jeb Bush			
Melissa McKinlay			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
Junior League of the Palm Beaches	470 Columbia Dr. Bldg F West Palm Beach, FL	Sustainer	2007-Present
Leadership Florida	201 E. Park Ave. Tallahassee, FL	Alumna	1990-Present
Leadership Miami	1601 Biscayne Blvd, Miami, FL	Alumna	1997-Present
Junior League of Miami	713 Biltmore Way, Coral Gables, FL	Active/Sustainer	1997-2007

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

- Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

CERTIFICATION

STATE OF FLORIDA

COUNTY OF LEON

Before me, the undersigned Notary Public of Florida, personally appeared

VICKI L. LUKIS

who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Vicki L. Lukis

Signature of Applicant-Affiant

Sworn to and subscribed before me this 19th day of February, 2014.

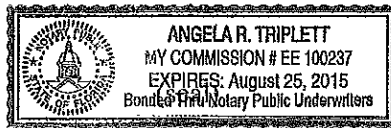
Angela R. Triplett
Signature of Notary Public-State of Florida

Angela R. Triplett
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 8/25/15

Personally Known OR Produced Identification

Type of Identification Produced _____



THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Vicki Lukis (PRIDE Bd. of Directors) _____

ANSWER: yes _____

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Senate Criminal Justice _____

DATE: March 31, 2014 _____

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/14
Meeting Date

Conf. Hearing

Topic PRIDE BOARD CONFIRMATION

Bill Number _____
(if applicable)

Name VICKI LUKIS

Amendment Barcode _____
(if applicable)

Job Title _____

Address 121 N. MONROE ST #1101
Street
TALLAHASSEE FL 32301
City State Zip

Phone 305-216-7794

E-mail vickilukis@mae.com

Speaking: For Against Information

Representing SELF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Committee on Criminal Justice
MEETING DATE: Monday, March 31, 2014
TIME: 4:00 —6:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

TO: The Honorable Don Gaetz, President

FROM: Committee on Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.
Appointee: Lukis, Vicki L.
Term: 2/6/2014-9/30/2014

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor.

Amended

A black and white copy of this document is not official

Amended

1940

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Ken Detzner, Secretary of State,
do hereby certify that

Tadar Muhammad

is duly appointed a member of the

**Board of Directors,
Prison Rehabilitative Industries and Diversified
Enterprises, Inc.**

for a term beginning on the
Sixth day of February, A.D., 2014,
until the Thirtieth day of September, A.D., 2016
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Fifth day of March, A.D., 2014.



Ken Detzner

Secretary of State

DSDE 99 (3/03)

The original document has a reflective line mark in paper. Hold at an angle to view when checking.

If photocopied or chemically altered, the word "VOID" will appear.

State of Florida "Appears in small letters across the face of this 8 1/2 x 11" document



RICK SCOTT
GOVERNOR

2014 FEB 12 AM 10:12
DIVISION OF ELECTIONS
TALLAHASSEE, FL

February 6, 2014

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following appointment under the provisions of Section 1001.71, Florida Statutes:

Mr. Tadar Muhammad

as a member of the Prison Rehabilitative Industries and Diversified Enterprises, Inc., Board of Directors, succeeding John Medina, subject to confirmation by the Senate. This appointment is effective February 6, 2014, for a term ending September 30, 2016.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/pb

OATH OF OFFICE RECEIVED
DEPARTMENT OF STATE
(Art. II, § 5(b), Fla. Const.)

2014 MAR -4 PM 2: 59

STATE OF FLORIDA

County of _____

District of _____
DIVISION OF ELECTIONS
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

BOARD OF DIRECTORS, PRISON REHABILITATION & DISGUISED ENTERPRISES
(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Signature

[Handwritten Signature]

Sworn to and subscribed before me this 24th day of FEBRUARY, 2014.

Signature of Officer Administering Oath or of Notary Public

Laura C. Bray

Laura C. Bray
Notary Public, District of Columbia

Print, Type, or Stamp Commissioned Name of Notary Public

My Commission Expires 8/31/2014

Personally Known OR Produced Identification

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

Street or Post Office Box _____

Print name as you desire commission issued

TADAR MUHAMMAD

City, State, Zip Code _____

Signature

[Handwritten Signature]

9. Are you a United States citizen? Yes No If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1983

11. Are you a registered Florida voter? Yes No If "Yes" list:

A. County of Registration: ORANGE B. Current Party Affiliation: INDEPENDENT

12. Education

A. High School: _____ Year Graduated: _____
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
<u>WARNER UNIVERSITY</u>	<u>1/2001-12/2001</u>	<u>BACHELORS OF ARTS</u>
<u>FLORIDA A&M UNIVERSITY</u>	<u>8/1992-6/1993</u>	<u>N/A</u>
<u>VALENCIA COMMUNITY COLLEGE</u>	<u>6/1990-6/1992</u>	<u>N/A</u>

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
<u>HOME BUILDERS INSTITUTE</u>	<u>1201 15th ST. NW</u>	<u>6TH FLOOR</u>	<u>WASHINGTON DC, 20005</u>
	<u>CAREER TECHNICAL EDUCATION</u>	<u>VICE PRESIDENT</u>	<u>9/2006</u>

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
<u>DETENTION CARE WORKER II</u>	<u>DEPARTMENT OF JUVENILE JUSTICE</u>	<u>5/1995-12/1995</u>

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

MY EXPERIENCE OVER THE LAST 19 YEARS IN WORKING WITH CONNECTIONS OF JUVENILES AND ADULTS HAS PROVIDED ME WITH SIGNIFICANT EXPOSURE TO THE ISSUES RELATED TO THIS APPOINTMENT. IN MY CURRENT ROLE, I OVERSEE AND HAVE BEEN INTIMATELY INVOLVED IN PROVIDING ADULTS & JUVENILES A OPPORTUNITY TO LEARN A SKILL AND ASSIST THEM WITH JOB PLACEMENT OPPORTUNITIES IN VARIOUS CAREERS AND INTERESTS WITHIN THE HOME BUILDING INDUSTRY AS WELL AS OTHER INDUSTRIES.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

CERTIFIED INSTRUCTOR IN CRISIS INTERVENTION TECHNIQUES - FDLE
PROTECTIVE ACTION RESPONSE - DJJ
CERTIFIED PEER REVIEWER - QUALITY ASSURANCE

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes No If "Yes", list:

D. Identify all association memberships and association offices held by you that relate to this appointment:

FORMER VICE CHAIR OF CIRCUIT 13 JUVENILE JUSTICE BOARD
FLORIDA JUVENILE JUSTICE ASSOCIATION EXECUTIVE BOARD MEMBER
JOBS FOR FLORIDA GRADUATES BOARD MEMBER
CAREER SOURCE CENTRAL FLORIDA YOUTH COUNCIL BOARD MEMBER
SUNSHINE CHARTER SCHOOL BOARD MEMBER

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

Office Title Date of Election or Appointment Term of Office Level of Government

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: _____

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____
B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No If "Yes", list:

A. Title of Office: _____
B. Term of Appointment: _____
C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes No If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate</u>	<u>Original</u>		
<u>Title & Number</u>	<u>Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
DENNIS TORBERT			
FAYE NOEL			
EDWARD HANSSON			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
	N/A		

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

- Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.)

N/A *A-M*

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

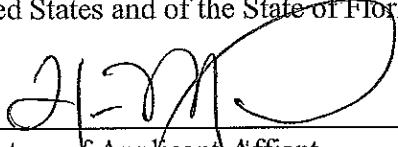
CERTIFICATION

~~STATE OF FLORIDA~~
~~COUNTY OF~~ District of Columbia

Before me, the undersigned Notary Public of Florida, personally appeared

TADAR MUHAMMAD

who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.



Signature of Applicant-Affiant

Sworn to and subscribed before me this 24th day of FEBRUARY, 2014.



Signature of Notary Public-State of Florida

Laura C. Bray
Notary Public, District of Columbia
My Commission Expires 8/31/2014

(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: _____

Personally Known **OR** Produced Identification

Type of Identification Produced _____

(seal)

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Committee on Criminal Justice
MEETING DATE: Monday, March 31, 2014
TIME: 4:00 —6:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

TO: The Honorable Don Gaetz, President

FROM: Committee on Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.
Appointee: Muhammad, Tadar
Term: 2/6/2014-9/30/2016

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor.

1940

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Ken Detzner, Secretary of State,
do hereby certify that

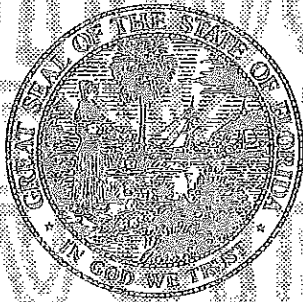
H. Gregg Nicklaus

is duly appointed a member of the

**Board of Directors,
Prison Rehabilitative Industries and Diversified
Enterprises, Inc.**

for a term beginning on the
Sixth day of February, A.D., 2014,
until the Thirtieth day of September, A.D., 2014
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Fifth day of March, A.D., 2014.*



Ken Detzner

Secretary of State

If photocopied or chemically altered, the word "VOID" will appear.

State of Florida appears in small letters across the face of this 8 1/2 x 11" document.

OATH OF OFFICE
(Art. II, § 5(b), Fla. Const.)

RECEIVED
DEPARTMENT OF STATE

2014 MAR -4 PM 2:59

STATE OF FLORIDA

County of Pinellas

DIVISION OF ELECTIONS
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises
(Title of Office)

on which I am now about to enter, so help me God.

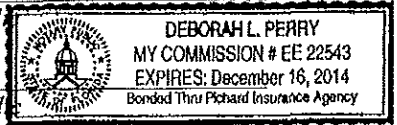
[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

[Signature]
Signature

Sworn to and subscribed before me this 25th day of February, 2014.

[Signature]
Signature of Officer Administering Oath or of Notary Public

Deborah L. Perry
Print, Type, or Stamp Commissioned Name of Notary Public



Personally Known OR Produced Identification

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

5300 Gulf Boulevard
Street or Post Office Box
St. Pete Beach, FL 33706
City, State, Zip Code

H. Gregg Nicklaus
Print name as you desire commission issued
[Signature]
Signature



RICK SCOTT
GOVERNOR

STATE OF FLORIDA
2014 FEB 12 AM 10:12
DIVISION OF ELECTIONS
TALLAHASSEE, FL

February 6, 2014

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following appointment under the provisions of Section 1001.71, Florida Statutes:

Mr. Harry G. Nicklaus

as a member of the Prison Rehabilitative Industries and Diversified Enterprises, Inc., Board of Directors, succeeding William Dresser, subject to confirmation by the Senate. This appointment is effective February 6, 2014, for a term ending September 30, 2014.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott", written over a large, stylized flourish.

Rick Scott
Governor

RS/pb

31365

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire MUST BE COMPLETED IN FULL. Answer "none" or "not applicable" where appropriate.

Please type or print in blue or black ink.

2/25/14

Date Completed

1. Name: Nicklaus Harry Gregg
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 5300 Gulf Boulevard, St. Pete Beach
Street Office # City
Florida 33706 727-363-5186
Post Office Box Area Code/Phone Number

3. Residence Address

Post Office Box

Specify the preferred mailing address: Business Reside

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To

(optional)
SECRETAR
4 MAR - 11
: 29
TICKETS
TALE

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To
None			

5. Date of Birth: 12/18/56 Place of Birth: Pittsburgh, PA

6. Social Security Number: _____

7. Driver License Number: _____ State: FL

8. Have you ever used or been known by any other legal name? Yes No If "Yes" Explain

9. Are you a United States citizen? Yes No If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1981

11. Are you a registered Florida voter? Yes No If "Yes" list:

A. County of Registration: Pinellas B. Current Party Affiliation: _____

12. Education

A. High School: Mt. Lebanon, Pittsburgh, PA Year Graduated: 1974
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
<u>Syracuse University,</u>	<u>1974-1978</u>	<u>BS</u>
<u>Dickinson School of Law,</u>	<u>1978-1981</u>	<u>JD</u>
_____	_____	_____
_____	_____	_____

13. Are you or have you ever been a member of the armed forces of the United States? Yes No If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes No If Yes, give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

DIVISION OF ELECTIONS
SECRETARY OF STATE
14 MAR 84 PM 2:29

RECEIVED

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
<u>Sirata Beach Resort</u>	<u>Resort</u>	<u>Owner/Pres/Mgr</u>	<u>1982-Present</u>
<u>5300 Gulf Boulevard, St. Pete Beach, FL 33706</u>			
_____	_____	_____	_____

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes No If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

Served on Department of Business & Professional
Regulation Advisory Board 2009-Present

Business Owner 30 years

Hospitality/Lodging Experience
Facility Management Experience

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes No If "Yes", list:

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes No If "Yes", list:

D. Identify all association memberships and association offices held by you that relate to this appointment:

Florida Restaurant & Lodging Association

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes No If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes No If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

Office Title Date of Election or Appointment Term of Office Level of Government

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: _____

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
_____	_____	_____
_____	_____	_____

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes No If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>
_____	_____	_____
_____	_____	_____

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes No If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____
 B. Date of suspension: _____ D. Result: Reinstated Removed Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes No If "Yes", list:

A. Title of Office: _____
 B. Term of Appointment: _____
 C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes No If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes No If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title & Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
The Florida Bar 0351784	11/5/82	State of Florida	N/A
Real Estate Broker BK409615	1/7/85	State of Florida DBPR	N/A

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
_____	_____	_____
_____	_____	_____

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes No If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes No

A. Did you receive any compensation other than reimbursement for expenses? Yes No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
Florida Restaurant & Lodging Assoc., BOD,	230 S. Adams St., Tallahassee, FL 32301		2005-Present
SKAL International, Tampa Bay, Past President	TOT05 119th Way, Seminole, FL 33772		1992-Present
Pinellas Realtor Organization	4590 Ulmerton Road, Clearwater, FL 33762		1985-Present

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes No If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes No

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

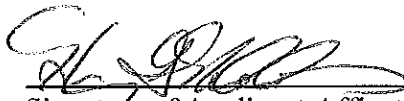
The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

CERTIFICATION

STATE OF FLORIDA

COUNTY OF Pinellas

Before me, the undersigned Notary Public of Florida, personally appeared Harry Gregg Nicklaus, who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.



Signature of Applicant-Affiant

Sworn to and subscribed before me this 25th day of February, 2014.



Signature of Notary Public-State of Florida

Deborah L. Perry

(Print, Type, or Stamp Commission Name of Notary Public)



My commission expires: _____

Personally Known OR Produced Identification

Type of Identification Produced _____

(seal)

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Committee on Criminal Justice
MEETING DATE: Monday, March 31, 2014
TIME: 4:00 —6:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

TO: The Honorable Don Gaetz, President

FROM: Committee on Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.

Appointee: Nicklaus, Harry Gregg

Term: 2/6/2014-9/30/2014

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 254

INTRODUCER: Senator Bradley

SUBJECT: Indecent Exposure

DATE: March 28, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Pre-meeting
2.			ACJ	
3.			AP	

I. Summary:

SB 254 provides that it is a third degree felony to commit a second or subsequent violation of s. 800.03, F.S. Section 800.03, F.S., punishes:

- Exposing or exhibiting one’s sexual organs in public or on the private premises of another, or so near thereto as to be seen from such private premises, in a vulgar or indecent manner; or
- Being naked in public except in any place provided or set apart for that purpose.

A first violation of s. 800.03, F.S., is a first degree misdemeanor (the current penalty for violations of s. 800.03, F.S.).

The bill also authorizes a warrantless arrest when the law enforcement officer has probable cause to believe that the person has committed a violation of s. 800.03, F.S.

II. Present Situation:

Indecent Exposure

Section 800.03, F.S., provides that it is a first degree misdemeanor to:

- Expose or exhibit one’s sexual organs in public or on the private premises of another, or so near thereto as to be seen from such private premises, in a vulgar or indecent manner;¹ or
- Be naked in public except in any place provided or set apart for that purpose.

¹ The standard jury instructions provide that the State must prove that the exhibition or exposure be done in a “vulgar, indecent, lewd, or lascivious manner.” Fla. Std. Jury Instr. (Crim.) 11.9. The instruction states all of the words mean the same thing, i.e., “lust or a wicked, lustful, unchaste, licentious, or sensual intent on the part of the person doing the act.” *Id.*

Warrantless Arrest

Section 901.15, F.S., provides that a law enforcement officer may arrest a person without a warrant in any of the following circumstances:

- The person has committed a felony or misdemeanor or violated a municipal or county ordinance in the presence of the officer.
- A felony has been committed and the officer reasonably believes that the person committed it.
- The officer reasonably believes that a felony has been or is being committed and that the person to be arrested has committed or is committing it.
- A warrant for the arrest has been issued and is held by another peace officer for execution.
- A violation of ch. 316, F.S. (state uniform traffic control), has been committed in the presence of the officer.
- There is probable cause to believe that the person has violated s. 790.233, F.S. (possession of firearms by a convicted felon), s. 741.31, F.S. (possession of prohibited ammunition), a protective injunction order, or a specified foreign protection order.
- There is probable cause to believe that the person has committed an act of domestic violence or dating violence.
- There is probable cause to believe that the person has committed child abuse or has violated s. 787.025, F.S. (luring or enticing a child for unlawful purposes).
- There is probable cause to believe that the person has committed:
 - Battery;
 - Criminal mischief or a graffiti-related offense; or
 - A violation of a safety zone, security zone, regulated navigation area, or naval vessel protection zone.
- The officer has determined that he or she has probable cause to believe that a misdemeanor has been committed, based upon a signed affidavit provided to the officer by a federal law enforcement officer or military law enforcement officer, when the misdemeanor was committed in the presence of the federal officer on federal military property over which the state has maintained exclusive jurisdiction for such a misdemeanor.
- A law enforcement officer of the Florida National Guard has probable cause to believe a felony was committed on state military property or when a felony or misdemeanor was committed in his or her presence on that property.
- The officer is employed by the state as a law enforcement officer or part-time law enforcement officer and:
 - The officer reasonably believes that a felony involving violence has been or is being committed and that the person to be arrested has committed or is committing the felony;
 - While engaged in the exercise of his or her state law enforcement duties, the officer reasonably believes that a felony has been or is being committed; or
 - A felony warrant for the arrest has been issued and is being held for execution by another peace officer.
- There is probable cause to believe that the person has violated a condition of pretrial release when the original arrest was for an act of domestic violence or dating violence.
- There is probable cause to believe that the person has committed trespass in a secure area of an airport when signs are posted in conspicuous areas of the airport which notify that

unauthorized entry into such areas constitutes a trespass and specify the methods for gaining authorized access to those areas.

- There is probable cause to believe that the person has committed assault upon a law enforcement officer, a firefighter, an emergency medical care provider, a public transit employee or agent, or other specified officers, or has committed assault or battery upon any employee of a facility designated by the Department of Children and Families to receive involuntary patients for specified purposes.

III. Effect of Proposed Changes:

The bill amends s. 800.03, F.S., to provide that it is a third degree felony to commit a second or subsequent violation of s. 800.03, F.S. Section 800.03, F.S., punishes:

- Exposing or exhibiting one's sexual organs in public or on the private premises of another, or so near thereto as to be seen from such private premises, in a vulgar or indecent manner; or
- Being naked in public except in any place provided or set apart for that purpose.

A first violation of s. 800.03, F.S., is a first degree misdemeanor (the current penalty for violations of s. 800.03, F.S.).

The bill also amends s. 901.15, F.S., to authorize a warrantless arrest when the law enforcement officer has probable cause to believe that the person has committed a violation of s. 800.03, F.S.

The effective date of the bill is October 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, estimates that bill will have an insignificant prison bed impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 800.03 and 901.15.

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.



271514

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

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

Senate Amendment (with title amendment)

Delete lines 14 - 31.

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

And the title is amended as follows:

Delete lines 3 - 5.

By Senator Bradley

7-00389-14

2014254__

1 A bill to be entitled
 2 An act relating to indecent exposure; amending s.
 3 800.03, F.S.; increasing the classification of second
 4 and subsequent violations of the provision prohibiting
 5 unlawful exposure of sexual organs; amending s.
 6 901.15, F.S.; authorizing an arrest without a warrant
 7 if there is probable cause to believe that a person
 8 has committed an exposure of sexual organs in
 9 violation of specified provisions; providing an
 10 effective date.

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

14 Section 1. Section 800.03, Florida Statutes, is amended to
 15 read:

16 800.03 Exposure of sexual organs.—

17 (1) It is unlawful to expose or exhibit one's sexual organs
 18 in public or on the private premises of another, or so near
 19 thereto as to be seen from such private premises, in a vulgar or
 20 indecent manner, or to be naked in public except in any place
 21 provided or set apart for that purpose. ~~Violation of this~~
 22 section is a misdemeanor of the first degree, punishable as
 23 provided in s. 775.082 or s. 775.083. A mother's breastfeeding
 24 of her baby does not under any circumstance violate this
 25 section.

26 (2) A person who violates this section commits:

27 (a) For a first offense, a misdemeanor of the first degree,
 28 punishable as provided in s. 775.082 or s. 775.083.

29 (b) For a second or subsequent offense, a felony of the

Page 1 of 2

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

7-00389-14

2014254__

30 third degree, punishable as provided in s. 775.082, s. 775.083,
 31 or s. 775.084.

32 Section 2. Paragraph (d) is added to subsection (9) of
 33 section 901.15, Florida Statutes, to read:

34 901.15 When arrest by officer without warrant is lawful.—A
 35 law enforcement officer may arrest a person without a warrant
 36 when:

37 (9) There is probable cause to believe that the person has
 38 committed:

39 (d) An exposure of sexual organs in violation of s. 800.03.

40 Section 3. This act shall take effect October 1, 2014.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: November 4, 2013

I respectfully request that **Senate Bill # 254**, relating to Indecent Exposure, be placed on the:

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

A handwritten signature in black ink, appearing to read "Rob Bradley".

Senator Rob Bradley
Florida Senate, District 7

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/14
Meeting Date

Topic Indecent Exposure

Bill Number 254
(if applicable)

Name Jennifer Dritt

Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 1820 E. Park Avenue
Street

Phone (850) 297-2000

Tallahassee FL 32301
City State Zip

E-mail jdritt@fcasv.org

Speaking: For Against Information

Representing Florida Council Against Sexual Violence

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/2014

Meeting Date

Topic _____

Bill Number 254
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

City

State

Zip

E-mail justice2jesus@yahoo.com

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 588

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Richter

SUBJECT: Offenses Against Vulnerable Persons

DATE: March 28, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Crosier</u>	<u>Hendon</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
3.	_____	_____	<u>JU</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 588 provides additional protections for elderly persons and disabled adults that are vulnerable to instances of exploitation and increases the penalties for committing such acts. The bill amends the hearsay exception for statements of an elderly person or disabled adult in s. 90.803, F.S., to allow an out of court statement by an elderly person or disabled adult in certain circumstances to be admissible.

The bill also amends the definition of “exploitation of an elderly person or disabled adult” to delete the requirement that a person use deception or intimidation to obtain or use such vulnerable adult’s funds, assets, or property. The bill specifies that “unauthorized appropriation” occurs when an elderly person or disabled adult does not receive reasonably equivalent financial value in goods or services or when specified fiduciaries violate specified duties. The bill also creates additional instances that constitute “exploitation of an elderly person or disabled adult.”

The bill amends s. 825.103, F.S., to specify when an unlawful appropriation occurs; decreases the property threshold values for criminal exploitation of elderly persons or disabled adults; creates a presumption that certain inter vivos transfers are a result of exploitation; and requires the court in specified cases to return the vulnerable adult’s property before trial if, after conducting an evidentiary hearing, the court makes certain findings.

The bill also amends s. 817.568, F.S., to clarify that any person, including any person in the relationship of parent or legal guardian, that willfully and without authorization uses the personal

identification of an individual 60 years of age or older without first obtaining the consent of the individual commits a second degree felony.

The bill is not expected to have a fiscal impact and is effective October 1, 2014.

II. Present Situation:

Elderly and Disabled Populations

The 2010 Census recorded the greatest number and proportion of people aged 65 and over in the history of the United States – 40,300,000, or 13 percent of the total population.¹ In 2010, Florida had the highest proportion of people over the age of 65, making up 17 percent of the total state population.²

In 2011, there were 11,468,487 people aged 18 to 64 in Florida.³ Of that number of people, 1,131,661, or 9.9 percent, had at least one disability.⁴ The number of individuals aged 65 and older in Florida in 2011 totaled 3,296,861.⁵ Of that number of people, 1,136,372, or 34.5 percent, had at least one disability.⁶

Nationwide, life expectancies of individuals reaching the ages of 65 and 85 are increasing. Individuals who survive to the age of 65 can be expected to live another 19.2 years.⁷ As the population of elderly and disabled persons in Florida increases, so does the pool of potential victims of abuse.

Hearsay Exception for Vulnerable Adults

“Hearsay” is a statement,⁸ other than one made by the declarant⁹ while testifying at trial or a hearing offered in evidence to prove the truth of the matter asserted.¹⁰ Currently, hearsay statements are not admissible at trial unless a statutory exception applies.¹¹

Section 90.803(24), F.S., creates a hearsay exception specifically relating to vulnerable adults. The statute specifies that unless the source of information or the method or circumstances by

¹ Administration on Aging, National Center for Elder Abuse, *America's Growing Elderly Population*, available at <http://www.ncea.aoa.gov/Library/Data/index.aspx> (citing U.S. Department of Commerce, U.S. Census Bureau, *The older population; 2010*, Publication C2010BR-09 (last visited Feb. 11, 2014)).

² *Id.*

³ U.S. Department of Commerce, U.S. Census Bureau, American FactFinder, *Selected Social Characteristics in the U.S.-Florida-2011 American Community Survey 1 year estimates*, available at http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_11_1YR_DP02&prodType=table (last visited Feb. 11, 2014).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 24.

⁸ A “statement” is either an oral or written assertion or nonverbal conduct of a person if it is intended by the person as an assertion; *See* s. 90.801(1)(a), F.S.

⁹ The “declarant” is the person who made the statement; *See* s. 90.801(1)(b), F.S.

¹⁰ Section 90.801(1)(c), F.S.

¹¹ Section 90.802, F.S.

which the statement is reported indicates a lack of trustworthiness, an out of court statement made by a vulnerable adult describing any act of abuse or neglect, any act of exploitation, the offense of battery or aggravated battery or assault or aggravated assault or sexual battery, or any other violent act on the declarant vulnerable adult, not otherwise admissible, is admissible in evidence in any civil or criminal proceeding if:

- The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability; and
- The vulnerable adult either:
 - Testifies; *or*
 - Is unavailable as a witness, provided that there is corroborative evidence of the abuse or offense. Unavailability must include a finding by the court that the vulnerable adult's participation in the trial or proceeding would result in a substantial likelihood of severe emotional, mental, or physical harm, in addition to findings pursuant to s. 90.804(1), F.S.¹²

The party seeking to introduce a hearsay statement under the exception in s. 90.803, F.S., bears the burden of establishing that the declarant is unavailable as a witness at a pretrial hearing.¹³ In the time since the hearsay exception for vulnerable adults was enacted,¹⁴ the United States Supreme Court (Court) has held the admission of certain out of court statements violates the Confrontation Clause of the Sixth Amendment.^{15,16} In *Crawford*, the Court held that before an out of court statement that is testimonial in nature can be admissible in a criminal proceeding the Confrontation Clause requires the:

- Declarant to be unavailable; and
- Defendant to have had a prior opportunity to cross-examine such declarant.

The Court later held that the distinction of whether evidence is testimonial or nontestimonial in nature rests on the primary purpose of the statement.

Further, in *State v. Hosty*, the Florida Supreme Court has examined s. 90.803(24), F.S., in light of *Crawford* and held that the Confrontation Clause requires the declarant to be unavailable for testimonial hearsay statements to be admissible.¹⁷

The statute does not currently conform with this ruling since it states certain hearsay statements may be admitted even if the declarant testifies.

¹² Section 90.804(1), F.S.

¹³ See *Jones v. State*, 678 So.2d 309, 314 (Fla. 1996).

¹⁴ The hearsay exception in s. 90.803(24), F.S., was enacted by the Legislature in 1996. *Conner v. State*, 748 So.2d 950, 957 (Fla. 1999).

¹⁵ *Crawford v. Washington* 124 S.Ct. 1354 (2004).

¹⁶ The Sixth Amendment of the U.S. Constitution provides, in part: "In all criminal prosecutions...the accused shall enjoy the right to ...be confronted with the witnesses against him."

¹⁷ 944 So.2d 255 (Fla. 2006)

Financial Exploitation of Elderly Persons and Disabled Adults

According to the National Center on Elder Abuse, financial exploitation of the elderly includes “the illegal or improper use of an elder’s funds, property or assets.”¹⁸ For example, forging an older person’s signature, misusing or stealing an older person’s money or possessions, coercing or deceiving an older person into signing a document and improperly using a conservatorship, guardianship, or power of attorney are examples of financial exploitation.¹⁹ Disabled adults, who can be equally vulnerable to financial crimes, are often victims of similar offenses.

Financial exploitation of the elderly and disabled is reported less than other forms of abuse. It is believed that only 1 in 14 cases of financial exploitation against disabled adults are reported and that the yearly number of cases nationwide could exceed 850,000.²⁰ The “typical” victim of financial exploitation is between 70 and 89 years of age, Caucasian, female, frail, and cognitively impaired.²¹ It has been estimated that the financial loss to victims of these types of crimes is at least \$2.9 billion nationwide.²²

Florida Law – “Exploitation of an Elderly Person or Disabled Adult”

Section 825.101, F.S., defines the following terms:

- “Elderly person” means 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 to provide adequately for his or her own care is impaired; and
- “Disabled adult” means a person 18 years or older who suffers from physical or mental incapacitation due to developmental disability, organic brain damages, or mental illness, or has at least one physical or mental limitation that restricts his or her ability to perform normal activities of daily living.

Section 825.103(1), F.S., defines exploitation of an elderly person or disabled adult as:

- Knowingly, by deception²³ or intimidation,²⁴ obtaining or using, or endeavoring to obtain or use, a vulnerable adult’s funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the vulnerable adult, by a person who:

¹⁸ The National Center on Elder Abuse, *Types of Abuse-Financial or Material Exploitation*, available at <http://www.ncea.aoa.gov/faq/index.aspx> (last visited Feb. 11, 2014).

¹⁹ *Id.*

²⁰ MetLife Mature Market Institute, the National Committee for the Prevention of Elder Abuse, and the Center for Gerontology at Virginia Polytechnic Institute and State University, *Broken Trust: Elders, Family, and Finances, A Study on Elder Financial Abuse Prevention*, (March 2009), page 8; see also The National Committee for the Prevention of Elder Abuse and the National Adult Protective Services Association, *The 2004 Survey of State Adult Protective Services: Abuse of Adults 60 years of Age and Older*, (February 2006), page 20. (on file with the Senate Committee on Children, Families, and Elder Affairs.)

²¹ *Id.*

²² Andrew Jay McClurg, *Preying on the Graying: A Statutory Presumption to Prosecute Elder Financial Exploitation*, *Hastings Law Journal*, Vol.65, No. 4 at 125 (2014) this report is further cited as “*Preying on the Graying.*” (on file with the Senate Committee on Children, Families, and Elder Affairs.)

²³ Section 825.101(3), F.S.

²⁴ Section 825.101(8), F.S.

- Stands in a position of trust and confidence with the vulnerable adult; or
- Has a business relationship with the vulnerable adult;
- Obtaining or using, endeavoring to obtain or use, or conspiring with another to obtain or use a vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the vulnerable adult, by a person who knows or reasonable should know that the vulnerable adult lacks the capacity to consent;²⁵ or
- Breaching a fiduciary duty to a vulnerable adult by the person's guardian or agent under a power of attorney which results in an unauthorized appropriation, sale, or transfer of property.

If the funds, assets, or property involved in a violation of the offense is:

- Valued at \$100,000 or more, it is a first degree felony;²⁶
- Valued at \$20,000 or more but less than \$100,000, it is a second degree felony;²⁷ and
- Valued at less than \$20,000, it is a third degree felony.^{28,29,30}

On the other hand, s. 812.0145, F.S., provides lower property threshold amounts that trigger enhanced criminal penalties for committing theft against persons 65 years of age or older as follows:

- If the funds, assets, or property involved is valued at \$50,000 or more, it is a first degree felony;
- If the funds, assets, or property involved is valued at \$10,000 or more, but less than \$50,000, it is a second degree felony; and
- If the funds, assets, or property involved is valued at \$300 or more, but less than \$10,000, it is a third degree felony.³¹

Prosecutions of financial exploitation of elderly persons often face significant roadblocks due to the difficulty in proving that what may superficially look like voluntary gifts is in fact exploitation.³² Exploited elders frequently are unable, and sometimes unwilling, to effectively assist prosecutors.³³ Prosecutions are further complicated by the fact that the transactions often occur in secret and often times the elderly person may not be a good witness as a result of cognitive or other impairments.³⁴

²⁵ Section 825.101(9), F.S.

²⁶ Punishable by up to 30 years in prison and up to \$10,000 in fines. Sections 775.082, 775.083, or 775.084, F.S.

²⁷ Punishable by up to 15 years in prison and up to \$10,000 in fines. Sections 775.082, 775.083, or 775.084, F.S.

²⁸ Punishable by up to 5 years in prison and up to \$5,000 in fines. Sections 775.082, 775.083, or 775.084, F.S.

²⁹ Section 812.0145(2)(a), (b), and (c), F.S.

³⁰ These offenses are currently ranked in the Criminal Punishment Code offense severity ranking chart at Level 8, Level 7, and Level 6, respectively. The Code applies to sentencing for felony offenses committed on or after October 1, 1998.

Criminal offenses are ranked in the "offense severity ranking chart" from level one (least severe) to level ten (most severe) and are assigned points based on the severity of the offense as determined by the Legislature. If an offense is not listed in the ranking chart, it defaults to a ranking based on the degree of the felony. A defendant's sentence is calculated based, in part, on points assigned for the offense severity ranking. The points are added in order to determine the "lowest permissible sentence" for the offense. Section 921.0022, F.S.

³¹ Section 812.0145(2)(a), (b), and (c), F.S.

³² *Preying on the Graying*, at 125.

³³ *Id.*

³⁴ *Id.*

Permissive Presumption

A presumption in a legal proceeding is an assumption of the existence of a fact which is in reality unproved by direct evidence.³⁵ A presumption is derived from another fact or group of facts that has been proven in the action.³⁶ There are two types of presumptions: conclusive presumptions, which *require* the jury to find the presumed fact if the underlying facts are proved; and permissive presumptions, which *allow*, but do not require, the jury to find the presumed fact if it finds the underlying fact to be true.³⁷

Hundreds of presumptions exist in American jurisprudence.³⁸ There are several premises that support the creation of presumptions in the law, including fairness, the desire to advance substantive policies, and the need for some device to resolve certain issues that could not otherwise be resolved due to a lack of proof.³⁹ The strongest justification for most presumptions is the probabilistic determination that the existence of certain facts can be logically inferred from other facts.⁴⁰ Currently, s. 825.103, F.S., does not provide any presumptions.

Personal Identification Information

Section 817.568, F.S., contains a variety of provisions criminalizing the fraudulent use of a person's personal identification information. Personal identification information is defined as "any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual."⁴¹

Subsections (6) and (7) of the statute makes it a second degree felony for a person:

- To willfully and without authorization fraudulently use personal identification information concerning an individual who is less than 18 years of age without first obtaining the consent of that individual or of his or her legal guardian; or
- Who is in the relationship of parent or legal guardian, or who otherwise exercises custodial authority over an individual who is less than 18 years of age, to willfully and fraudulently use personal identification information of that individual.

III. Effect of Proposed Changes:

Section 1 amends s. 90.803(24), F.S., by deleting the language that allows a testimonial hearsay statement to be admissible even if the declarant testifies, thus conforming this exception to the holding in *Crawford* and *Hosty*.

Section 2 amends s. 817.568(6) and (7), F.S., to make it a second degree felony for any person, including a parent or legal guardian, or anyone else who otherwise exercises custodial authority

³⁵ *Ibarrondo v. State*, 1 So.3d 226, 232 (Fla. 5th DCA 2008)

³⁶ *Id.*

³⁷ *Marcolini v. State*, 673 So. 2d 3, 5 (Fla. 1996); *see also State v. Rygwelski*, 899 So.2d 498, 501 (Fla.2d DCA 2005) and *Ibarrondo*, at 232.

³⁸ *Preying on the Graying*, at 125.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Section 817.568, F.S.

over an individual 60 years of age or older, to willfully and without authorization fraudulently use that individual's personal identification information. (Currently this crime only applies when the victim is less than 18 years of age.)

Section 3 deletes the definition of "deception" in s. 825.101(3), F.S. The bill then amends s. 825.103(1)(a), F.S., by removing the requirement that a person use *deception or intimidation* to obtain or use a vulnerable adult's funds, assets, or property.⁴² This will allow prosecution against individuals who exploit elderly persons or disabled adults in a broader range of instances.

Section 4 amends the definition of "exploitation of an elderly person or disabled adult" in s. 825.103(1)(c), F.S., to specify that an "unauthorized appropriation" occurs when:

- An elderly person or disabled adult does not receive reciprocal financial value in goods or services; or
- Persons appointed under chapters 709, 736, and 744, F.S., violate specified duties.

This section creates additional instances that constitute "exploitation of an elderly person or disabled adult" by including the following:

- Misappropriation, misuse or unauthorized transfer of moneys from a personal or joint account in which the elderly person or disabled adult placed, owned and was the sole contributor or payee of the funds prior to the misappropriation, misuse or unauthorized transfer. (The new provision is only applicable to personal accounts, joint accounts created with the intent that only the elderly person or disabled adult enjoys all interests in the moneys deposited into the account, or convenience accounts created under s. 655.80, F.S.)
- Intentionally or negligently failing to effectively use an elderly person's or disabled adult's income and assets for the necessities required for that person's support and maintenance, by a caregiver⁴³ or a person who stands in a position of trust and confidence with the elderly person or disabled adult.

The bill also lowers the property threshold amounts in s. 825.103, F.S., to be consistent with the ones in s. 812.0145, F.S., by providing that if the funds, assets, or property involved in a violation of the offense is:

- Valued at \$50,000 or more, it is a first degree felony;
- Valued at \$10,000 or more but less than \$50,000, it is a second degree felony; and
- Valued at less than \$10,000, it is a third degree felony.

In cases where the taking of or loss of the vulnerable adult's property is valued at more than \$5,000 and the property belonging to the victim is seized from the defendant pursuant to a search warrant, the bill requires the court to:

- Conduct an evidentiary hearing to determine if the defendant unlawfully obtained the victim's property; and
- Order that the property be returned to the victim before trial if the court finds, by a preponderance of the evidence, that the defendant unlawfully obtained the property.

⁴² The bill also deletes the definitions of the terms "misrepresentation" and "intimidation" as they are no longer applicable to chapter 825, F.S.

⁴³ Section 825.101(2), F.S. defines "caregiver."

The evidentiary hearing is for restitution purposes only, and the court's finding that the defendant unlawfully obtained the property is inadmissible at trial and does not give rise to any inference that the defendant has committed an offense under s. 825.103, F.S.

This section also creates a permissive presumption in s. 825.103, F.S., that an inter vivos transfer of money or property valued in excess of \$10,000 at the time of transfer, whether in a single transaction or multiple transactions, was the result of exploitation if it was made by a person 65 years or older to a nonrelative whom the transferor knew for less than 2 years before the first transfer and the transferor did not receive reciprocal value in goods or services.

The presumption applies regardless of whether the transfer or transfers are identified by the parties as a gift or loan. However, the presumption does not apply to a valid loan evidenced in writing that includes definite repayment dates, unless repayment of such loan is in default, in whole or in part, for more than 65 days. The bill provides exemptions from the presumption for:

- Persons who are in the business of making loans; or
- Bona fide charitable donations to nonprofit organizations that qualify for tax exempt status under the Internal Revenue code.

This bill also requires the court to instruct a jury that:

- They may, but are not required to, draw an inference of exploitation upon proof beyond a reasonable doubt of the facts listed in this subsection; and
- The presumption imposes no burden of proof on the defendant.

Section 5 amends s. 775.0844, F.S., to correctly identify the statutory definition of an elderly person to s. 825.101, F.S.

Section 6 amends s. 921.0022(3)(f), (g), and (h), F.S., the offense severity ranking chart of the Criminal Punishment Code, to reflect the new threshold dollar amounts for the exploitation of an elderly person or disabled adult (3rd degree felony – less than \$10,000, 2nd degree felony – greater than \$10,000 but less than \$50,000, and 1st degree felony - \$50,000 or more).

Section 7 reenacts s. 772.11(1), F.S., relating to a civil remedy for theft or exploitation to incorporate the amendment to s. 825.103, F.S.

Section 8 provides an effective date of October 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The Due Process Clauses of the United States and Florida Constitutions require the State to prove every element of a criminal offense beyond a reasonable doubt.⁴⁴ Conclusive presumptions that shift the burden of persuasion of a statutorily defined element of the offense to the defendant are impermissible under the Due Process Clause.⁴⁵ Permissive presumptions can be constitutional, but only if they do not shift the burden of persuasion to the defendant.⁴⁶

When reviewing a permissive presumption, the United States Supreme Court requires the challenging party to demonstrate its invalidity as applied.⁴⁷ Since a permissive presumption allows the trier of fact to be free to accept or reject the inference and does not shift the burden of proof, the only instance that affects the application of the “beyond a reasonable doubt” standard is if, under the facts of the case, there is no rational way the trier could make the connection permitted by the inference.⁴⁸ This is the only situation where any risk that an explanation of the permissible inference to a jury, or its use by a jury, has caused the presumptively rational fact finder to make an erroneous factual determination.⁴⁹

For a permissive inference to withstand constitutional challenge, a rational connection must exist between the facts in the record and the ultimate fact to be presumed.⁵⁰ A permissive presumption will be upheld if it can be said with substantial assurance that the presumed fact is more likely to flow from the proved fact on which it is made to depend.⁵¹

The bill creates a permissive presumption of exploitation if the State proves the occurrence of an inter vivos transfer of \$10,000 by an elderly person to someone the elderly person knew less than two years, which did not result in receipt of reciprocal value in goods or services. To the extent that the bill relieves the State of its obligation to prove the elements of a specified instance of exploitation of an elderly person beyond a reasonable doubt, the presumption could be challenged as being unconstitutional.

⁴⁴ *Buttram v. State*, 780 S.2d 224 (Fla. 2d DCA 2001).

⁴⁵ *Francis v. Franklin*, 105 S.Ct. 1965, 1971 (1985); *Sandstrom v. Montana*, 99 S.Ct. 2450, 2459 (1979); *State v. Rolle*, 560 So.2d 1154, 1159 (Fla. 1990); and *Tatum v. State*, 857 So.2d 331 (Fla.2d DCA 2003).

⁴⁶ *County Court of Ulster County, N.Y. v. Allen*, 99 S.Ct. 2213 (1979).

⁴⁷ *U.S. v. Gainey*, 85 S.Ct. 754, 757 (1965)

⁴⁸ *County Court of Ulster County, N.Y. v. Allen*, 99 S.Ct. 2213 at 225 (1979).

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *State v. Brake*, 796 So.2d 522 (Fla. 2001).

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

None.

B. Private Sector Impact:

None

C. Government Sector Impact:

The Criminal Justice Impact Conference reviewed the bill on March 3, 2014 and determined that any impact on the prison population will be insignificant.

According to the Office of the State Court Administrator, any fiscal impact upon the court system is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 90.803, 772.11, 775.0844, 817.568, 825.101, 825.103, and 921.0022.

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 Children, Families, and Elder Affairs on February 18, 2014:

- The amendment revises s. 817.568, F.S., to clarify that any person, including any person in the relationship of parent or legal guardian, that willfully and without authorization uses the personal identification of an individual younger than 18 years of age or 60 years of age or older without first obtaining the consent of the individual commits a second degree felony.

B. Amendments:

None.

By the Committee on Children, Families, and Elder Affairs; and
Senator Richter

586-01859-14

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1 A bill to be entitled
2 An act relating to offenses against vulnerable
3 persons; amending s. 90.803, F.S.; revising when an
4 out-of-court statement by an elderly person or
5 disabled adult is admissible in certain proceedings;
6 amending s. 817.568, F.S.; expanding applicability of
7 prohibition on the fraudulent use of personal
8 identification information of specified victims
9 without consent to include persons 60 years of age or
10 older; amending s. 825.101, F.S.; revising and
11 deleting definitions; amending s. 825.103, F.S.;
12 deleting a requirement that property of an elderly
13 person or disabled adult be obtained by deception or
14 intimidation in order to constitute exploitation of
15 such a person; specifying additional circumstances
16 that constitute a breach of a fiduciary duty and
17 specifying when an unauthorized appropriation occurs;
18 creating a presumption that certain inter vivos
19 transfers are a result of exploitation; providing
20 exceptions; providing for jury instructions concerning
21 the presumption; revising the valuation of funds,
22 assets, or property involved for various degrees of
23 offenses of exploitation of an elderly person or
24 disabled adult; providing for return of property
25 seized from a defendant to the victim before trial in
26 certain circumstances; amending ss. 775.0844 and
27 921.0022, F.S.; conforming provisions to changes made
28 by the act; reenacting s. 772.11(1), F.S., relating to
29 a civil remedy for theft or exploitation, to

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30 incorporate the amendments made by the act to s.
31 825.103, F.S., in a reference thereto; providing an
32 effective date.
33
34 Be It Enacted by the Legislature of the State of Florida:
35
36 Section 1. Paragraph (a) of subsection (24) of section
37 90.803, Florida Statutes, is amended to read:
38 90.803 Hearsay exceptions; availability of declarant
39 immaterial.—The provision of s. 90.802 to the contrary
40 notwithstanding, the following are not inadmissible as evidence,
41 even though the declarant is available as a witness:
42 (24) HEARSAY EXCEPTION; STATEMENT OF ELDERLY PERSON OR
43 DISABLED ADULT.—
44 (a) Unless the source of information or the method or
45 circumstances by which the statement is reported indicates a
46 lack of trustworthiness, an out-of-court statement made by an
47 elderly person or disabled adult, as defined in s. 825.101,
48 describing any act of abuse or neglect, any act of exploitation,
49 the offense of battery or aggravated battery or assault or
50 aggravated assault or sexual battery, or any other violent act
51 on the declarant elderly person or disabled adult, not otherwise
52 admissible, is admissible in evidence in any civil or criminal
53 proceeding if:
54 1. The court finds in a hearing conducted outside the
55 presence of the jury that the time, content, and circumstances
56 of the statement provide sufficient safeguards of reliability.
57 In making its determination, the court may consider the mental
58 and physical age and maturity of the elderly person or disabled

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59 adult, the nature and duration of the abuse or offense, the
60 relationship of the victim to the offender, the reliability of
61 the assertion, the reliability of the elderly person or disabled
62 adult, and any other factor deemed appropriate; and

63 2. The elderly person or disabled adult ~~either~~

64 ~~a. Testifies, or~~

65 ~~b.~~ is unavailable as a witness, provided that there is
66 corroborative evidence of the abuse or offense. Unavailability
67 shall include a finding by the court that the elderly person's
68 or disabled adult's participation in the trial or proceeding
69 would result in a substantial likelihood of severe emotional,
70 mental, or physical harm, in addition to findings pursuant to s.
71 90.804(1).

72 Section 2. Subsections (6) and (7) of section 817.568,
73 Florida Statutes, are amended to read:

74 817.568 Criminal use of personal identification
75 information.—

76 (6) Any person who willfully and without authorization
77 fraudulently uses personal identification information concerning
78 an individual who is younger ~~less~~ than 18 years of age or 60
79 years of age or older without first obtaining the consent of
80 that individual or of his or her legal guardian commits a felony
81 of the second degree, punishable as provided in s. 775.082, s.
82 775.083, or s. 775.084.

83 (7) Any person who is in the relationship of parent or
84 legal guardian, or who otherwise exercises custodial authority
85 over an individual who is younger ~~less~~ than 18 years of age or
86 60 years of age or older, who willfully and fraudulently uses
87 personal identification information of that individual commits a

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88 felony of the second degree, punishable as provided in s.
89 775.082, s. 775.083, or s. 775.084.

90 Section 3. Subsections (2), (3), and (8) of section
91 825.101, Florida Statutes, are amended to read:

92 825.101 Definitions.—As used in this chapter:

93 (2) "Caregiver" means a person who has been entrusted with
94 or has assumed responsibility for the care or the property of an
95 elderly person or disabled adult. "Caregiver" includes, but is
96 not limited to, relatives, court-appointed or voluntary
97 guardians, adult household members, neighbors, health care
98 providers, and employees and volunteers of facilities as defined
99 in subsection (6) ~~(7)~~.

100 ~~(3) "Deception" means:~~

101 ~~(a) Misrepresenting or concealing a material fact relating~~
102 ~~to:~~

103 ~~1. Services rendered, disposition of property, or use of~~
104 ~~property, when such services or property are intended to benefit~~
105 ~~an elderly person or disabled adult;~~

106 ~~2. Terms of a contract or agreement entered into with an~~
107 ~~elderly person or disabled adult; or~~

108 ~~3. An existing or preexisting condition of any property~~
109 ~~involved in a contract or agreement entered into with an elderly~~
110 ~~person or disabled adult; or~~

111 ~~(b) Using any misrepresentation, false pretense, or false~~
112 ~~promise in order to induce, encourage, or solicit an elderly~~
113 ~~person or disabled adult to enter into a contract or agreement.~~

114 ~~(8) "Intimidation" means the communication by word or act~~
115 ~~to an elderly person or disabled adult that the elderly person~~
116 ~~or disabled adult will be deprived of food, nutrition, clothing,~~

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117 ~~shelter, supervision, medicine, medical services, money, or~~
 118 ~~financial support or will suffer physical violence.~~

119 Section 4. Section 825.103, Florida Statutes, is amended to
 120 read:

121 825.103 Exploitation of an elderly person or disabled
 122 adult; penalties.—

123 (1) "Exploitation of an elderly person or disabled adult"
 124 means:

125 (a) Knowingly, ~~by deception or intimidation,~~ obtaining or
 126 using, or endeavoring to obtain or use, an elderly person's or
 127 disabled adult's funds, assets, or property with the intent to
 128 temporarily or permanently deprive the elderly person or
 129 disabled adult of the use, benefit, or possession of the funds,
 130 assets, or property, or to benefit someone other than the
 131 elderly person or disabled adult, by a person who:

132 1. Stands in a position of trust and confidence with the
 133 elderly person or disabled adult; or

134 2. Has a business relationship with the elderly person or
 135 disabled adult;

136 (b) Obtaining or using, endeavoring to obtain or use, or
 137 conspiring with another to obtain or use an elderly person's or
 138 disabled adult's funds, assets, or property with the intent to
 139 temporarily or permanently deprive the elderly person or
 140 disabled adult of the use, benefit, or possession of the funds,
 141 assets, or property, or to benefit someone other than the
 142 elderly person or disabled adult, by a person who knows or
 143 reasonably should know that the elderly person or disabled adult
 144 lacks the capacity to consent; or

145 (c) Breach of a fiduciary duty to an elderly person or

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146 disabled adult by the person's guardian or agent under a power
 147 of attorney which results in an unauthorized appropriation,
 148 sale, or transfer of property. An unauthorized appropriation
 149 under this paragraph occurs when the elderly person or disabled
 150 adult does not receive the reasonably equivalent financial value
 151 in goods or services, or when the fiduciary violates any of
 152 these duties:

153 1. For agents appointed under chapter 709:

154 a. Committing fraud in obtaining their appointments;

155 b. Abusing their powers;

156 c. Wasting, embezzling, or intentionally mismanaging the
 157 assets of the ward or beneficiary of the trust; or

158 d. Acting contrary to the principal's sole benefit or best
 159 interest.

160 2. For guardians and trustees appointed under chapter 736
 161 or chapter 744:

162 a. Committing fraud in obtaining their appointments;

163 b. Abusing their powers; or

164 c. Wasting, embezzling, or intentionally mismanaging the
 165 assets of the ward or beneficiary of the trust.

166 (d) Misappropriating, misusing, or transferring without
 167 authorization money belonging to an elderly person or disabled
 168 adult from an account in which the elderly person or disabled
 169 adult placed the funds, owned the funds, and was the sole
 170 contributor or payee of the funds before the misappropriation,
 171 misuse, or unauthorized transfer. This paragraph only applies to
 172 the following types of accounts:

173 1. Personal accounts;

174 2. Joint accounts created with the intent that only the

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175 elderly person or disabled adult enjoys all rights, interests,
 176 and claims to moneys deposited into such account; or
 177 3. Convenience accounts created in accordance with s.
 178 655.80.

179 (e) Intentionally or negligently failing to effectively use
 180 an elderly person's or disabled adult's income and assets for
 181 the necessities required for that person's support and
 182 maintenance, by a caregiver or a person who stands in a position
 183 of trust and confidence with the elderly person or disabled
 184 adult.

185 (2) Any inter vivos transfer of money or property valued in
 186 excess of \$10,000 at the time of the transfer, whether in a
 187 single transaction or multiple transactions, by a person age 65
 188 or older to a nonrelative whom the transferor knew for fewer
 189 than 2 years before the first transfer and for which the
 190 transferor did not receive the reasonably equivalent financial
 191 value in goods or services creates a permissive presumption that
 192 the transfer was the result of exploitation.

193 (a) This subsection applies regardless of whether the
 194 transfer or transfers are denoted by the parties as a gift or
 195 loan, except that it does not apply to a valid loan evidenced in
 196 writing that includes definite repayment dates. However, if
 197 repayment of any such loan is in default, in whole or in part,
 198 for more than 65 days, the presumption of this subsection
 199 applies.

200 (b) This subsection does not apply to:

201 1. Persons who are in the business of making loans.

202 2. Bona fide charitable donations to nonprofit
 203 organizations that qualify for tax exempt status under the

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204 Internal Revenue Code.

205 (c) In a criminal case to which this subsection applies, if
 206 the trial is by jury, jurors shall be instructed that they may,
 207 but are not required to, draw an inference of exploitation upon
 208 proof beyond a reasonable doubt of the facts listed in this
 209 subsection. The presumption of this subsection imposes no burden
 210 of proof on the defendant.

211 (3)(2)(a) If the funds, assets, or property involved in the
 212 exploitation of the elderly person or disabled adult is valued
 213 at \$50,000 ~~\$100,000~~ or more, the offender commits a felony of
 214 the first degree, punishable as provided in s. 775.082, s.
 215 775.083, or s. 775.084.

216 (b) If the funds, assets, or property involved in the
 217 exploitation of the elderly person or disabled adult is valued
 218 at \$10,000 ~~\$20,000~~ or more, but less than \$50,000 ~~\$100,000~~, the
 219 offender commits a felony of the second degree, punishable as
 220 provided in s. 775.082, s. 775.083, or s. 775.084.

221 (c) If the funds, assets, or property involved in the
 222 exploitation of an elderly person or disabled adult is valued at
 223 less than \$10,000 ~~\$20,000~~, the offender commits a felony of the
 224 third degree, punishable as provided in s. 775.082, s. 775.083,
 225 or s. 775.084.

226 (4) If a person is charged with financial exploitation of
 227 an elderly person or disabled adult that involves the taking of
 228 or loss of property valued at more than \$5,000 and property
 229 belonging to a victim is seized from the defendant pursuant to a
 230 search warrant, the court shall hold an evidentiary hearing and
 231 determine, by a preponderance of the evidence, whether the
 232 defendant unlawfully obtained the victim's property. If the

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233 court finds that the property was unlawfully obtained, the court
 234 may order it returned to the victim for restitution purposes
 235 before trial on the charge. This determination is inadmissible
 236 in evidence at trial on the charge and does not give rise to any
 237 inference that the defendant has committed an offense under this
 238 section.

239 Section 5. Paragraph (a) of subsection (5) of section
 240 775.0844, Florida Statutes, is amended to read:

241 775.0844 White Collar Crime Victim Protection Act.—

242 (5) Any person who commits an aggravated white collar crime
 243 as defined in this section and in so doing either:

244 (a) Victimizes 10 or more elderly persons, as defined in s.
 245 825.101~~(5)~~;

246
 247 and thereby obtains or attempts to obtain \$50,000 or more,
 248 commits a felony of the first degree, punishable as provided in
 249 s. 775.082, s. 775.083, or s. 775.084.

250 Section 6. Paragraphs (f), (g), and (h) of subsection (3)
 251 of section 921.0022, Florida Statutes, are amended to read:

252 921.0022 Criminal Punishment Code; offense severity ranking
 253 chart.—

254 (3) OFFENSE SEVERITY RANKING CHART

255 (f) LEVEL 6

256

Florida Statute	Felony Degree	Description
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.

257

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258	499.0051(3)	2nd	Knowing forgery of pedigree papers.
259	499.0051(4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
260	499.0051(5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
261	775.0875(1)	3rd	Taking firearm from law enforcement officer.
262	784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
263	784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
264	784.041	3rd	Felony battery; domestic battery by strangulation.
265	784.048(3)	3rd	Aggravated stalking; credible threat.
266	784.048(5)	3rd	Aggravated stalking of person under 16.

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	784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.	
268				
	784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.	
269				
	784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.	
270				
	784.081(2)	2nd	Aggravated assault on specified official or employee.	
271				
	784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.	
272				
	784.083(2)	2nd	Aggravated assault on code inspector.	
273				
	787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.	
274				
	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.	
275				
	790.161(2)	2nd	Make, possess, or throw	

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				destructive device with intent to do bodily harm or damage property.
276				
	790.164(1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.	
277				
	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.	
278				
	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.	
279				
	794.05(1)	2nd	Unlawful sexual activity with specified minor.	
280				
	800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender less than 18 years.	
281				
	800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.	
282				

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806.031(2) 2nd Arson resulting in great bodily
harm to firefighter or any
other person.

283 810.02(3)(c) 2nd Burglary of occupied structure;
unarmed; no assault or battery.

284 810.145(8)(b) 2nd Video voyeurism; certain minor
victims; 2nd or subsequent
offense.

285 812.014(2)(b)1. 2nd Property stolen \$20,000 or
more, but less than \$100,000,
grand theft in 2nd degree.

286 812.014(6) 2nd Theft; property stolen \$3,000
or more; coordination of
others.

287 812.015(9)(a) 2nd Retail theft; property stolen
\$300 or more; second or
subsequent conviction.

288 812.015(9)(b) 2nd Retail theft; property stolen
\$3,000 or more; coordination of
others.

289 812.13(2)(c) 2nd Robbery, no firearm or other
weapon (strong-arm robbery).

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290 817.4821(5) 2nd Possess cloning paraphernalia
with intent to create cloned
cellular telephones.

291 825.102(1) 3rd Abuse of an elderly person or
disabled adult.

292 825.102(3)(c) 3rd Neglect of an elderly person or
disabled adult.

293 825.1025(3) 3rd Lewd or lascivious molestation
of an elderly person or
disabled adult.

294 825.103(3)(c) 3rd Exploiting an elderly person or
~~825.103(2)(e)~~ disabled adult and property is
valued at less than \$10,000
~~\$20,000~~.

295 827.03(2)(c) 3rd Abuse of a child.

296 827.03(2)(d) 3rd Neglect of a child.

297 827.071(2) & (3) 2nd Use or induce a child in a
sexual performance, or promote
or direct such performance.

298 836.05 2nd Threats; extortion.

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299 836.10 2nd Written threats to kill or do
bodily injury.

300 843.12 3rd Aids or assists person to
escape.

301 847.011 3rd Distributing, offering to
distribute, or possessing with
intent to distribute obscene
materials depicting minors.

302 847.012 3rd Knowingly using a minor in the
production of materials harmful
to minors.

303 847.0135(2) 3rd Facilitates sexual conduct of
or with a minor or the visual
depiction of such conduct.

304 914.23 2nd Retaliation against a witness,
victim, or informant, with
bodily injury.

305 944.35(3)(a)2. 3rd Committing malicious battery
upon or inflicting cruel or
inhuman treatment on an inmate
or offender on community
supervision, resulting in great

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bodily harm.

306 944.40 2nd Escapes.

307 944.46 3rd Harboring, concealing, aiding
escaped prisoners.

308 944.47(1)(a)5. 2nd Introduction of contraband
(firearm, weapon, or explosive)
into correctional facility.

309 951.22(1) 3rd Intoxicating drug, firearm, or
weapon introduced into county
facility.

310 (g) LEVEL 7

311

312 Florida Felony Description
Statute Degree

313 316.027(1)(b) 1st Accident involving death,
failure to stop; leaving scene.

314 316.193(3)(c)2. 3rd DUI resulting in serious bodily
injury.

315 316.1935(3)(b) 1st Causing serious bodily injury
or death to another person;
driving at high speed or with

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wanton disregard for safety
 while fleeing or attempting to
 elude law enforcement officer
 who is in a patrol vehicle with
 siren and lights activated.

316 327.35(3)(c)2. 3rd Vessel BUI resulting in serious
 bodily injury.

317 402.319(2) 2nd Misrepresentation and
 negligence or intentional act
 resulting in great bodily harm,
 permanent disfiguration,
 permanent disability, or death.

318 409.920 3rd Medicaid provider fraud;
 (2)(b)1.a. \$10,000 or less.

319 409.920 2nd Medicaid provider fraud; more
 than \$10,000, but less than
 \$50,000.

320 456.065(2) 3rd Practicing a health care
 profession without a license.

321 456.065(2) 2nd Practicing a health care
 profession without a license
 which results in serious bodily
 injury.

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322 458.327(1) 3rd Practicing medicine without a
 license.

323 459.013(1) 3rd Practicing osteopathic medicine
 without a license.

324 460.411(1) 3rd Practicing chiropractic
 medicine without a license.

325 461.012(1) 3rd Practicing podiatric medicine
 without a license.

326 462.17 3rd Practicing naturopathy without
 a license.

327 463.015(1) 3rd Practicing optometry without a
 license.

328 464.016(1) 3rd Practicing nursing without a
 license.

329 465.015(2) 3rd Practicing pharmacy without a
 license.

330 466.026(1) 3rd Practicing dentistry or dental
 hygiene without a license.

331 467.201 3rd Practicing midwifery without a

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 license.

332 468.366 3rd Delivering respiratory care
 services without a license.

333 483.828(1) 3rd Practicing as clinical
 laboratory personnel without a
 license.

334 483.901(9) 3rd Practicing medical physics
 without a license.

335 484.013(1)(c) 3rd Preparing or dispensing optical
 devices without a prescription.

336 484.053 3rd Dispensing hearing aids without
 a license.

337 494.0018(2) 1st Conviction of any violation of
 ss. 494.001-494.0077 in which
 the total money and property
 unlawfully obtained exceeded
 \$50,000 and there were five or
 more victims.

338 560.123(8)(b)1. 3rd Failure to report currency or
 payment instruments exceeding
 \$300 but less than \$20,000 by a
 money services business.

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339 560.125(5)(a) 3rd Money services business by
 unauthorized person, currency
 or payment instruments
 exceeding \$300 but less than
 \$20,000.

340 655.50(10)(b)1. 3rd Failure to report financial
 transactions exceeding \$300 but
 less than \$20,000 by financial
 institution.

341 775.21(10)(a) 3rd Sexual predator; failure to
 register; failure to renew
 driver's license or
 identification card; other
 registration violations.

342 775.21(10)(b) 3rd Sexual predator working where
 children regularly congregate.

343 775.21(10)(g) 3rd Failure to report or providing
 false information about a
 sexual predator; harbor or
 conceal a sexual predator.

344 782.051(3) 2nd Attempted felony murder of a
 person by a person other than
 the perpetrator or the

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			perpetrator of an attempted felony.	
345	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).	
346	782.071	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).	
347	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).	
348	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.	
349	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.	
350	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.	
351				

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	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.	
352	784.048(7)	3rd	Aggravated stalking; violation of court order.	
353	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.	
354	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.	
355	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.	
356	784.081(1)	1st	Aggravated battery on specified official or employee.	
357	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.	
358	784.083(1)	1st	Aggravated battery on code inspector.	
359	787.06(3)(a)	1st	Human trafficking using coercion for labor and services.	

360	586-01859-14		2014588c1	
	787.06(3) (e)	1st	Human trafficking using coercion for labor and services by the transfer or transport of any individual from outside Florida to within the state.	
361	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).	
362	790.16(1)	1st	Discharge of a machine gun under specified circumstances.	
363	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.	
364	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.	
365	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.	
366	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax	

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			weapon of mass destruction while committing or attempting to commit a felony.	
367	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.	
368	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.	
369	796.03	2nd	Procuring any person under 16 years for prostitution.	
370	800.04(5) (c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.	
371	800.04(5) (c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.	
372	806.01(2)	2nd	Maliciously damage structure by	

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	586-01859-14		2014588c1	fire or explosive.
373				
	810.02(3)(a)	2nd		Burglary of occupied dwelling; unarmed; no assault or battery.
374				
	810.02(3)(b)	2nd		Burglary of unoccupied dwelling; unarmed; no assault or battery.
375				
	810.02(3)(d)	2nd		Burglary of occupied conveyance; unarmed; no assault or battery.
376				
	810.02(3)(e)	2nd		Burglary of authorized emergency vehicle.
377				
	812.014(2)(a)1.	1st		Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
378				
	812.014(2)(b)2.	2nd		Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
379				
	812.014(2)(b)3.	2nd		Property stolen, emergency

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	586-01859-14		2014588c1	medical equipment; 2nd degree grand theft.
380				
	812.014(2)(b)4.	2nd		Property stolen, law enforcement equipment from authorized emergency vehicle.
381				
	812.0145(2)(a)	1st		Theft from person 65 years of age or older; \$50,000 or more.
382				
	812.019(2)	1st		Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
383				
	812.131(2)(a)	2nd		Robbery by sudden snatching.
384				
	812.133(2)(b)	1st		Carjacking; no firearm, deadly weapon, or other weapon.
385				
	817.034(4)(a)1.	1st		Communications fraud, value greater than \$50,000.
386				
	817.234(8)(a)	2nd		Solicitation of motor vehicle accident victims with intent to defraud.
387				
	817.234(9)	2nd		Organizing, planning, or participating in an intentional

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 388 motor vehicle collision.
 817.234(11)(c) 1st Insurance fraud; property value
 389 \$100,000 or more.
 817.2341 1st Making false entries of
 (2)(b) & (3)(b) material fact or false
 statements regarding property
 values relating to the solvency
 of an insuring entity which are
 a significant cause of the
 390 insolvency of that entity.
 817.535(2)(a) 3rd Filing false lien or other
 391 unauthorized document.
 825.102(3)(b) 2nd Neglecting an elderly person or
 disabled adult causing great
 bodily harm, disability, or
 392 disfigurement.
825.103(3)(b) 2nd Exploiting an elderly person or
~~825.103(2)(b)~~ disabled adult and property is
 valued at \$10,000 ~~\$20,000~~ or
 more, but less than \$50,000
 393 ~~\$100,000~~.
 827.03(2)(b) 2nd Neglect of a child causing
 great bodily harm, disability,

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 394 or disfigurement.
 827.04(3) 3rd Impregnation of a child under
 16 years of age by person 21
 395 years of age or older.
 837.05(2) 3rd Giving false information about
 alleged capital felony to a law
 enforcement officer.
 396 838.015 2nd Bribery.
 397 838.016 2nd Unlawful compensation or reward
 for official behavior.
 398 838.021(3)(a) 2nd Unlawful harm to a public
 servant.
 399 838.22 2nd Bid tampering.
 400 843.0855(2) 3rd Impersonation of a public
 officer or employee.
 401 843.0855(3) 3rd Unlawful simulation of legal
 process.
 402 843.0855(4) 3rd Intimidation of a public
 officer or employee.
 403

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847.0135(3) 3rd Solicitation of a child, via a
computer service, to commit an
unlawful sex act.

847.0135(4) 2nd Traveling to meet a minor to
commit an unlawful sex act.

872.06 2nd Abuse of a dead human body.

874.05(2)(b) 1st Encouraging or recruiting
person under 13 to join a
criminal gang; second or
subsequent offense.

874.10 1st,PBL Knowingly initiates, organizes,
plans, finances, directs,
manages, or supervises criminal
gang-related activity.

893.13(1)(c)1. 1st Sell, manufacture, or deliver
cocaine (or other drug
prohibited under s.
893.03(1)(a), (1)(b), (1)(d),
(2)(a), (2)(b), or (2)(c)4.)
within 1,000 feet of a child
care facility, school, or
state, county, or municipal
park or publicly owned
recreational facility or

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community center.

893.13(1)(e)1. 1st Sell, manufacture, or deliver
cocaine or other drug
prohibited under s.
893.03(1)(a), (1)(b), (1)(d),
(2)(a), (2)(b), or (2)(c)4.,
within 1,000 feet of property
used for religious services or
a specified business site.

893.13(4)(a) 1st Deliver to minor cocaine (or
other s. 893.03(1)(a), (1)(b),
(1)(d), (2)(a), (2)(b), or
(2)(c)4. drugs).

893.135(1)(a)1. 1st Trafficking in cannabis, more
than 25 lbs., less than 2,000
lbs.

893.135 (1)(b)1.a. 1st Trafficking in cocaine, more
than 28 grams, less than 200
grams.

893.135 (1)(c)1.a. 1st Trafficking in illegal drugs,
more than 4 grams, less than 14
grams.

893.135(1)(d)1. 1st Trafficking in phencyclidine,

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				more than 28 grams, less than 200 grams.
415	893.135(1)(e)1.	1st		Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
416	893.135(1)(f)1.	1st		Trafficking in amphetamine, more than 14 grams, less than 28 grams.
417	893.135 (1)(g)1.a.	1st		Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
418	893.135 (1)(h)1.a.	1st		Trafficking in gamma- hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
419	893.135 (1)(j)1.a.	1st		Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
420	893.135 (1)(k)2.a.	1st		Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
421	893.1351(2)	2nd		Possession of place for

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				trafficking in or manufacturing of controlled substance.
422	896.101(5)(a)	3rd		Money laundering, financial transactions exceeding \$300 but less than \$20,000.
423	896.104(4)(a)1.	3rd		Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
424	943.0435(4)(c)	2nd		Sexual offender vacating permanent residence; failure to comply with reporting requirements.
425	943.0435(8)	2nd		Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
426	943.0435(9)(a)	3rd		Sexual offender; failure to comply with reporting requirements.
427	943.0435(13)	3rd		Failure to report or providing false information about a

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 sexual offender; harbor or
 conceal a sexual offender.
 428 943.0435 (14) 3rd Sexual offender; failure to
 report and reregister; failure
 to respond to address
 verification.
 429 944.607 (9) 3rd Sexual offender; failure to
 comply with reporting
 requirements.
 430 944.607 (10) (a) 3rd Sexual offender; failure to
 submit to the taking of a
 digitized photograph.
 431 944.607 (12) 3rd Failure to report or providing
 false information about a
 sexual offender; harbor or
 conceal a sexual offender.
 432 944.607 (13) 3rd Sexual offender; failure to
 report and reregister; failure
 to respond to address
 verification.
 433 985.4815 (10) 3rd Sexual offender; failure to
 submit to the taking of a
 digitized photograph.

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 434 985.4815 (12) 3rd Failure to report or providing
 false information about a
 sexual offender; harbor or
 conceal a sexual offender.
 435 985.4815 (13) 3rd Sexual offender; failure to
 report and reregister; failure
 to respond to address
 verification.
 436 (h) LEVEL 8
 437
 438 Florida Felony Description
 Statute Degree
 439 316.193 2nd DUI manslaughter.
 (3) (c) 3.a.
 440 316.1935 (4) (b) 1st Aggravated fleeing or attempted
 eluding with serious bodily
 injury or death.
 441 327.35 (3) (c) 3. 2nd Vessel BUI manslaughter.
 442 499.0051 (7) 1st Knowing trafficking in
 contraband prescription drugs.
 443 499.0051 (8) 1st Knowing forgery of prescription

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444 labels or prescription drug
labels.

445 560.123(8)(b)2. 2nd Failure to report currency or
payment instruments totaling or
exceeding \$20,000, but less
than \$100,000 by money
transmitter.

446 560.125(5)(b) 2nd Money transmitter business by
unauthorized person, currency
or payment instruments totaling
or exceeding \$20,000, but less
than \$100,000.

447 655.50(10)(b)2. 2nd Failure to report financial
transactions totaling or
exceeding \$20,000, but less
than \$100,000 by financial
institutions.

448 777.03(2)(a) 1st Accessory after the fact,
capital felony.

782.04(4) 2nd Killing of human without design
when engaged in act or attempt
of any felony other than arson,
sexual battery, robbery,
burglary, kidnapping,

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449 aggravated fleeing or eluding
with serious bodily injury or
death, aircraft piracy, or
unlawfully discharging bomb.

450 782.051(2) 1st Attempted felony murder while
perpetrating or attempting to
perpetrate a felony not
enumerated in s. 782.04(3).

451 782.071(1)(b) 1st Committing vehicular homicide
and failing to render aid or
give information.

452 782.072(2) 1st Committing vessel homicide and
failing to render aid or give
information.

453 787.06(3)(b) 1st Human trafficking using
coercion for commercial sexual
activity.

454 787.06(3)(c) 1st Human trafficking using
coercion for labor and services
of an unauthorized alien.

787.06(3)(f) 1st Human trafficking using
coercion for commercial sexual
activity by the transfer or

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transport of any individual
 from outside Florida to within
 the state.

455 790.161(3) 1st Discharging a destructive
 device which results in bodily
 harm or property damage.

456 794.011(5) 2nd Sexual battery, victim 12 years
 or over, offender does not use
 physical force likely to cause
 serious injury.

457 794.08(3) 2nd Female genital mutilation,
 removal of a victim younger
 than 18 years of age from this
 state.

458 800.04(4) 2nd Lewd or lascivious battery.

459 806.01(1) 1st Maliciously damage dwelling or
 structure by fire or explosive,
 believing person in structure.

460 810.02(2)(a) 1st,PBL Burglary with assault or
 battery.

461 810.02(2)(b) 1st,PBL Burglary; armed with explosives
 or dangerous weapon.

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462 810.02(2)(c) 1st Burglary of a dwelling or
 structure causing structural
 damage or \$1,000 or more
 property damage.

463 812.014(2)(a)2. 1st Property stolen; cargo valued
 at \$50,000 or more, grand theft
 in 1st degree.

464 812.13(2)(b) 1st Robbery with a weapon.

465 812.135(2)(c) 1st Home-invasion robbery, no
 firearm, deadly weapon, or
 other weapon.

466 817.535(2)(b) 2nd Filing false lien or other
 unauthorized document; second
 or subsequent offense.

467 817.535(3)(a) 2nd Filing false lien or other
 unauthorized document; property
 owner is a public officer or
 employee.

468 817.535(4)(a)1. 2nd Filing false lien or other
 unauthorized document;
 defendant is incarcerated or
 under supervision.

469	586-01859-14		2014588c1	
	817.535(5)(a)	2nd	Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the false instrument.	
470	817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.	
471	825.102(2)	1st	Aggravated abuse of an elderly person or disabled adult.	
472	825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.	
473	<u>825.103(3)(a)</u> 825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at <u>\$50,000</u> \$100,000 or more.	
474	837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.	
475	837.021(2)	2nd	Making contradictory statements	

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			in official proceedings relating to prosecution of a capital felony.	
476	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.	
477	860.16	1st	Aircraft piracy.	
478	893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).	
479	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).	
480	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).	
481	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.	
482	893.135	1st	Trafficking in cocaine, more	

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	(1) (b) 1.b.		than 200 grams, less than 400 grams.
483	893.135	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
	(1) (c) 1.b.		
484	893.135	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
	(1) (d) 1.b.		
485	893.135	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
	(1) (e) 1.b.		
486	893.135	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
	(1) (f) 1.b.		
487	893.135	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
	(1) (g) 1.b.		
488	893.135	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
	(1) (h) 1.b.		
489	893.135	1st	Trafficking in 1,4-Butanediol,

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	(1) (j) 1.b.		5 kilograms or more, less than 10 kilograms.
490	893.135	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
	(1) (k) 2.b.		
491	893.1351(3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
492	895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
493	895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
494	895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
495	896.101(5) (b)	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.

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496

896.104(4)(a)2. 2nd Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.

497 Section 7. For the purpose of incorporating the amendment
498 made by this act to section 825.103, Florida Statutes, in a
499 reference thereto, subsection (1) of section 772.11, Florida
500 Statutes, is reenacted to read:

501 772.11 Civil remedy for theft or exploitation.—

502 (1) Any person who proves by clear and convincing evidence
503 that he or she has been injured in any fashion by reason of any
504 violation of ss. 812.012-812.037 or s. 825.103(1) has a cause of
505 action for threefold the actual damages sustained and, in any
506 such action, is entitled to minimum damages in the amount of
507 \$200, and reasonable attorney's fees and court costs in the
508 trial and appellate courts. Before filing an action for damages
509 under this section, the person claiming injury must make a
510 written demand for \$200 or the treble damage amount of the
511 person liable for damages under this section. If the person to
512 whom a written demand is made complies with such demand within
513 30 days after receipt of the demand, that person shall be given
514 a written release from further civil liability for the specific
515 act of theft or exploitation by the person making the written
516 demand. Any person who has a cause of action under this section
517 may recover the damages allowed under this section from the
518 parents or legal guardian of any unemancipated minor who lives

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519

520 with his or her parents or legal guardian and who is liable for
521 damages under this section. Punitive damages may not be awarded
522 under this section. The defendant is entitled to recover
523 reasonable attorney's fees and court costs in the trial and
524 appellate courts upon a finding that the claimant raised a claim
525 that was without substantial fact or legal support. In awarding
526 attorney's fees and costs under this section, the court may not
527 consider the ability of the opposing party to pay such fees and
528 costs. This section does not limit any right to recover
529 attorney's fees or costs provided under any other law.

Section 8. This act shall take effect October 1, 2014.

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The Florida Senate

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice

✓

Subject: Committee Agenda Request

Date: February 19, 2014

I respectfully request that **Senate Bill #588**, relating to Offenses against Vulnerable Persons, be placed on the:

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

A handwritten signature in black ink, appearing to read "Garrett Richter".

Senator Garrett Richter
Florida Senate, District 23

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/14
Meeting Date

Topic Offenses Against Vulnerable Persons
Name Keri Rayborn Silver
Job Title _____

Bill Number 588
(if applicable)
Amendment Barcode _____
(if applicable)

Address PO Box 1565
Street
Tallahassee, FL 32302
City State Zip

Phone 850-524-2394
E-mail Keri@raybornconsultants.com

Speaking: For Against Information

Representing Florida Sheriffs Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/14

Meeting Date

Topic Offenses Against Vulnerable Adults

Bill Number 588
(if applicable)

Name Laura Cantwell

Amendment Barcode _____
(if applicable)

Job Title Associate State Director Advocacy

Address 400 Canlon Pkwy, St. 100

Phone 850-570-2110

Street

St. Petersburg FL 33716

City

State

Zip

E-mail lcantwell@aarf.org

Speaking: For Against Information

Representing AARP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-31-14

Meeting Date

Topic ELDERLY AND VULNERABLE PERSONS

Bill Number 588
(if applicable)

Name MONICA HOFHEINZ

Amendment Barcode _____
(if applicable)

Job Title ASSISTANT STATE ATTORNEY

Address 201 SE 6th ST

Phone 954-831-8543

Street

FORT LAUDERDALE

E-mail hofsa17@sa017.state.fl.us

City

State

Zip

Speaking: For Against Information

Representing STATE ATTORNEY MIKE SATZ AND FLORIDA PROSECUTORS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 674

INTRODUCER: Criminal Justice Committee; Health Policy Committee; and Senator Bean

SUBJECT: Background Screening

DATE: April 1, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stovall</u>	<u>Stovall</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Everette</u>	<u>Eichin</u>	<u>TR</u>	<u>Favorable</u>
3.	<u>Sumner</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 674 strengthens and facilitates the background screening provisions for persons required by law to undergo criminal background screening.

The bill exempts membership organizations affiliated with national organizations whose primary purpose is providing activities to contribute to the development of good character, after school care, and delinquency prevention from child care licensing requirements. It requires proof of one level 2 background screening for an employee of such a facility upon request.

The bill updates the disqualifying offenses to include additional offenses involving fraudulent activity for persons screened as a part of health care facility licensure and adds offenses involving attempting, soliciting, or conspiring to commit a listed disqualifying offense for any person subject to background screening. A person may apply for an exemption from rescreening if the person was previously screened and qualified under the applicable statutes but has a disqualifying offense that became effective July 1, 2014.

The 3-year waiting period after payment of court-ordered monetary amounts in order to be eligible for an exemption from disqualification for certain felony convictions is eliminated. Screenings handled through the Care Provider Background Screening Clearinghouse (Clearinghouse) must now be initiated and registered through the Clearinghouse prior to referring the employee or potential employee for fingerprinting. Additionally, certain identifying

information of the person to be fingerprinted must be submitted on behalf of all persons to be screened.

The bill provides for the submission of an individual taxpayer identification number if a social security number cannot be obtained and allows health care facilities and employers that are required to conduct background screenings to submit an attestation, rather than an affidavit, that they have complied with the screening requirements.

The statutory placement of the requirement for submission of a photograph taken at the time of fingerprinting is relocated so that it is not a requirement for all screenings but only for those handled through the Clearinghouse.

The Department of Highway Safety and Motor Vehicles (DHSMV) is authorized to provide driver's license photographs to the Department of Health (DOH) and the Agency for Health Care Administration (AHCA) pursuant to an interagency agreement with each agency.

II. Present Situation:

Previous Legislation for Background Screening

Florida has one of the largest vulnerable populations in the country with 17.3 percent of the state's population over the age of 65.¹ In addition to the elderly, the state's vulnerable children and disabled adults require special care because they are at an increased risk of abuse.

In 2010, the Legislature substantially amended the requirements and procedures for background screening.² Major changes made by the 2010 legislation include:

- No person who is required to be screened may begin work until the screening has been completed.
- All Level 1³ screenings were increased to Level 2⁴ screenings.
- By July 1, 2012, all fingerprints submitted to the Florida Department of Law Enforcement (FDLE) must be submitted electronically.
- Certain personnel that were not being screened were required to begin Level 2 screening.
- The addition of serious crimes that disqualify an individual from employment working with vulnerable populations.
- Authorization for agencies to request the retention of fingerprints by FDLE.
- That an exemption for a disqualifying felony may not be granted until at least 3 years after the completion of all sentencing sanctions for that felony.

¹ The Older Population: 2010 Census Briefs, U.S. Census Bureau, Issued November 2011, p. 9, available at: <http://www.census.gov/prod/cen2010/briefs/c2010br-09.pdf> (Last visited Feb. 7, 2014).

² Chapter 2010-114, L.O.F.

³ Section 435.03, F.S. Level 1 screenings are name-based demographic screenings that must include, but are not limited to, employment history checks and statewide criminal correspondence checks through the FDLE. Level 1 screenings may also include local criminal records checks through local law enforcement agencies. A person undergoing a Level 1 screening must not have been found guilty of any of the listed offenses.

⁴ Section 435.04, F.S. A Level 2 screening consists of a fingerprint-based search of the FDLE and the Federal Bureau of Investigation databases for state and national criminal arrest records. Any person undergoing a Level 2 screening must not have been found guilty of any of the listed offenses.

- That all exemptions from disqualification may be granted only by the agency head.

The Care Provider Background Screening Clearinghouse

In 2012, the Legislature created the Clearinghouse. The Clearinghouse establishes a single data source for background screening results of persons required to be screened by law⁵ for employment in positions that provide services to children, the elderly, and disabled individuals.⁶ The Clearinghouse allows the results of criminal history checks to be shared among specified state agencies, thereby reducing duplicative screenings for individuals requiring screening across multiple state agencies. In addition, applicants now have their fingerprints retained for a period of 5 years. The retention of fingerprints allows the FDLE to report any new arrest/registration information to the specified state agencies. In turn, if during that 5-year period the individual is arrested or added to a registry, a notification will be sent to the employing provider.⁷

The Clearinghouse also collects photographs of applicants who are required to obtain Level 2 background checks. The requirement to submit a photograph was added to law during the 2012 Legislative Session. However, instead of being in the Clearinghouse statute of s. 435.12, F.S., the requirement currently exists in the general Level 2 screening standards of s. 435.04(1)(e), F.S.

Employers of individuals subject to screening by a specified agency⁸ are required to register with the Clearinghouse and maintain the employment status of all employees with the Clearinghouse for screenings conducted after the date the state agency begins participation in the Clearinghouse. Initial employment status and any change in status must be reported within 10 business days.⁹ Currently, there is no requirement that screenings be initiated through the Clearinghouse.

The Clearinghouse is in the process of being implemented by six designated state agencies. Currently, the clearinghouse is active and being used by the AHCA and the Department of Health (DOH).¹⁰

Child care facilities; legislative intent and declaration of purpose and policy

Section 402.301, F.S., provides that personnel of membership organizations affiliated with national organizations that do not provide child care are not required to be screened. The primary purpose of these not-for-profit organizations is providing activities that contribute to the development of good character or good sportsmanship or to the education or cultural development of minors.

⁵ Certain persons are required to be screened by specified agencies. "Specified agency" is defined in s. 435.02(5), F.S., and includes the Department of Health, the Department of Children and Families, the Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Department of Elderly Affairs, the Department of Juvenile Justice, and the Agency for Persons with Disabilities.

⁶ *Clearinghouse FAQ*, found at: http://ahca.myflorida.com/MCHQ/Central_Services/Background_Screening/docs/ClearinghouseFAQ.pdf, (Last visited on Feb. 7, 2014).

⁷ *Id.*

⁸ *Supra* n. 5

⁹ Section 435.12(2), F.S.

¹⁰ See the AHCA Clearinghouse website at:

http://ahca.myflorida.com/MCHQ/Central_Services/Background_Screening/BGS_results.shtml, (Last visited Feb. 7, 2014).

Current Background Screening Law

Florida licensure laws require providers licensed by the AHCA to conduct Level 2 criminal background screening for:^{11,12}

- The licensee;
- Administrators and financial officers;
- Staff of health care providers who offer residential and home care services that provide personal care services or have access to client property, funds, or living areas; and
- Any person who is a controlling interest if there is reason to suspect they have committed a disqualifying criminal offense.

Current background screening standards in ch. 435, F.S., and s. 408.809, F.S., the general licensing provisions for health care providers licensed by the AHCA, include various disqualifying offenses pertaining, but not limited to, domestic violence, patient brokering, criminal use of personal identification information, fraudulent use of credit cards, forgery, and possession/sale of illegal drugs.

Some offenses that presently would disqualify an applicant from employment are very similar to certain offenses that presently do not disqualify an applicant from employment. For example, s. 408.809(4)(k), F.S., states that felonious fraudulent use of credit cards, as described in s. 817.61, F.S., is a disqualifying offense. However, using an expired or falsified credit card to obtain goods, as described in s. 817.841, F.S., is not a disqualifying offense.

Designated agencies have the authority to grant exemptions from disqualification.¹³ The exemptions enable people who have been convicted of a disqualifying criminal offense to present information as to why they should not be excluded from working with vulnerable individuals. This information includes: specifics of the offense, how long ago the offense occurred, work history, and rehabilitation. Current law states that an applicant who applies for an exemption for a felony offense must have had 3 years elapse since completion of any sentence or have been lawfully released from confinement, supervision, or sanction for the disqualifying felony.¹⁴ The 3-year waiting period would not have started for the failure to fully satisfy even the smallest related sanction, such as any unpaid balance of a fine. The requirement is similar for disqualifying misdemeanors, except that there is no specific time frame mandated after being lawfully released from confinement, supervision, or sanction.^{15,16}

¹¹ Section 408.809, F.S.

¹² For a full list of all employees subject to background screening see, *Who is Required to be Screened*, found at: http://ahca.myflorida.com/MCHO/Central_Services/Background_Screening/docs/BGS_WhoRequiredToBeScreened.pdf, (Last visited on Feb. 7, 2014).

¹³ Section 435.07, F.S.

¹⁴ *Id.*

¹⁵ The term “sanction” does not currently have a formal definition in ch. 435, F.S. Numerous state agencies are bound by ch. 435, F.S., and the interpretation of the term “sanction” varies widely among the agencies.

¹⁶ SB 1112 Bill Analysis and Economic Impact Statement, Agency for Health Care Administration, at page 4, Mar. 13, 2013 (on file with the Senate Health Policy Committee).

DHSMV Driver's License Photograph Access

The DHSMV has the authority to maintain a record of driver license photographs, signature, and other data required for identification and retrieval.¹⁷ The DHSMV also has the authority to share those photographs, through interagency agreements, with specific state agencies¹⁸ to conduct fraud investigations, protective services, and verification of identity.

III. Effect of Proposed Changes:

The bill strengthens and facilitates the background screening provisions for persons required by law to undergo criminal background screening.

Section 1 amends s. 322.142, F.S., to allow the DHSMV to share a data file that includes a driver licensee's digital image and signature with the DOH and the AHCA pursuant to an interagency agreement with each agency. The images will be used to verify licensed health care practitioners and persons fingerprinted compared with photographs in the Clearinghouse.

Section 2 amends s. 402.301, F.S., to exempt membership organizations affiliated with national organizations whose primary purpose is providing activities to contribute to the development of good character, after school care, and delinquency prevention from child care licensing requirements. It requires proof of one level 2 background screening for an employee of such a facility upon request.

Section 3 amends s. 408.806, F.S., relating to the licensure application process applicable to health care facilities licensed by the AHCA, to authorize the application and statement regarding compliance with background screening provisions to be an attestation rather than submitted under oath or as an affidavit. An affidavit requires signature in front of a judge, clerk, deputy clerk of a court, or notary public.¹⁹ The bill also authorizes an individual taxpayer identification number to be submitted on the application if a social security number cannot be obtained.

Section 4 amends s. 408.809, F.S., to add to the list of crimes which disqualify an applicant subject to a background check from employment with a health care facility. The added crimes include:

- Attempts, solicitation, and conspiracy to commit an offense listed in s. 408.809(4), F.S.;²⁰
- Felonies involving the use of false or expired credit cards;²¹
- Fraudulently obtaining goods or services from a health care provider;²²
- Crimes related to racketeering and the collection of illegal debts;²³ and

¹⁷ Section 322.142(4), F.S.

¹⁸ Section 322.142(4), F.S., provides that the Department of Highway Safety and Motor Vehicles may provide reproductions of the file or digital record to the Department of Business and Professional Regulation, the Department of State, the Department of Revenue, the Department of Children and Families, the Department of Financial Services, or to district medical examiners.

¹⁹ See s. 92.50, F.S.

²⁰ As detailed in s. 777.04, F.S.

²¹ As detailed in s. 817.481, F.S. The crime is a felony if the value of the goods or services obtained in violation of s. 817.481, F.S., is \$300 or more.

²² As detailed in s. 817.50, F.S.

²³ As detailed in s. 895.03, F.S.

- Violating the provisions in the Florida Money Laundering Act.²⁴

The bill permits a person to apply for an exemption from rescreening if the person was previously screened and qualified under the applicable statutes but has a disqualifying offense that became effective July 1, 2014.

This section of the bill also authorizes the statement regarding compliance with the background screening provisions to be an attestation rather than submitted as an affidavit. The bill revises the AHCA's requirement for acceptance of screening results from outside agencies and allows federal retained prints to satisfy rescreening requirements. A technical change is made to update the statute regarding acceptance of screening results since the Clearinghouse is operational for some specified agencies and background screening results are now being retained.

Section 5 amends s. 413.208, F.S., and **Section 5** repeals an unnumbered section of a 2012 chapter law relating to the effective date for implementation of the background screening requirements for service providers registering with the Division of Vocational Rehabilitation.

Section 6 repeals Section 7 of chapter 2012-73, Laws of Florida.

Section 7 amends s. 435.04, F.S., to require vendors who submit fingerprints on behalf of employers to provide the first, middle, and last name, social security number, date of birth, mailing address, sex, and race of an applicant. If an applicant cannot legally obtain a social security number, then an individual taxpayer identification number must be provided instead. This section also adds attempts, solicitation, and conspiracy to commit any offense listed in s. 435.04(2), F.S.,²⁵ to the list of crimes which disqualify any applicant subject to a Level 2 background check from employment.

The requirement to obtain a photograph of the applicant at the time the fingerprints are submitted is relocated to s. 435.12, F.S., which is limited to specified agencies participating in the Clearinghouse.

Section 8 amends s. 435.05, F.S., to allow employers that are required to conduct Level 2 background screenings to attest annually or at the time of license renewal to compliance with background screening requirements rather than submit an affidavit of compliance.

Section 9 amends s. 435.07, F.S., to strike the term "sanction" from s. 435.07, F.S., and revise the conditions an agency head must consider when determining whether to grant an exemption to disqualification from employment. Under the bill, the 3-year waiting period for a felony offense applies to nonmonetary conditions imposed by the court and not to the satisfaction of monetary requirements. However, all court-ordered fees, fines, or other monetary requirements relating to a disqualifying felony or misdemeanor must be paid in full as a condition of eligibility for an exemption from disqualification of employment.

²⁴ As detailed in s. 896.101, F.S.

²⁵ As detailed in s. 777.04, F.S.

Section 10 amends s. 435.12, F.S., to require employers of persons subject to background screening by specified agencies²⁶ to register and initiate all criminal history checks through the Clearinghouse before referring an employee or potential employee for electronic fingerprint submission to the FDLE. The registration submitted must include the employee's first, middle, and last name, social security number, date of birth, mailing address, sex, and race. If an applicant cannot legally obtain a social security number, then an individual taxpayer identification number must be provided instead.

The bill authorizes the FDLE to forward notification of arrest to the AHCA once FDLE begins participating in the national retained print arrest notification program which is anticipated to occur later this year. Under this program, arrest prints will be searched against retained prints at the FBI and notification of arrests will be forwarded to the FDLE.

This section now requires a photograph to be submitted at the time fingerprints are submitted, which is transferred from s. 435.04, F.S.

Section 11 provides for an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Employers may see an indeterminate fiscal savings by submitting certain documents under attestation rather than as an affidavit and a reduction in costs associated with hiring new employees due to an increased pool of eligible applicants as a result of removing the 3-year waiting period after payment of all court-ordered monetary amounts before an applicant is eligible for exemption from disqualification for employment. The administrative cost associated with submitting certain identifying information for

²⁶ *Supra* n. 5

employee fingerprinting may facilitate and offset administrative costs of tracking the status of results.

More ex-offenders will be disqualified from potential employment under this bill. In addition, potential employees who have committed in their past one of the newly added disqualifying offenses, such as “attempts” under s. 777.04, F.S., will be disqualified from employment. It is unclear from the bill whether current employees who have obtained an exemption from disqualification under the current s. 435.07, F.S., will be terminated from employment or “grandfathered in” and allowed to maintain their employment.

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: 322.142, 402.301, 408.806, 408.809, 413.208, 435.04, 435.05, 435.07, and 435.12.

This bill repeals Section 7 of chapter 2012-73, Laws of Florida.

IX. Additional Information:

A. **Committee Substitute – Statement of Substantial Changes:**

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

CS/CS by Criminal Justice on March 31, 2014:

Exempts membership organizations affiliated with national organizations whose primary purpose is providing activities to contribute to the development of good character, after school care, and delinquency prevention from child care licensing requirements. It requires proof of one level 2 background screening for an employee of such a facility upon request. It provides an exemption to rescreening if the person was previously screened and qualified under the applicable statutes but has a disqualifying offense that became effective July 1, 2014. It makes technical and conforming changes.

CS by Health Policy on February 11, 2014:

Modifies the background screening provisions to make use of the national retained print arrest notification program when the FDLE begins participation in the program.

B. Amendments:

None.

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



169528

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2014	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 85
and insert:
to an interagency agreement for the purpose of authorized
agencies verifying



301108

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2014	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 107 and 108

insert:

Section 2. Subsection (6) of section 402.301, Florida Statutes, is amended to read:

402.301 Child care facilities; legislative intent and declaration of purpose and policy.—It is the legislative intent to protect the health, safety, and well-being of the children of the state and to promote their emotional and intellectual



301108

11 development and care. Toward that end:

12 (6) Notwithstanding any other provision of law, it is
13 further the intent of the Legislature that membership
14 organizations affiliated with national organizations which do
15 not provide child care as defined in s. 402.302, whose primary
16 purpose is providing activities that contribute to the
17 development of good character, after school care and delinquency
18 prevention programs which are operated 5 days a week or more,
19 are facility or school based or good sportsmanship or to the
20 education or cultural development of minors in this state, which
21 charge only a nominal annual membership fee, which are not for
22 profit, and which are certified by their national associations
23 as being in compliance with the association's minimum standards
24 and procedures shall not be considered child care facilities and
25 therefore not subject to the licensing requirements or the
26 minimum standards for child care facilities. However, upon
27 request, such a facility shall show proof of one level 2
28 background screening per screened employee, their personnel shall
29 not be required to be screened.

30
31 ===== T I T L E A M E N D M E N T =====

32 And the title is amended as follows:

33 Delete line 7

34 and insert:

35 specified purposes; amending s. 402.301, F.S.;

36 revising provisions relating to the exemption of

37 certain membership organizations affiliated with

38 national organizations from certain child care

39 facility licensing requirements; requiring a level 2



301108

40 background screening for an employee of such a
41 facility under certain circumstances; amending s.
42 408.806, F.S.;



873382

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2014	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 262 and 263

insert:

If, upon rescreening, a person who is currently employed or contracted with a licensee as of June 30, 2014 and was screened and qualified under s. 435.03 and s. 435.04, has a disqualifying offense that was not a disqualifying offense at the time of the last screening, but is a current disqualifying offense and was



873382

11 committed before the last screening, he or she may apply for an
12 exemption from the appropriate licensing agency and, if agreed
13 to by the employer, may continue to perform his or her duties
14 until the licensing agency renders a decision on the application
15 for exemption if the person is eligible to apply for an
16 exemption and the exemption request is received by the agency no
17 later than 30 days after receipt of the rescreening results by
18 the person.

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

21 And the title is amended as follows:

22 Delete line 21

23 and insert:

24 screening requirements; adding an exemption clause
25 from disqualification for new offenses; amending s.
26 413.208, F.S.;



781948

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2014	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 287 - 291
and insert:
middle initial, and last name; social security number or
individual taxpayer identification number; date of birth;
mailing address; sex; and race ~~a photograph of the applicant
taken at the~~

By the Committee on Health Policy; and Senator Bean

588-01762-14

2014674c1

1 A bill to be entitled
 2 An act relating to background screening; amending s.
 3 322.142, F.S.; authorizing the Department of Highway
 4 Safety and Motor Vehicles to share reproductions of
 5 driver license images with the Department of Health
 6 and the Agency for Health Care Administration for
 7 specified purposes; amending s. 408.806, F.S.;
 8 revising the requirements for licensure; revising a
 9 provision requiring an affidavit; amending s. 408.809,
 10 F.S.; exempting a person whose fingerprints are
 11 already enrolled in a certain Federal Bureau of
 12 Investigation program from the requirement that such
 13 fingerprints be forwarded to the bureau; requiring
 14 certain persons to submit their fingerprints
 15 electronically; requiring the Department of Law
 16 Enforcement to retain fingerprints when the department
 17 begins participation in a certain program; revising
 18 requirements for proof of compliance with level 2
 19 screening standards; revising terminology; adding
 20 additional disqualifying offenses to background
 21 screening requirements; amending s. 413.208, F.S.;
 22 providing applicability for background screening
 23 requirements for certain registrants; repealing s. 7
 24 of chapter 2012-73, Laws of Florida, relating to
 25 background screening requirements; amending s. 435.04,
 26 F.S.; revising information to be required for vendors
 27 submitting employee fingerprints; adding an additional
 28 disqualifying offense to background screening
 29 requirements; amending s. 435.05, F.S.; revising a

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30 provision requiring the annual submission of an
 31 affidavit; amending s. 435.07, F.S.; revising criteria
 32 for an exemption from disqualification for an employee
 33 under certain conditions; amending s. 435.12, F.S.;
 34 requiring the fingerprints of an employee required to
 35 be screened by a specified agency and included in the
 36 clearinghouse also to be retained in the national
 37 retained print arrest notification program at a
 38 specified time; requiring simultaneous submission of a
 39 photographic image and electronic fingerprints to the
 40 Care Provider Background Screening Clearinghouse;
 41 requiring an employer to follow certain criminal
 42 history check procedures and include specified
 43 information regarding referral and registration of an
 44 employee for electronic fingerprinting with the
 45 clearinghouse; providing an effective date.
 46
 47 Be It Enacted by the Legislature of the State of Florida:
 48
 49 Section 1. Subsection (4) of section 322.142, Florida
 50 Statutes, is amended to read:
 51 322.142 Color photographic or digital imaged licenses.—
 52 (4) The department may maintain a film negative or print
 53 file. The department shall maintain a record of the digital
 54 image and signature of the licensees, together with other data
 55 required by the department for identification and retrieval.
 56 Reproductions from the file or digital record are exempt from
 57 the provisions of s. 119.07(1) and may ~~shall~~ be made and issued
 58 only:

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- 59 (a) For departmental administrative purposes;
- 60 (b) For the issuance of duplicate licenses;
- 61 (c) In response to law enforcement agency requests;
- 62 (d) To the Department of Business and Professional
- 63 Regulation and the Department of Health pursuant to an
- 64 interagency agreement for the purpose of accessing digital
- 65 images for reproduction of licenses issued by the Department of
- 66 Business and Professional Regulation or the Department of
- 67 Health;
- 68 (e) To the Department of State pursuant to an interagency
- 69 agreement to facilitate determinations of eligibility of voter
- 70 registration applicants and registered voters in accordance with
- 71 ss. 98.045 and 98.075;
- 72 (f) To the Department of Revenue pursuant to an interagency
- 73 agreement for use in establishing paternity and establishing,
- 74 modifying, or enforcing support obligations in Title IV-D cases;
- 75 (g) To the Department of Children and Families pursuant to
- 76 an interagency agreement to conduct protective investigations
- 77 under part III of chapter 39 and chapter 415;
- 78 (h) To the Department of Children and Families pursuant to
- 79 an interagency agreement specifying the number of employees in
- 80 each of that department's regions to be granted access to the
- 81 records for use as verification of identity to expedite the
- 82 determination of eligibility for public assistance and for use
- 83 in public assistance fraud investigations;
- 84 (i) To the Agency for Health Care Administration pursuant
- 85 to an interagency agreement for the purpose of verifying
- 86 photographs in the Care Provider Background Screening
- 87 Clearinghouse authorized under s. 435.12;

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- 88 (j)~~(i)~~ To the Department of Financial Services pursuant to
- 89 an interagency agreement to facilitate the location of owners of
- 90 unclaimed property, the validation of unclaimed property claims,
- 91 and the identification of fraudulent or false claims;
- 92 (k)~~(j)~~ To district medical examiners pursuant to an
- 93 interagency agreement for the purpose of identifying a deceased
- 94 individual, determining cause of death, and notifying next of
- 95 kin of any investigations, including autopsies and other
- 96 laboratory examinations, authorized in s. 406.11; or
- 97 (l)~~(k)~~ To the following persons for the purpose of
- 98 identifying a person as part of the official work of a court:
- 99 1. A justice or judge of this state;
- 100 2. An employee of the state courts system who works in a
- 101 position that is designated in writing for access by the Chief
- 102 Justice of the Supreme Court or a chief judge of a district or
- 103 circuit court, or by his or her designee; or
- 104 3. A government employee who performs functions on behalf
- 105 of the state courts system in a position that is designated in
- 106 writing for access by the Chief Justice or a chief judge, or by
- 107 his or her designee.
- 108 Section 2. Subsections (1) and (8) of section 408.806,
- 109 Florida Statutes, are amended to read:
- 110 408.806 License application process.—
- 111 (1) An application for licensure must be made to the agency
- 112 on forms furnished by the agency, submitted under oath or
- 113 attestation, and accompanied by the appropriate fee in order to
- 114 be accepted and considered timely. The application must contain
- 115 information required by authorizing statutes and applicable
- 116 rules and must include:

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117 (a) The name, address, and social security number, or
 118 individual taxpayer identification number if a social security
 119 number cannot legally be obtained, of:

- 120 1. The applicant;
- 121 2. The administrator or a similarly titled person who is
 122 responsible for the day-to-day operation of the provider;
- 123 3. The financial officer or similarly titled person who is
 124 responsible for the financial operation of the licensee or
 125 provider; and
- 126 4. Each controlling interest if the applicant or
 127 controlling interest is an individual.

128 (b) The name, address, and federal employer identification
 129 number or taxpayer identification number of the applicant and
 130 each controlling interest if the applicant or controlling
 131 interest is not an individual.

132 (c) The name by which the provider is to be known.

133 (d) The total number of beds or capacity requested, as
 134 applicable.

135 (e) The name of the person or persons under whose
 136 management or supervision the provider will operate and the name
 137 of the administrator, if required.

138 (f) If the applicant offers continuing care agreements as
 139 defined in chapter 651, proof shall be furnished that the
 140 applicant has obtained a certificate of authority as required
 141 for operation under chapter 651.

142 (g) Other information, including satisfactory inspection
 143 results, that the agency finds necessary to determine the
 144 ability of the applicant to carry out its responsibilities under
 145 this part, authorizing statutes, and applicable rules.

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146 (h) An attestation affidavit, under penalty of perjury, as
 147 required in s. 435.05(3), stating compliance with the provisions
 148 of this section and chapter 435.

149 (8) The agency may establish procedures for the electronic
 150 notification and submission of required information, including,
 151 but not limited to:

- 152 (a) Licensure applications.
- 153 (b) Required signatures.
- 154 (c) Payment of fees.
- 155 (d) Notarization or attestation of applications.

156

157 Requirements for electronic submission of any documents required
 158 by this part or authorizing statutes may be established by rule.
 159 As an alternative to sending documents as required by
 160 authorizing statutes, the agency may provide electronic access
 161 to information or documents.

162 Section 3. Subsections (2) and (4) of section 408.809,
 163 Florida Statutes, are amended to read:

164 408.809 Background screening; prohibited offenses.—

165 (2) Every 5 years following his or her licensure,
 166 employment, or entry into a contract in a capacity that under
 167 subsection (1) would require level 2 background screening under
 168 chapter 435, each such person must submit to level 2 background
 169 rescreening as a condition of retaining such license or
 170 continuing in such employment or contractual status. For any
 171 such rescreening, the agency shall request the Department of Law
 172 Enforcement to forward the person's fingerprints to the Federal
 173 Bureau of Investigation for a national criminal history record
 174 check unless the person's fingerprints are enrolled in the

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175 Federal Bureau of Investigation's national retained print arrest
 176 notification program. If the fingerprints of such a person are
 177 not retained by the Department of Law Enforcement under s.
 178 943.05(2)(g) and (h), the person must submit fingerprints
 179 electronically file a complete set of fingerprints with the
 180 agency and the agency shall forward the fingerprints to the
 181 Department of Law Enforcement for state processing, and the
 182 Department of Law Enforcement shall forward the fingerprints to
 183 the Federal Bureau of Investigation for a national criminal
 184 history record check. The fingerprints shall ~~may~~ be retained by
 185 the Department of Law Enforcement under s. 943.05(2)(g) and (h)
 186 and enrolled in the national retained print arrest notification
 187 program when the Department of Law Enforcement begins
 188 participation in the program. The cost of the state and national
 189 criminal history records checks required by level 2 screening
 190 may be borne by the licensee or the person fingerprinted. Until
 191 a specified agency is fully implemented ~~the person's background~~
 192 ~~screening results are retained~~ in the clearinghouse created
 193 under s. 435.12, the agency may accept as satisfying the
 194 requirements of this section proof of compliance with level 2
 195 screening standards submitted within the previous 5 years to
 196 meet any provider or professional licensure requirements of the
 197 agency, the Department of Health, the Department of Elderly
 198 Affairs, the Agency for Persons with Disabilities, the
 199 Department of Children and Families ~~Family Services~~, or the
 200 Department of Financial Services for an applicant for a
 201 certificate of authority or provisional certificate of authority
 202 to operate a continuing care retirement community under chapter
 203 651, provided that:

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204 (a) The screening standards and disqualifying offenses for
 205 the prior screening are equivalent to those specified in s.
 206 435.04 and this section;
 207 (b) The person subject to screening has not had a break in
 208 service from a position that requires level 2 screening for more
 209 than 90 days; and
 210 (c) Such proof is accompanied, under penalty of perjury, by
 211 an attestation affidavit of compliance with ~~the provisions of~~
 212 chapter 435 and this section using forms provided by the agency.
 213 (4) In addition to the offenses listed in s. 435.04, all
 214 persons required to undergo background screening pursuant to
 215 this part or authorizing statutes must not have an arrest
 216 awaiting final disposition for, must not have been found guilty
 217 of, regardless of adjudication, or entered a plea of nolo
 218 contendere or guilty to, and must not have been adjudicated
 219 delinquent and the record not have been sealed or expunged for
 220 any of the following offenses or any similar offense of another
 221 jurisdiction:
 222 (a) Any authorizing statutes, if the offense was a felony.
 223 (b) This chapter, if the offense was a felony.
 224 (c) Section 409.920, relating to Medicaid provider fraud.
 225 (d) Section 409.9201, relating to Medicaid fraud.
 226 (e) Section 741.28, relating to domestic violence.
 227 (f) Section 777.04, relating to attempts, solicitation, and
 228 conspiracy to commit an offense listed in this subsection.
 229 (g) ~~(f)~~ Section 817.034, relating to fraudulent acts through
 230 mail, wire, radio, electromagnetic, photoelectronic, or
 231 photooptical systems.
 232 (h) ~~(g)~~ Section 817.234, relating to false and fraudulent

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233 insurance claims.

234 (i) Section 817.481, relating to obtaining goods by using a

235 false or expired credit card or other credit device, if the

236 offense was a felony.

237 (j) Section 817.50, relating to fraudulently obtaining

238 goods or services from a health care provider.

239 ~~(k)(h)~~ Section 817.505, relating to patient brokering.

240 ~~(l)(i)~~ Section 817.568, relating to criminal use of

241 personal identification information.

242 ~~(m)(j)~~ Section 817.60, relating to obtaining a credit card

243 through fraudulent means.

244 ~~(n)(k)~~ Section 817.61, relating to fraudulent use of credit

245 cards, if the offense was a felony.

246 ~~(o)(l)~~ Section 831.01, relating to forgery.

247 ~~(p)(m)~~ Section 831.02, relating to uttering forged

248 instruments.

249 ~~(q)(n)~~ Section 831.07, relating to forging bank bills,

250 checks, drafts, or promissory notes.

251 ~~(r)(o)~~ Section 831.09, relating to uttering forged bank

252 bills, checks, drafts, or promissory notes.

253 ~~(s)(p)~~ Section 831.30, relating to fraud in obtaining

254 medicinal drugs.

255 ~~(t)(q)~~ Section 831.31, relating to the sale, manufacture,

256 delivery, or possession with the intent to sell, manufacture, or

257 deliver any counterfeit controlled substance, if the offense was

258 a felony.

259 (u) Section 895.03, relating to racketeering and collection

260 of unlawful debts.

261 (v) Section 896.101, relating to the Florida Money

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262 Laundrying Act.

263 Section 4. Subsection (5) is added to section 413.208,

264 Florida Statutes, to read:

265 413.208 Service providers; quality assurance; fitness for

266 responsibilities; background screening.—

267 (5) The background screening requirements of this section

268 apply only to registrations entered into or renewed with the

269 division after the Care Provider Background Screening

270 Clearinghouse becomes operational and retains the background

271 screening results in the clearinghouse under s. 435.12.

272 Section 5. Section 7 of chapter 2012-73, Laws of Florida,

273 is repealed.

274 Section 6. Paragraph (e) of subsection (1) of section

275 435.04, Florida Statutes, is amended, present paragraphs (d)

276 through (yy) of subsection (2) are redesignated as paragraphs

277 (e) through (zz), respectively, and a new paragraph (d) is added

278 to that subsection, to read:

279 435.04 Level 2 screening standards.—

280 (1)

281 (e) Vendors who submit fingerprints on behalf of employers

282 must:

283 1. Meet the requirements of s. 943.053; and

284 2. Have the ability to communicate electronically with the

285 state agency accepting screening results from the Department of

286 Law Enforcement and provide the applicant's full first name,

287 middle initial, and last name; social security number; date of

288 birth; mailing address; sex; and race. Individuals, persons,

289 applicants, and controlling interests that cannot legally obtain

290 a social security number must provide an individual taxpayer

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291 ~~identification number a photograph of the applicant taken at the~~
 292 ~~time the fingerprints are submitted.~~

293 (2) The security background investigations under this
 294 section must ensure that no persons subject to the provisions of
 295 this section have been arrested for and are awaiting final
 296 disposition of, have been found guilty of, regardless of
 297 adjudication, or entered a plea of nolo contendere or guilty to,
 298 or have been adjudicated delinquent and the record has not been
 299 sealed or expunged for, any offense prohibited under any of the
 300 following provisions of state law or similar law of another
 301 jurisdiction:

302 (d) Section 777.04, relating to attempts, solicitation, and
 303 conspiracy to commit an offense listed in this subsection.

304 Section 7. Subsection (3) of section 435.05, Florida
 305 Statutes, is amended to read:

306 435.05 Requirements for covered employees and employers.—
 307 Except as otherwise provided by law, the following requirements
 308 apply to covered employees and employers:

309 (3) Each employer licensed or registered with an agency
 310 must conduct level 2 background screening and must submit to the
 311 agency annually or at the time of license renewal, under penalty
 312 of perjury, a signed attestation affidavit attesting to
 313 compliance with the provisions of this chapter.

314 Section 8. Subsections (1) and (2) of section 435.07,
 315 Florida Statutes, are amended to read:

316 435.07 Exemptions from disqualification.—Unless otherwise
 317 provided by law, the provisions of this section apply to
 318 exemptions from disqualification for disqualifying offenses
 319 revealed pursuant to background screenings required under this

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320 chapter, regardless of whether those disqualifying offenses are
 321 listed in this chapter or other laws.

322 (1) (a) The head of the appropriate agency may grant to any
 323 employee otherwise disqualified from employment an exemption
 324 from disqualification for:

325 1. ~~(a)~~ Felonies for which at least 3 years have elapsed
 326 since the applicant for the exemption has completed or been
 327 lawfully released from confinement, supervision, or nonmonetary
 328 condition imposed by the court ~~sanction~~ for the disqualifying
 329 felony;

330 2. ~~(b)~~ Misdemeanors prohibited under any of the statutes
 331 cited in this chapter or under similar statutes of other
 332 jurisdictions for which the applicant for the exemption has
 333 completed or been lawfully released from confinement,
 334 supervision, or nonmonetary condition imposed by the court
 335 ~~sanction~~;

336 3. ~~(c)~~ Offenses that were felonies when committed but that
 337 are now misdemeanors and for which the applicant for the
 338 exemption has completed or been lawfully released from
 339 confinement, supervision, or nonmonetary condition imposed by
 340 the court ~~sanction~~; or

341 4. ~~(d)~~ Findings of delinquency. For offenses that would be
 342 felonies if committed by an adult and the record has not been
 343 sealed or expunged, the exemption may not be granted until at
 344 least 3 years have elapsed since the applicant for the exemption
 345 has completed or been lawfully released from confinement,
 346 supervision, or nonmonetary condition imposed by the court
 347 ~~sanction~~ for the disqualifying offense.

348 (b) A person applying for an exemption who was ordered to

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349 pay any amount for any fee, fine, fund, lien, civil judgment,
 350 application, costs of prosecution, trust, or restitution as part
 351 of the judgment and sentence for any disqualifying felony or
 352 misdeemeanor must have paid the court-ordered amount in full
 353 before being eligible for the exemption.

354
 355 For the purposes of this subsection, the term "felonies" means
 356 both felonies prohibited under any of the statutes cited in this
 357 chapter or under similar statutes of other jurisdictions.

358 (2) Persons employed, or applicants for employment, by
 359 treatment providers who treat adolescents 13 years of age and
 360 older who are disqualified from employment solely because of
 361 crimes under s. 817.563, s. 893.13, or s. 893.147 may be
 362 exempted from disqualification from employment pursuant to this
 363 chapter without application of the waiting period in
 364 subparagraph (1) (a)1 ~~paragraph (1) (a).~~

365 Section 9. Subsection (2) of section 435.12, Florida
 366 Statutes, is amended to read:

367 435.12 Care Provider Background Screening Clearinghouse.-

368 (2) (a) To ensure that the information in the clearinghouse
 369 is current, the fingerprints of an employee required to be
 370 screened by a specified agency and included in the clearinghouse
 371 must be:

372 1. Retained by the Department of Law Enforcement pursuant
 373 to s. 943.05(2)(g) and (h) and (3), and the Department of Law
 374 Enforcement must report the results of searching those
 375 fingerprints against state incoming arrest fingerprint
 376 submissions to the Agency for Health Care Administration for
 377 inclusion in the clearinghouse.

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378 2. Retained by the Federal Bureau of Investigation in the
 379 national retained print arrest notification program as soon as
 380 the Department of Law Enforcement begins participation in such
 381 program. Arrest prints will be searched against retained prints
 382 at the Federal Bureau of Investigation and notification of
 383 arrests will be forwarded to the Florida Department of Law
 384 Enforcement and reported to the Agency for Health Care
 385 Administration for inclusion in the clearinghouse.

386 3.2. Resubmitted for a Federal Bureau of Investigation
 387 national criminal history check every 5 years until such time as
 388 the fingerprints are retained by the Federal Bureau of
 389 Investigation.

390 4.3. Subject to retention on a 5-year renewal basis with
 391 fees collected at the time of initial submission or resubmission
 392 of fingerprints.

393 5. Submitted with a photograph of the person taken at the
 394 time the fingerprints are submitted.

395 (b) Until such time as the fingerprints are enrolled in the
 396 national retained print arrest notification program ~~retained~~ at
 397 the Federal Bureau of Investigation, an employee with a break in
 398 service of more than 90 days from a position that requires
 399 screening by a specified agency must submit to a national
 400 screening if the person returns to a position that requires
 401 screening by a specified agency.

402 (c) An employer of persons subject to screening by a
 403 specified agency must register with the clearinghouse and
 404 maintain the employment status of all employees within the
 405 clearinghouse. Initial employment status and any changes in
 406 status must be reported within 10 business days.

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407 (d) An employer must register with and initiate all
408 criminal history checks through the clearinghouse before
409 referring an employee or potential employee for electronic
410 fingerprint submission to the Department of Law Enforcement. The
411 registration must include the employee's full first name, middle
412 initial, and last name; social security number; date of birth;
413 mailing address; sex; and race. Individuals, persons,
414 applicants, and controlling interests that cannot legally obtain
415 a social security number must provide an individual taxpayer
416 identification number.

417 Section 10. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Health Policy, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health
and Human Services
Commerce and Tourism
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability

SELECT COMMITTEE:
Select Committee on Patient Protection
and Affordable Care Act

SENATOR AARON BEAN
4th District

March 9, 2014

The Honorable Greg Evers
Chair, Criminal Justice Committee
406 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Evers:

This letter is to request to have my bill CS for SB 674 relating to Background Screening be heard at the next possible committee meeting. If there is any other information needed please do not hesitate to contact me. Thank you for your consideration.

Respectfully,

A handwritten signature in cursive script that reads "Aaron Bean".

Aaron Bean
State Senator, 4th District

Cc: Amanda Cannon, Staff Director
Sue Arnold, Committee Administrative Assistant

/jk

REPLY TO:

1919 Atlantic Boulevard, Jacksonville, Florida 32207 (904) 346-5039 FAX: (888) 263-1578
 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5004 FAX: (850) 410-4805

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

#1

THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

March 31, 2014
Meeting Date

Topic Background Screening

Bill Number 674
(if applicable)

Name Jeff Kottkamp

Amendment Barcode 301108
(if applicable)

Job Title Jeff Kottkamp Per

Address 120 E Baylye Ave
Street
Sum Pr
City State Zip

Phone 850 893-0955

E-mail _____

Speaking: For Against Information

Representing Florida Alliance of Boys & Girls Club

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

#2

THE FLORIDA SENATE APPEARANCE RECORD

March 31, 2014 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)
Meeting Date

Topic Background Screening

Bill Number 647 ⁶⁷⁴
Amendment Barcode 301108 (if applicable)
(if applicable)

Name Jack Cory

Job Title _____

Address 110 E. College Ave.
Street
Tallahassee FL 32301
City State Zip

Phone 850 681 1065
E-mail jackecory@palconsultants.com

Speaking: For Against Information

Representing Florida Alliance of Boys & Girls Clubs

Appearing at request of Chair: Yes No
Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/2014
Meeting Date

Topic _____

Bill Number 674
(if applicable)

Name Brian Pitts

Amendment Barcode _____
(if applicable)

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St. Petersburg _____
City State Zip

E-mail justice2jesus@yahoo.com

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/2014

Meeting Date

Topic Background screening

Bill Number 674
(if applicable)

Name Jim DeBeaugrine

Amendment Barcode _____
(if applicable)

Job Title _____

Address 215 S. Monroe St.
Street
Tallahassee
City State Zip

Phone 950-508-8908

E-mail jdebeaugrine@penningtonlaw.com

Speaking: For Against Information

Representing Fla. Assn. of Centers for Independent Living

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

DAT MOORE also presenting

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/14

Meeting Date

Topic Background Screening

Bill Number SB 674
(if applicable)

Name Dan Moore

Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 1823 Buford Ct

Phone 850 575 9621

Street

Tallahassee FL 32308

City

State

Zip

E-mail danmooredability1st@info

Speaking: For Against Information

Representing Ability 1st - The Center for Independent Living of NF

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/2014
Meeting Date

Topic Background Screening

Bill Number 674
(if applicable)

Name Dana Farmer

Amendment Barcode _____
(if applicable)

Job Title Legislative Affairs Director

Address 2728 Centerview Dr, #102
Street
Tallahassee FL
City State Zip

Phone 850.617.9709
E-mail dana@disabilityrightsflorida.org

Speaking: For Against Information

Representing Disability Rights Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/14
Meeting Date

Topic Background Screening

Bill Number CS/SB 674/Bean
(if applicable)

Name Aleisa McKinlay

Amendment Barcode _____
(if applicable)

Job Title Director, DOE, Division of Vocational Rehabilitation

Address 4070 Esplanade Way
Street

Phone (850) 245-3311

Tallahassee, FL 32399-7016
City State Zip

E-mail Aleisa.mckinlay@VR.fl.gov
org

Speaking: For Against Information

Representing VR

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 698

INTRODUCER: Criminal Justice Committee and Senator Stargel

SUBJECT: Sexual Misconduct with Students by Authority Figures

DATE: April 1, 2014 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Fav/CS
2.			ED	
3.			ACJ	
4.			AP	

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

I. Summary:

CS/SB 698 reclassifies the felony degree of a specified sexual offense committed by an “authority figure” of a school against a student at that school. An “authority figure” is an adult employed by, volunteering at, or under contract with a school.

II. Present Situation:

Currently, Florida laws punishing sexual acts committed against children do not provide for any specific offense or felony enhancement when, for example, the perpetrator is a teacher or school administrator and the victim is a student.¹ The bill reclassifies the felony degree of a specified sexual offense committed by an “authority figure” of a school against a student at that school.

The relevant sexual offenses are those listed in s. 775.21(4)(a)1., F.S. (offenses relevant to registration of sexual predators) or s. 943.0435(1)(a)1.a., F.S. (offenses relevant to registration of

¹ In some cases, educational personnel are charged with the offense of sexual battery upon a minor by a person having “custodial authority” over the minor (s. 794.011(8), F.S.). *See, e.g., Crews v. State*, 130 So.3d 698 (Fla. 1st DCA 2013). However, depending upon the factual circumstances, a teacher, for example, may or may not have “custodial authority” over a student for purpose of this offense. “In *Hallberg v. State*, 649 So.2d 1355 (Fla.1994), the Florida Supreme Court held that ‘a teacher, without any teaching responsibility or extracurricular activity supervisory authority over a child during a summer recess, is not in a position of custodial authority’ for the purposes of the statute which forbids sexual activity with a child by a person in familial or custodial authority. Thus, ‘teachers are not, by reason of their chosen profession, custodians of their students at all times, particularly when school is recessed for the summer.’ *Id.* at 1357.” *Crews v. State*, 130 So.3d at 701.

sexual offenders), but excluding s. 794.011(4)(g), F.S.,² and s. 810.145(8)(a)2., F.S.³ The bill reclassifies third degree felonies, second degree felonies, and first degree felonies.

Excluding s. 794.011(4)(g), F.S., and s. 810.145(8)(a)2., F.S. (offenses excluded by the bill), and offenses in which the offender is a minor (the bill requires the “authority figure” be an adult), the sexual offenses listed in the registry statutes that are third degree felonies, second degree felonies, or first degree felonies are:

- *Kidnapping (minor victim, offender not a parent)*: First degree felony (Level 9 or 10). Section 787.01(2), F.S.
- *False imprisonment (minor victim, offender not a parent)*: Third degree felony (Level 6). Section 787.02(2), F.S.
- *False imprisonment (child under 13 with sexual offense, offender not a parent)*: First degree felony (Level 9). Section 787.02(3), F.S.
- *Luring or enticing a child (offender 18+ with previous sexual offense and not a parent, victim under 12)*: Third degree felony (Not ranked: defaults to Level 1). Section 787.025(2)(c), F.S.
- *Human trafficking (using coercion for commercial sexual activity)*: First degree felony (Level 8). Section 787.06(3)(b), F.S.
- *Human trafficking (using coercion for commercial sexual activity of any individual who is an unauthorized alien)*: First degree felony (Level 9). Section 787.06(3)(d), F.S.
- *Human trafficking (using coercion for commercial sexual activity, transfer or transport of any individual from outside this state to within this state)*: First degree felony (Level 8). Section 787.06(3)(f), F.S.
- *Human trafficking (for commercial sexual activity in which any child under 18 is involved)*: First degree felony (Level 9). Section 787.06(3)(g), F.S.
- *Sexual battery (victim 12+, no consent, special circumstance)*: First degree felony (Level 9). Section 794.011(4), F.S.
- *Sexual battery (victim 12+, no consent, no deadly force)*: Second degree felony (Level 8). Section 794.011(5), F.S.
- *Sexual battery (victim under 18, offender in a position of familial or custodial authority and solicits victim to engage in sexual battery)*: Third degree felony (Level 6). Section 794.011(8)(a), F.S.
- *Sexual battery (victim 12+ but under 18, offender in a position of familial or custodial authority and engages in sexual battery)*: First degree felony (Level 9). Section 794.011(8)(b), F.S.
- *Sexual activity with certain minors (offender 24+ engages in sexual activity with victim 16 or 17)*: Second degree felony (Level 6). Section 794.05, F.S.
- *Procuring person under 18 for prostitution*: Second degree felony (Level 7). Section 796.03, F.S.
- *Selling or buying of minors into sex trafficking or prostitution (by parent, guardian, etc.)*: First degree felony (Level 9). Section 796.035, F.S.
- *Lewd or lascivious battery*: Second degree felony (Level 8). Section 800.04(4), F.S.

² Section 794.011(4)(g), F.S., provides that it is a first degree felony for a law enforcement officer, correctional officer, or other specified officer or official to commit sexual battery upon a victim 12 years of age or older.

³ Section 810.145(8)(a)2., F.S., provides that it is a second degree felony for an adult employed by a school to commit an act of video voyeurism against a student of the school.

- *Lewd or lascivious molestation (offender 18+ and victim age 12-15)*: Second degree felony (Level 7). Section 800.04(5)(c), F.S.
- *Lewd or lascivious conduct (offender 18+)*: Second degree felony (Level 6). Section 800.04(6)(b), F.S.
- *Lewd or lascivious exhibition (offender 18+)*: Second degree felony (Level 5). Section 800.04(6)(c), F.S.
- *Video voyeurism (offender 18+ responsible for welfare of child under 16 or offender 24+ and victim under 16)*: Third degree felony (Not ranked: defaults to Level 1). Section 810.145(8)(a), F.S.
- *Video voyeurism (with previous voyeurism conviction)*: Second degree felony (Level 6). Section 810.145(8)(b), F.S.
- *Lewd or lascivious battery upon elderly/disabled*: Second degree felony (Level 8). Section 825.1025(2), F.S.
- *Lewd or lascivious molestation upon elderly/disabled*: Third degree felony (Level 6). Section 825.1025(3), F.S.
- *Lewd or lascivious exhibition in presence of elderly/disabled*: Third degree felony (Level 5). Section 825.1025(4), F.S.
- *Using a child in a sexual performance, or being a parent, guardian, or custodian of child and consenting to the participation of child in a sexual performance*: Second degree felony (Level 6). Section 827.071(2), F.S.
- *Promoting a sexual performance by a child*: Second degree felony (Level 6). Section 827.071(3), F.S.
- *Possession with intent to promote any picture, etc., which includes any sexual conduct by a child*: Second degree felony (Level 5). Section 827.071(4), F.S.
- *Possession of any picture, etc., which includes any sexual conduct by a child*: Third degree felony (Level 5). Section 827.071(5), F.S.
- *Selling, renting, loaning, giving away, distributing, transmitting, or showing any obscene material to a minor*: Third degree felony (Not ranked: defaults to Level 1). Section 847.0133, F.S.
- *Computer pornography*: Third degree felony (Level 6). Section 847.0135(2), F.S.
- *Using a computer to solicit, lure, entice, etc., a child to commit a sexual act or a parent to consent to a child's participation in a sexual act*: Third degree felony (Level 7). Section 847.0135(3), F.S.
- *Using a computer to solicit, lure, entice, etc., a child to commit a sexual act or a parent to consent to a child's participation in a sexual act (while misrepresenting one's age)*: Second degree felony (Level 7). Section 847.0135(3), F.S.
- *Traveling to meet a minor to engage in sexual conduct with the minor*: Second degree felony (Level 7). Section 847.0135(4), F.S.
- *Committing certain lewd acts live over computer knowing the transmission is viewed by a victim under 16 (offender 18+)*: Second degree felony (Level 5). Section 847.0135(5), F.S.
- *Transmitting child pornography*: Third degree felony (Level 5). Section 847.0137, F.S.
- *Transmitting material harmful to minors*: Third degree felony (Level 5). Section 847.0138, F.S.
- *Selling or buying of minors*: First degree felony (Level 9). Section 847.0145, F.S.
- *Sexual misconduct with a juvenile offender*: Second degree felony (Not ranked: defaults to Level 4). Section 985.701(1), F.S.

III. Effect of Proposed Changes:

The bill creates s. 775.0862, F.S., which provides that the felony degree of a violation of an offense listed in s. 775.21(4)(a)1., F.S. (offenses relevant to registration of sexual predators), or s. 943.0435(1)(a)1.a., F.S. (offenses relevant to registration of sexual offenders), but excluding s. 794.011(4)(g), F.S. and s. 810.145(8)(a)2., F.S., shall be reclassified if the offense is committed by an “authority figure” of a “school” against a “student” of that school.

The bill provides the following definitions of relevant terms:

- “Authority figure” means a person over the age of 18 employed by, volunteering at, or under contract with a school.
- “School” has the same meaning as provided in s. 1003.01, F.S.,⁴ and includes a private school as defined in s. 1002.01, F.S.,⁵ a voluntary prekindergarten education program as described in s. 1002.53(3), F.S.,⁶ early learning programs, a public school as described in s. 402.3025(1), F.S.,⁷ the Florida School for the Deaf and the Blind, the Florida Virtual

⁴ Section 1003.01(2), F.S., defines “school” as an organization of students for instructional purposes on an elementary, middle or junior high school, secondary or high school, or other public school level authorized under rules of the State Board of Education.

⁵ Section 1002.01(2), F.S., defines “private school” as a nonpublic school defined as an individual, association, copartnership, or corporation, or department, division, or section of such organizations, that designates itself as an educational center that includes kindergarten or a higher grade or as an elementary, secondary, business, technical, or trade school below college level or any organization that provides instructional services that meet the intent of s. 1003.01(13), F.S., or that gives preemployment or supplementary training in technology or in fields of trade or industry or that offers academic, literary, or career training below college level, or any combination of the above, including an institution that performs the functions of the above schools through correspondence or extension, except those licensed under the provisions of chapter 1005, F.S. A private school may be a parochial, religious, denominational, for-profit, or nonprofit school. This definition does not include home education programs conducted in accordance with s. 1002.41, F.S.

⁶ Section 1002.53(3), F.S., provides that the parent of each child eligible for the Voluntary Prekindergarten Education Program under subsection (2) of the statute may enroll the child in one of the following programs:

- A school-year prekindergarten program delivered by a private prekindergarten provider under s. 1002.55, F.S.;
- A summer prekindergarten program delivered by a public school or private prekindergarten provider under s. 1002.61, F.S.;
- A school-year prekindergarten program delivered by a public school; or
- A specialized instructional services program for children who have disabilities, if the child has been evaluated and determined as eligible, has a current individual educational plan developed by the local school board, and is eligible for the program under s. 1002.66, F.S.

⁷ Section 402.3025(1)(a), F.S., provides (under the subtitle “public schools”) that the following programs for children shall not be deemed to be child care and shall not be subject to the provisions of ss. 402.301-402.319, F.S. (child care facilities):

- Programs for children in 5-year-old kindergarten and grades one or above;
- Programs for children who are at least 3 years of age, but who are under 5 years of age, provided the programs are operated and staffed directly by the schools and provided the programs meet age-appropriate standards as adopted by the State Board of Education; and
- Programs for children under 3 years of age who are eligible for participation in the programs under the existing or successor provisions of Pub. L. No. 94-142 or Pub. L. No. 99-457, provided the programs are operated and staffed directly by the schools and provided the programs meet age-appropriate standards as adopted by the State Board of Education.

Section 402.3025(1)(b), F.S., provides (under the subtitle “public schools”) that the following programs for children shall be deemed to be child care and shall be subject to the provisions of ss. 402.301-402.319, F.S.:

- Programs for children who are under 5 years of age when the programs are not operated and staffed directly by the schools; and
- Programs for children under 3 years of age who are not eligible for participation in the programs under existing or successor provisions of Pub. L. No. 94-142 or Pub. L. No. 99-457.

School as established under s. 1002.37, F.S., and a K-8 Virtual School as established under s. 1002.415, F.S., but does not include facilities dedicated exclusively to the education of adults.

- “Student” means a person under the age of 18 who is enrolled at a school.

Based on these definitions, it appears that the only required nexus between the authority figure and the student is that they are at the same school (the student is enrolled at the school and the authority figure is employed by, volunteering at, or under contract with that school). There is no requirement that the offense occur on the premises of the school or during the school year or that the authority figure have any responsibility for or authority over the student by reason of the authority figure’s position.

The bill reclassifies the offense as follows:

- In the case of a third degree felony,⁸ the offense is reclassified to a second degree felony.⁹
- In the case of a second degree felony, the offense is reclassified to a first degree felony.¹⁰
- In the case of a first degree felony, the offense is reclassified to a life felony.¹¹

The bill also provides that, for purposes of sentencing under ch. 921, F.S. (the Criminal Punishment Code), and determining incentive gain-time eligibility under ch. 944, F.S., a felony offense that is reclassified as provided in the bill is ranked one level above the ranking under s. 921.0022, F.S., or s. 921.0023, F.S., of the offense committed.

An example of this reclassification is lewd or lascivious battery (s. 800.04(4), F.S.). This offense is a second degree felony (punishable by up to 15 years in state prison) and is ranked in Level 8. As reclassified, this offense would be a first degree felony (punishable by up to 30 years in state prison) and ranked in Level 9.

The bill also amends s. 921.0022, F.S. (the offense severity ranking chart of the Criminal Punishment Code). Currently, this statute, in part, provides that reclassification of the degree of the felony through the application of a statute specified in s. 921.0022, F.S., or any other law that provides an enhanced penalty for a felony offense, to any offense listed in the offense severity ranking chart, shall not cause the offense to become unlisted and is not subject to the provisions of s. 921.0023, F.S.¹² The bill adds reference to s. 775.0862, F.S.

The effective date of the bill is October 1, 2014.

⁸ A third degree felony is punishable by up to 5 years in state prison, a fine of up to \$5,000, or prison and a fine. Sections 775.082 and 775.083, F.S. However, if the third degree felony is not a forcible felony (excluding ch. 810, F.S.) and total sentence points are 22 points or fewer, the court must impose a nonstate prison sanction, unless the court makes written findings that a nonstate prison sanction could present a danger to the public. Section 775.082, F.S.

⁹ A second degree felony is punishable by up to 15 years in state prison, a fine of up to \$10,000, or prison and a fine. Sections 775.082 and 775.083, F.S.

¹⁰ A first degree felony is generally punishable by up to 30 years in state prison, a fine of up to \$10,000, or prison and a fine. Sections 775.082 and 775.083, F.S.

¹¹ A life felony is generally punishable by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment, a fine of up to \$15,000, or prison and a fine. Sections 775.082 and 775.083, F.S.

¹² This statute ranks noncapital felonies not included in the chart based on a ranking assigned to their felony degree.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, estimated that the original bill would have an insignificant prison bed impact. It does not appear that the changes made to the bill will impact that estimate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 775.0862 of the Florida Statutes.

This bill substantially amends section 921.0022 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 31, 2014:

- Rewords the definition of “authority figure” (adult employed by, volunteering at, or under contract with a school);
- Substitutes the term “school” for “educational institutional” and defines the term (linking the definition to a definition in current law);
- Rewords the definition of “student” (a minor enrolled at school); and
- Excludes from the felony reclassification provisions of the bill video voyeurism committed by an adult employed by a school against a student of the school.

- B. **Amendments:**

None.



723890

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2014	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 18 - 41

and insert:

775.0862 Sexual offenses against students by authority figures; reclassification.-

(1) For purposes of this section, the term:

(a) "Authority figure" means a person over the age of 18 employed by, volunteering at, or under contract with a school.

(b) "School" has the same meaning as provided in s. 1003.01



723890

11 and includes a private school as defined in s. 1002.01, a
12 voluntary prekindergarten education program as described in s.
13 1002.53(3), early learning programs, a public school as
14 described in s. 402.3025(1), the Florida School for the Deaf and
15 the Blind, the Florida Virtual School as established under s.
16 1002.37, and a K-8 Virtual School as established under s.
17 1002.415, but does not include facilities dedicated exclusively
18 to the education of adults.

19 (c) "Student" means a person under the age of 18 who is
20 enrolled at a school.

21 (2) The felony degree of a violation of an offense listed
22 in s. 943.0435(1)(a)1.a. shall be, unless the offense is a
23 violation of s. 794.011(4)(g) or s. 810.145(8)(a)2.,
24 reclassified as provided in this section if the offense is
25 committed by an authority figure of a school against a student
26 of the school.

By Senator Stargel

15-01101-14

2014698__

A bill to be entitled

An act relating to sexual misconduct with students by authority figures; providing a short title; creating s. 775.0862, F.S.; providing definitions; providing for reclassification of specified sexual offenses committed against a student by an authority figure; providing for severity ranking of offenses; amending s. 921.0022, F.S.; providing for application of the severity ranking chart of the Criminal Punishment Code; providing an effective date.

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

Section 1. This act may be cited as the "Sexual Misconduct with Students by Authority Figures Act."

Section 2. Section 775.0862, Florida Statutes, is created to read:

775.0862 Sexual battery offenses against students by authority figures; reclassification.-

(1) For purposes of this section, the term:

(a) "Authority figure" means a school officer, a teacher or other instructional person, an administrator or other school administrative person, a school volunteer, an educational support employee, or an education service provider who is employed by, under contract with, working at, or providing volunteer services to an educational institution.

(b) "Educational institution" means an entity providing instructional programs of study by means of regular classes, activities, or courses, including virtual courses, to students

Page 1 of 3

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

15-01101-14

2014698__

in early learning programs or in prekindergarten through grade 12.

(c) "Student" means a child who is enrolled in early learning or prekindergarten through grade 12.

(2) The felony degree of a violation of:

(a) An offense listed in s. 775.21(4)(a)1.; or

(b) An offense listed in s. 943.0435(1)(a)1.a.

shall be, unless the offense falls within s. 794.011(4)(g), reclassified as provided in this section if the offense is committed by an authority figure of an educational institution against a student of the educational institution.

(3)(a) In the case of a felony of the third degree, the offense is reclassified to a felony of the second degree.

(b) In the case of a felony of the second degree, the offense is reclassified to a felony of the first degree.

(c) In the case of a felony of the first degree, the offense is reclassified to a life felony.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 3. Subsection (2) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.-

(2) The offense severity ranking chart has 10 offense

Page 2 of 3

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

15-01101-14

2014698__

59 levels, ranked from least severe, which are level 1 offenses, to
60 most severe, which are level 10 offenses, and each felony
61 offense is assigned to a level according to the severity of the
62 offense. For purposes of determining which felony offenses are
63 specifically listed in the offense severity ranking chart and
64 which severity level has been assigned to each of these
65 offenses, the numerical statutory references in the left column
66 of the chart and the felony degree designations in the middle
67 column of the chart are controlling; the language in the right
68 column of the chart is provided solely for descriptive purposes.
69 Reclassification of the degree of the felony through the
70 application of s. 775.0845, s. 775.0861, s. 775.0862, s.
71 775.087, s. 775.0875, s. 794.023, or any other law that provides
72 an enhanced penalty for a felony offense, to any offense listed
73 in the offense severity ranking chart in this section shall not
74 cause the offense to become unlisted and is not subject to the
75 provisions of s. 921.0023.

76 Section 4. This act shall take effect October 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR KELLI STARGEL
15th District

COMMITTEES:
Regulated Industries, *Chair*
Appropriations Subcommittee on General
Government
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Commerce and Tourism
Community Affairs
Education

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

February 3, 2014

The Honorable Greg Evers
Senate Criminal Justice Committee, Chair
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chairman Evers:

I am respectfully requesting that SB 698, related to *Sexual Misconduct with Students by Authority Figures*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Kelli Stargel".

Kelli Stargel
Senator, District 15

Cc: Amanda Cannon/ Staff Director
Sue Arnold/ AA

REPLY TO:

- 902 S. Florida Avenue, Suite 102, Lakeland, Florida 33803
- 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/14
Meeting Date

Topic Sexual Misconduct with Students

Bill Number 698
(if applicable)

Name Jennifer Driitt

Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 1820 E. Park Avenue
Street

Phone (850) 297-2000

Tallahassee FL 32301
City State Zip

E-mail jdriitt@fcsv.org

Speaking: For Against Information

Representing Florida Council Against Sexual Violence

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-31-2014
Meeting Date

Topic Sexual Misconduct w/Students by Authority ^{Fijero} Bill Number 698
(if applicable)

Name Janet Lamoureux Amendment Barcode _____
(if applicable)

Job Title _____

Address 1345 Turkey Trl Phone 813 899-7301
Street
Lakeland FL 33810 E-mail janetL@tampabay.fl.com
City State Zip

Speaking: For Against Information

Representing Florida PTA

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/2014

Meeting Date

Topic _____

Bill Number 698
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 764

INTRODUCER: Judiciary Committee and Senator Detert

SUBJECT: Hearsay

DATE: March 28, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 764 creates an exception to the general hearsay rule. The hearsay rule is a rule of evidence which prohibits the admission of out-of-court statements that are offered to prove the truth of the matter asserted as evidence in judicial proceedings.

Under the hearsay exception, an out-of-court statement is admissible if it describes an act of domestic violence which was made to enable law enforcement assistance to meet an ongoing emergency. The statements are admissible regardless of whether the statement was made under oath or whether the person who made the statement is available as a witness in the judicial proceeding.

II. Present Situation:

The Hearsay Rule

The hearsay rule is a rule of evidence which prohibits the admission of out-of-court statements that are offered to prove the truth of the matter asserted as evidence in judicial proceedings.¹ The reasoning behind excluding hearsay statements in general is that they are considered unreliable as probative evidence. There are many reasons for this unreliability, including that the statement

¹ Section 90.801(1)(c), F.S. For example, testimony that the witness heard the declarant state "I saw the light turn red" is *not* hearsay if introduced to prove the declarant was conscious at the time she made the statement. It *would* be hearsay if offered to prove the light was in fact red.

is not made under oath, jurors cannot observe the demeanor of the declarant and judge the witness' credibility, and there is no opportunity to cross-examine the declarant and thereby test his or her credibility.

However, current law provides 24 separate hearsay exceptions where, based on the circumstances surrounding the statement, the law finds sufficient reliability to warrant a hearsay exception. For example, out-of-court statements made by children under 16 are admissible in certain instances.²

Courts note of particular importance the questioning of hearsay in criminal cases based on the constitutional right of the accused to cross-examine all witnesses appearing against him or her.³

Although hearsay evidence is generally inadmissible as evidence in a court hearing or trial, courts permit the admission of hearsay if the statement falls under a firmly-rooted exception in law. Courts consider these exceptions to possess a circumstantial guarantee of trustworthiness.⁴

Florida's evidence code groups hearsay exceptions together as non-hearsay, hearsay exceptions where the availability of the declarant is immaterial, and hearsay exceptions where the declarant is unavailable.

Non-hearsay (s. 90.801, F.S.)

Current law contains an exception to hearsay based on it not being hearsay.

A statement is not hearsay if the declarant testifies at the trial or hearing and is subject to cross-examination and the statement is:

- Inconsistent with the declarant's testimony and given under oath subject to perjury at a trial, hearing, or other proceedings or in a deposition;
- Consistent with the declarant's testimony and offered to rebut an express or implied charge against the declarant of improper influence, motive, or recent fabrication; or
- A statement of identification of a person made after perceiving the person.⁵

Before Florida adopted the Evidence Code, prior inconsistent statements were inadmissible as substantive evidence. The 1978 Legislature based the provision of s. 90.801(2)(a), F.S., in part on Federal Rule of Evidence 801(d)(1), which requires a statement to have been given under oath, subject to perjury, at a trial, hearing, or deposition.⁶

² s. 90.803(23), F.S.

³ The Confrontation Clause of the Sixth Amendment of the U.S. Constitution provides, in part "that in all criminal prosecutions, the accused shall enjoy the right ... to be confronted with the witnesses against him." Section 16, Art. I, of the State Constitution, provides, in part "In all criminal prosecutions the accused ... shall have the right to have compulsory process for witnesses, to confront at trial adverse witnesses" Indeed, "the right to confront one's accusers is a concept that dates back to Roman times." *Crawford v. Washington*, 541 U.S. 36, 43 (2004).

⁴ 29 AM. JUR. 2D EVIDENCE S. 689

⁵ Section 90.801(2), F.S.

⁶ FRE Rule 801, 28 U.S.C.A.; *Corbett v. Wilson*, 48 So.3d 131, 134 (5th DCA 2010); *State v. Green*, 667 So.2d 756, 758-759 (1995).

Hearsay Exceptions Where the Availability of the Declarant is Immaterial (s. 90.803, F.S.)

This list of hearsay exceptions applies, regardless of whether the declarant is a witness.

Regardless of whether the declarant is available as a witness, current law includes the following statements as hearsay exceptions:

- Spontaneous Statement: A spontaneous statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter, except when the statement is made under circumstances that indicate lack of trustworthiness.
- Excited Utterance: A statement relating to a startling event or condition made under the stress of excitement caused by the event or condition.
- Then-existing Mental, Emotional, or Physical Condition: A statement of then-existing state of mind, emotion, or physical sensation, when the state is an issue in the case.
- Statements for Purposes of Medical Diagnosis or Treatment: A statement that describes medical history, symptoms, pain or sensations reasonably pertinent to diagnosis or treatment.
- Recorded Recollection: A memorandum or record concerning a matter about which a witness once had knowledge, but now has insufficient recollection, shown to have been made when the matter was fresh.
- Records of Regularly Conducted Business Activity: A memorandum, report, record, or data compilation made at or near the time by a person with knowledge.
- Absence of Entry in Records of Regularly Conducted Activity: Evidence that a matter is not included in the memoranda, reports, records, or data compilation if the matter was of the kind regularly made and preserved.
- Public Records and Reports: Records, reports, statements reduced to writing, or data compilations, of public officers or agencies.
- Records of Vital Statistics: Records or data compilations, in any form, of births, fetal deaths, deaths, or marriages, if a report was made to a public office pursuant to requirements of law.
- Absence of Public Record or Entry: Evidence, in the form of a certification in accord with s. 90.902, F.S., or in the form of testimony, that diligent search failed to disclose a record, report, statement, or data compilation or entry, when offered to prove the absence of the record, report, statement, or data compilation or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation would regularly have been made and preserved by a public office and agency.
- Records of Religious Organizations: Statements of births, marriages, divorces, deaths, parentage, ancestry, relationship by blood or marriage, or other similar facts of personal or family history contained in a regularly kept record of a religious organization.
- Marriage, Baptismal, and Similar Certificates: Statements of facts contained in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, when such statement was certified by a member of the clergy, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and when such certificate purports to have been issued at the time of the act or within a reasonable time thereafter.
- Family Records: Statements of fact concerning personal or family history in family Bibles, charts, engravings in rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones, or the like.

- Records of Documents Affecting an Interest in Property: The record of a document purporting to establish or affect an interest in property, as proof of the contents of the original recorded or filed document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office and an applicable statute authorized the recording or filing of the document in the office.
- Statements in Documents Affecting an Interest in Property: A statement contained in a document purporting to establish or affect an interest in property, if the matter stated was relevant to the purpose of the document, unless dealings with the property since the document was made have been inconsistent with the truth of the statement or the purport of the document.
- Statements in Ancient Documents: Statements in a document in existence 20 years or more, the authenticity of which is established.
- Market Reports, Commercial Publications: Market quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations if, in the opinion of the court, the sources of information and method of preparation were such as to justify their admission.
- Admissions: A statement that is offered against a party and that meets one of the 5 statutory criteria.
- Reputation Concerning Personal or Family History: Evidence of reputation concerning a person's birth, adoption, marriage, divorce, death, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history.
- Reputation Concerning Boundaries or General History: Evidence of reputation in a community, arising before the controversy about the boundaries of, or customs affecting lands in, the community; or about events of general history which are important to the community, state, or nation where located.
- Reputation as to Character: Evidence of reputation of a person's character among associates or in the community.
- Former Testimony: Former testimony given by the declarant which testimony was given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, or a person with a similar interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination; provided, however, the court finds that the testimony is not inadmissible pursuant to s. 90.402 or s. 90.403, F.S.
- Statement of Child Victim: Unless the source of information or the method or circumstances by which the statement is reported indicates a lack of trustworthiness, an out-of-court statement made by a child victim with a physical, mental, emotional, or developmental age of 16 or less describing any act of child abuse or neglect, any act of sexual abuse against a child, the offense of child abuse, the offense of aggravated child abuse, or any offense involving an unlawful sexual act, contact, intrusion, or penetration performed in the presence of, with, by, or on the declarant child, not otherwise admissible, is admissible in evidence in any civil or criminal proceeding if certain statutory criteria are met.
- Statement of Elderly Person or Disabled Adult: Unless the source of information or the method or circumstances by which the statement is reported indicates a lack of trustworthiness, an out-of-court statement made by an elderly person or disabled adult, as defined in s. 825.101, F.S., describing any act of abuse or neglect, any act of exploitation, the

offense of battery or aggravated battery or assault or aggravated assault or sexual battery, or any other violent act on the declarant elderly person or disabled adult, not otherwise admissible, is admissible in evidence in any civil or criminal proceeding if certain statutory criteria are met.⁷

Hearsay Exceptions Where the Declarant is Unavailable (s. 90.804, F.S.)

Hearsay exceptions that apply when the declarant is unavailable⁸ for a hearing or trial include:

- **Statement of Former Testimony:** Testimony given as a witness at another hearing of the same or different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding if the other party had an opportunity to develop the testimony through direct, cross, or redirect examination;
- **Statement under Belief of Impending Death:** A statement made by a declarant while reasonably believing death was imminent, regarding the cause of what the declarant believed to be impending death;
- **Statement against Interest:** A statement which, at the time of its making, was so far contrary to the declarant's pecuniary or proprietary interest or tended to subject the declarant to liability or render invalid a claim by the declarant against another, that a declarant wouldn't have made the statement unless he or she believed it to be true.
- **Statement of Personal or Family History:** A statement about the declarant's birth, adoption, marriage, divorce, parentage, ancestry, or other similar fact, even though the declarant had no means of acquiring personal knowledge of the matter stated.
- **Statement by Deceased or Ill Declarant Similar to One Previously Admitted:** A statement by a deceased or ill declarant about the same subject matter as another statement made by the declarant that has previously been offered by an adverse party and admitted in evidence, in an action brought against the personal representative, heir at law, assignee, legatee, devisee, or survivor of a deceased person; and
- **Statement Offered Against a Party that Wrongfully Caused the Declarant's Unavailability:** A statement offered against a party that wrongfully caused, or acquiesced in wrongfully causing, the declarant's unavailability as a witness, and did so intending that result.

Hearsay within Hearsay

Hearsay within hearsay, also known as double hearsay, is not automatically inadmissible. Instead, these statements are admissible provided that they each and separately conform to a hearsay exception.⁹

⁷ Section 90.803(1)-(24), F.S.

⁸ A witness is unavailable if he or she is exempted by a court ruling based on privilege; persists in refusing to testify concerning the subject matter of the declarant's statement despite a court order; has suffered a lack of memory of the subject matter of the statement so as to destroy the declarant's effectiveness as a witness during the trial; may not attend or testify at the hearing due to death or then-existing physical or mental infirmity; or is absent from the hearing, and the proponent of the statement has been unable to procure the declarant's attendance or testimony by process or other reasonable means. Section 90.804(1), F.S.

⁹ Section 90.805, F.S.

Domestic Violence

Domestic violence usually takes place in private, where only the abuser and the abused are present. Because constitutional prohibitions preclude the prosecutor from compelling the accused to testify against himself or herself, the testimony of the victim becomes an essential element of the prosecution's case. The victim, however, is often unavailable because he or she has been killed, is unwilling to testify, or is otherwise unavailable. In these situations, a victim's hearsay statements can become the only opportunity for the prosecutor to bring in the victim's "voice" at trial.

III. Effect of Proposed Changes:

This bill creates an exception to the general hearsay rule. The hearsay rule is a rule of evidence which prohibits the admission of out-of-court statements that are offered to prove the truth of the matter asserted as evidence in judicial proceedings.

Under the bill's hearsay exception, an out-of-court statement is admissible if it describes an act of domestic violence which was made to enable law enforcement assistance to meet an ongoing emergency. These statements are admissible regardless of whether the statement was made under oath or whether the person who made the statement is available as a witness in the judicial proceeding.

The effect of the bill would likely be to make the investigation and prosecution of domestic violence cases possible under circumstances such as where the victim is unwilling or unable to follow through with the case.

The bill takes effect 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. Other Constitutional Issues:

Confrontation Clause

The United States Supreme Court in *Crawford v. Washington* ruled as inadmissible out-of-court statements that are testimonial unless the declarant is unavailable and the

defendant has had a prior opportunity to cross-examine the declarant.¹⁰ Otherwise, admitting the statement is a violation of the confrontation clause of the Sixth Amendment of the U.S. Constitution.¹¹

The Court described as testimonial “An accused who makes a formal statement to government officers bears testimony in a sense that a person who makes a casual remark to an acquaintance does not.”¹²

The United States Supreme Court in *Davis v. Washington* refined the holding of the *Crawford* Court to clarify that victim statements made during a 911 call are not testimonial, and are made for the purpose of enabling police assistance to meet an ongoing emergency.¹³ Therefore, these statements are admissible provided that they constitute a hearsay exception in law.¹⁴

The bill creates a new hearsay exception for statements made about domestic violence to enable law enforcement assistance in responding to an ongoing emergency. As the statements are in and of themselves a hearsay exception, the statements would not have to meet a separate, firmly-rooted hearsay exception to be admissible as evidence.

Traditionally, hearsay exceptions allow the admission of statements that bear pervasive assurances of trustworthiness. The admission of out-of-court statements that do not bear indications of trustworthiness could be challenged on the basis that the admission of the statement denies a defendant the constitutional due process right to a fair trial.

By way of analogy, two hearsay exceptions in Florida law allow as admissible statements of child victims and elderly persons or disabled adults, regardless of whether the declarant is available to testify.¹⁵ Still, each exception requires additional safeguards prior to admissibility. For both of these limited exceptions, the law requires other guarantees of trustworthiness in the form of:

- A hearing conducted outside the presence of the jury to establish that the time, content, and circumstances in which the statement is made provide sufficient safeguards of reliability; and

¹⁰ *Crawford v. Washington*, 541 U.S. 36, 68 (2004). In *Crawford*, an assault and attempted murder case, the Court admitted a statement tape-recorded by the police from a person who allegedly witnessed a stabbing. The witness did not testify at trial, nor was there opportunity for the defendant to cross-examine the witness. *Id.* at 38.

¹¹ *Id.* at 68.

¹² *Id.* at 51.

¹³ *Davis v. Washington*, 547 U.S. 813, 829 (2006).

¹⁴ *Vanevery v. State*, 980 so.2d 1105, 1107 (Fla. 4TH DCA 2008), subsequently cited *Davis* for the proposition that a 911 transcript of a victim of domestic violence is not testimonial and is admissible if it meets an exception to the hearsay rule.

¹⁵ Section 90.803(23), F.S., provides a hearsay exception where the availability of the declarant is immaterial for child victims under the actual or mental age of 16, and the statement describes any act of child abuse or neglect, sexual abuse, or unlawful sexual acts performed in the presence of the child in civil or criminal proceedings. Section 90.803(24), F.S., allows as admissible statements by an elderly person or disabled adult describing acts of abuse or neglect, exploitation, battery or aggravated battery, assault or aggravated assault, sexual battery, or any other violent act.

- The child or elderly or disabled adult either testifies or is unavailable as a witness, and if the declarant is unavailable, the proponent of the statement offers other evidence corroborating the abuse or offense.¹⁶

Separation of Powers

Article V, s. 2(a) of the Florida Constitution provides that the Florida Supreme Court is responsible for adopting rules of practice and procedure in all state courts.¹⁷ The case law interpreting Art. V, s. 2 focuses on the distinction between “substantive” and “procedural” legislation. Legislation concerning matters of substantive law are “within the legislature’s domain” and do not violate Art. V, s. 2.¹⁸ On the other hand, legislation concerning matters of practice and procedure, are within the Court’s “exclusive authority to regulate.”¹⁹ However, “the court has refused to invalidate procedural provisions that are ‘intimately related to’ or ‘intertwined with’ substantive statutory provisions.”²⁰

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of the State Courts Administrator (OSCA) indicates that the fiscal impact on expenditures cannot be accurately determined due to the unavailability of data needed to quantifiably establish the increase in judicial workload. The Office of the State Courts Administrator (OSCA) specifically noted an impact as follows:

Likely having a proportionately greater impact in relation to criminal matters, one might anticipate prosecutors will bring more cases to trial. This may be especially true of domestic violence and gang-related matters in which it is common for victim statements to change before trial.²¹

VI. Technical Deficiencies:

None.

¹⁶ Sections 90.803(23)(a) and 90.803(24)(a), F.S.

¹⁷ Art. V, s. 2(a), Fla. Const.

¹⁸ *Haven Fed. Sav. & Loan Ass’n v. Kirian*, 579 So.2d 730, 732 (Fla. 1991).

¹⁹ *Id.*

²⁰ *In re Commitment of Cartwright*, 870 So.2d 152, 158 (Fla. 2d DCA 2004) (citing *Caple v. Tuttle's Design-Build, Inc.*, 753 So.2d 49, 53-54 (Fla. 2000)).

²¹ Office of the State Courts Administrator, *2014 Judicial Impact Statement SB 764* (February 10, 2014) (on file with the Senate Judiciary Committee).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 90.801 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 18, 2014:

The underlying bill created a hearsay exception that would have made admissible as evidence any inconsistent statement made by a person who testifies at trial. The committee substitute replaces the broad hearsay exception in the bill with an exception that is limited to certain statements describing acts of domestic violence.

- B. **Amendments:**

None.



LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/31/2014	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 15 - 18
and insert:

(25) HEARSAY EXCEPTION; STATEMENT OF DOMESTIC VIOLENCE
VICTIM.-

(a) A statement that purports to narrate, describe, report,
or explain an act of domestic violence as defined in s. 741.28
made by a victim of the domestic violence if the statement was
recorded electronically or in writing, was made to a law



866768

11 enforcement officer to enable the law enforcement agency to
12 respond to an ongoing emergency, and has sufficient indicia of
13 reliability.

14 (b) In determining whether a statement has sufficient
15 indicia of reliability under paragraph (a), the court shall
16 consider all circumstances surrounding the statement, including,
17 but not limited to:

18 1. Whether the statement is corroborated by evidence other
19 than statements that are subject to admission only pursuant to
20 this subsection;

21 2. The timing of the statement;

22 3. Whether the statement was elicited by leading questions;

23 and

24 4. Subsequent statements made by the victim.

By the Committee on Judiciary; and Senator Detert

590-02748-14

2014764c1

1 A bill to be entitled
2 An act relating to hearsay; amending s. 90.803, F.S.;
3 providing that certain statements are an exception to
4 the hearsay rule and thus admissible; providing an
5 effective date.
6
7 Be It Enacted by the Legislature of the State of Florida:
8
9 Section 1. Subsection (25) is added to section 90.803,
10 Florida Statutes, to read:
11 90.803 Hearsay exceptions; availability of declarant
12 immaterial.—The provision of s. 90.802 to the contrary
13 notwithstanding, the following are not inadmissible as evidence,
14 even though the declarant is available as a witness:
15 (25) DOMESTIC VIOLENCE.—A statement describing any act of
16 domestic violence, as such is defined in s. 741.28, that was
17 made to enable law enforcement assistance to meet an ongoing
18 emergency.
19 Section 2. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: March 20, 2014

I respectfully request that **764**, relating to Hearsay, be placed on the:

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

A handwritten signature in cursive script, reading "Nancy C. Detert".

Senator Nancy C. Detert
Florida Senate, District 28

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/2014
Meeting Date

Topic HEARSAY

Bill Number 764

Name BOB DILLINGER

Amendment Barcode 866768
(if applicable)

Job Title PUBLIC DEFENDER, 6TH CIRCUIT

Address 14258 49TH STREET NORTH

Phone 727-464-6865

CLEARWATER FL 33762
Street City State Zip

E-mail PDL@WEARETHEHOPE.ORG

Speaking: For Against Information

Representing FLORIDA PUBLIC DEFENDER ASSOC., INC

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/2014

Meeting Date

Topic _____

Bill Number 764
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG

FLORIDA

33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/14
Meeting Date

Topic Hearsay Evidence

Bill Number CS/SB 764
(if applicable)

Name Buddy Jacobs

Amendment Barcode 8
(if applicable)

Job Title General Counsel Fla. Prosecuting Attys Assoc.

Address 961 687 Gateway Blvd.
Street

Phone _____

Fernandina Beh FL
City State Zip

E-mail _____

Speaking: For Against Information

Representing State Attys of Fla.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03/31/14
Meeting Date

Topic Hearsay Bill Number 764
(if applicable)

Name Leisa Wiseman Amendment Barcode _____
(if applicable)

Job Title Director Communications & Govt. Affairs

Address 425 Office Plaza Dr Phone 850/425-2749

Tallahassee, FL 32317 E-mail wiseman-leisa@fladv.org
City State Zip

Speaking: For Against Information

Representing bill w/out the amendment

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/2014
Meeting Date

Topic HEARSAY

Bill Number 764
(if applicable)

Name BOB DILLINGER

Amendment Barcode _____
(if applicable)

Job Title PUBLIC DEFENDER, 6TH CIRCUIT

Address 14250 49TH NORTH NORTH

Phone 727-464-6865

CLEARWATER FL
City State Zip

E-mail PD@WEARTHEHOPE.ORG

Speaking: For Against Information

Representing FLORIDA PUBLIC DEFENDER ASSOC, INC

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 944

INTRODUCER: Criminal Justice Committee; Health Policy Committee; and Senator Sobel

SUBJECT: Mental Health Treatment

DATE: April 1, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	Fav/CS
2.	Cellon	Cannon	CJ	Fav/CS
3.			JU	
4.			CA	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 944 amends certain statutes that govern mental health issues for criminal defendants.

The bill:

- Allows defendants and forensic clients who have received psychotropic drugs in jail to continue to receive the drugs, under limited circumstances, prior to relocation to a Department of Children and Families (DCF) facility; and
- Provides the court with discretion to reduce the period of time under which certain charges against a defendant adjudicated incompetent due to mental illness will be dismissed, under specified conditions and exceptions, from 5 years to between 3 and 5 years.

The bill has no fiscal impact on the DCF and may reduce the workload on the state courts system by an indeterminate amount.

II. Present Situation:

The Due Process Clause of the 14th Amendment prohibits the states from trying and convicting defendants who are incompetent to stand trial.¹ The states must have procedures in place that

¹ See *Pate v. Robinson*, 383 U.S. 375, 86 S.Ct. 836, 15 L.Ed. 815 (1966); *Bishop v. U.S.*, 350 U.S.961, 76 S.Ct. 440, 100 L.Ed. 835 (1956); *Jones v. State*, 740 So.2d 520 (Fla. 1999).

adequately protect the defendant's right to a fair trial, which includes his or her participation in all material stages of the process.² Defendants must be able to appreciate the range and nature of the charges and penalties that may be imposed, and must be able to understand the adversarial nature of the legal process and disclose to counsel facts pertinent to the proceedings. Defendants also must manifest appropriate courtroom behavior and be able to testify relevantly.³

If a defendant is suspected of being incompetent, the court or counsel for the defendant or the state may file a motion for examination to have the defendant's cognitive state assessed. If the motion is well-founded the court will appoint experts to evaluate the defendant's cognitive state. The defendant's competency is then determined by the judge in a subsequent hearing. If the defendant is found to be competent, the criminal proceeding resumes. If the defendant is found to be incompetent to proceed, the proceeding may not resume unless competency is restored.⁴

Restoration of Competency

Competency restoration is designed to help defendants meaningfully participate in their own defense. In Florida, the DCF has oversight of felony defendants who are found incompetent to proceed due to mental illness, while the Agency for Persons with Disabilities (APD) is charged with oversight of felony defendants who are incompetent to proceed due to developmental disabilities.⁵ Competency restoration training and mental health services are provided in four state forensic facilities that have forensic step-down beds. The four secure facilities have a capacity of 1,108 beds and the civil facilities have 435 designated, forensic, non-secure step-down beds.⁶ Of the four forensic facilities, two are publicly-operated and two are privately contracted.⁷ During fiscal year 2012-2013, 1,537 adult forensic individuals were committed to the care of the DCF. Of those, 1,473 were adjudicated incompetent to proceed and needed competency restoration services.⁸

If a court determines that the defendant is a danger to himself or others, the court may commit the defendant to a secure forensic facility.⁹ Defendants may be placed on conditional release to receive competency restoration training in the community if the court finds they do not pose a risk to public safety.¹⁰

Once a defendant is determined to have regained his or her competence to proceed, the court is notified and a hearing is set for the judge to determine the defendant's competency.¹¹ If the court finds the defendant to be competent, the criminal proceeding resumes. If, however, the court

² *Id.* See also Rule 3.210(a)(1), Fla.R.Crim.P.

³ *Id.* See also s. 916.12, 916.3012, and 985.19, F.S.

⁴ Rule 3.210(b), 3.211, 3.212, Fla.R.Crim.P.

⁵ Ch. 916, F.S.

⁶ E-Mail Correspondence with Department of Children and Families (Mar. 14, 2014), on file with Senate Health Policy Committee.

⁷ *Id.*

⁸ *Id.*

⁹ s. 916.13, F.S.

¹⁰ s. 916.17, F.S.

¹¹ Rule 3.212, Fla.R.Crim.P.

finds the defendant incompetent to proceed, the defendant is returned to a forensic facility or community restoration on conditional release until competency is restored.¹²

Qualifications of Competency Experts

Section 916.115 (1)(a), F.S., provides that experts appointed by the court to conduct competency evaluations shall, to the extent possible, have completed forensic evaluator training approved by the DCF and each shall be a psychiatrist, licensed psychologist, or physician. The DCF is required by s. 916.115 (1)(b), F.S., to maintain and annually provide the courts with a list of available mental health professionals who have completed the approved training as experts.

Hearing to Determine Restoration of Competency or Need for Continued Commitment

When the court adjudicates a defendant incompetent to proceed and the defendant is committed to the DCF to be restored to competency, or if the defendant has been found not guilty by reason of insanity and committed to the DCF, the defendant is returned to court periodically for a review and report on his or her condition.¹³ Generally, a review is conducted:

- No later than 6 months after the date of admission;
- At the end of any extended period of commitment;
- At any time the facility administrator communicates to the court that the defendant no longer meets commitment criteria; or
- Upon counsel's motion for review having been granted.

Rules of Criminal Procedure require that a hearing be held within 30 days of the court's receiving the administrator's pre-hearing report.¹⁴ There is no corresponding statutory time constraint on the court conducting a hearing.

The court also retains jurisdiction for purposes of dismissing charges if a defendant has not become competent within 5 years.¹⁵ However, the charges will not be dropped if the court specifies in its order reasons for believing that the defendant will become competent to proceed in the foreseeable future and specifies a timeframe in which the defendant is expected to become competent to proceed.¹⁶ The DCF data shows that for the past 15 years (fiscal year 1998-1999 through fiscal year 2012-2013, encompassing 15,610 individuals), 99.6 percent of the individuals restored to competency were restored in 3 years or less.¹⁷

Psychotropic Medication

The DCF is responsible for providing treatment deemed necessary to fulfill its obligation under the statutes governing competency restoration and mental illness. Forensic clients of the DCF, which includes defendants who have been committed to the DCF for competency restoration or

¹² *Id.*

¹³ ss. 916.13(2), 916.15(3), and 916.302(2)(a), F.S.

¹⁴ Rules 3.212 and 3.218, Fla.R.Crim.P.

¹⁵ ss. 916.145 and 916.303, F.S.

¹⁶ s. 916.145, F.S.

¹⁷ Department of Children and Families, *2014 Agency Legislative Bill Analysis - SB 944* (Feb. 13, 2014), on file with the Senate Health Policy Committee.

because they have been found not guilty by reason of insanity, must be treated with dignity and respect.

When treatment is needed, forensic clients are asked to give express and informed consent.¹⁸ When treatment is refused, treatment may nonetheless be provided in an emergency situation for periods of up to 48 hours (excluding weekends and holidays, subject to review in 48-hour increments by a physician until a court rules) unless or until the DCF obtains a court order authorizing continued treatment.¹⁹

III. Effect of Proposed Changes:

Section 1 amends s. 916.107, F.S., concerning administration of psychotherapeutic medications to forensic clients. If a client has been receiving psychotherapeutic medications in jail at the time of transfer to the forensic or civil facility and lacks informed decision-making capacity with respect to mental health treatment, the admitting physician at the facility may order continued administration of these medications if the physician judges that abrupt cessation could jeopardize the health or safety of the client during the period before acquisition of a court order for medication administration.

To continue the psychotherapeutic medication, the facility administrator or his or her designee must petition the committing court or the local circuit court for an authorization order. This petition must be made within 5 business days after admission of the client. The jail physician must also have a current therapeutic medication order for the client at the admitting physician's request or at the time of transfer to the facility. The bill does not provide a timeframe for when a hearing on the petition must be held.

The bill also makes some technical changes to s. 916.107(3)(a), F.S.

Section 2 amends s. 916.13, F.S., to require the court to hold a status hearing within 30 days after receiving notification that any facility client adjudicated mentally incompetent no longer meets the criteria for continued commitment.

Section 3 substantially rewords s. 916.145, F.S., to state that charges against any defendant adjudicated mentally incompetent may be dismissed if he or she remains incompetent between 3 and 5 years after such determination, rather than to require dismissal after 5 years which is current law, unless the court believes that he or she will become competent in the future.

If the defendant was committed in relation to an allegation of certain crimes, the period before charge dismissal is 5 years. Such crimes or situations that would exclude the defendant from the reduced time period include:

- Arson;
- Sexual battery;
- Robbery;
- Kidnapping;

¹⁸ s. 916.107(3), F.S.

¹⁹ *Id.*

- Aggravated child abuse;
- Aggravated abuse of an elderly person or disabled adult;
- Aggravated assault with a deadly weapon;
- Murder;
- Manslaughter;
- Aggravated manslaughter of an elderly person or disabled adult;
- Aggravated manslaughter of a child;
- Unlawful throwing, placing, or discharging of a destructive device or bomb;
- Armed burglary;
- Aggravated battery;
- Aggravated stalking;
- Any forcible felony as defined in s. 776.08, F.S., and not listed in subsection 916.145(1) as amended by the bill;
 - Specifically, these crimes are treason, carjacking, home-invasion robbery, burglary, aggravated assault, aircraft piracy, and any other felony that involves the use or threat of physical force or violence against an individual;
- Any offense involving the possession, use, or discharge of a firearm;
- An attempt to commit any of the offenses listed above;
- The crime was allegedly committed by a defendant who has had a forcible or violent felony conviction within the 5 years preceding the date of arrest for the non-violent felony²⁰ sought to be dismissed;
- The crime was allegedly committed by a defendant who, after having been found incompetent and under court supervision in a community based program, is formally charged by a state attorney with a new felony offense; or
- Where there is an identifiable victim and such victim has not consented.

The state is not prohibited from refiled dismissed charges if the defendant is declared to be competent to proceed in the future.

Section 4 amends s. 916.15, F.S., to require the court to hold a status hearing within 30 days after receiving notification that any facility client adjudicated not guilty by reason of insanity no longer meets the criteria for continued commitment.

Section 5 provides an effective date of July 1, 2014.

²⁰ “Nonviolent felony” is defined in s. 948.08(6)(a), F.S., as a *third degree felony violation of chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08*. Chapter 810, F.S., is the Burglary and Trespass law. Third degree felony violations of chapter 810, F.S., would include armed trespass within an unoccupied structure or conveyance, possession of burglary tools and burglary of an unoccupied structure or conveyance. Crimes that are not forcible felonies as defined in s. 776.08, F.S., would be any felony crime except treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Adults with mental illness will be evaluated and treated differently in the justice system. Some adults with mental illness may be released from facilities earlier.

C. Government Sector Impact:

The Office of the State Courts Administrator reports that the bill is likely to reduce the workload of the judiciary and the state court system, as the criminal courts have to monitor and hold status hearings for these defendants until their charges are dismissed or competency is restored.²¹ The majority of these defendants are non-violent and on conditional release in community placements. In particular, by allowing the criminal court to dismiss the charges between 3 to 5 years after the incompetency determination, the bill will potentially reduce the need for monitoring and status hearings by the criminal court in the fourth and fifth year.

Requiring the courts to hold competency and commitment hearings within 30 days after the court receives the notice that the defendant is competent to proceed or no longer meets the criteria for continued commitment will have no impact as this is the current standard under the Florida Rules of Criminal Procedure.²²

The DCF reports no fiscal impact.

²¹ Office of the State Courts Administrator, *2014 Judicial Impact Statement – SB 944* (Mar. 3, 2014), on file with the Senate Health Policy Committee.

²² *Id.*

VI. Technical Deficiencies:

The definitions or categorization of crimes and circumstances in Section 3 of the bill may benefit from some clarification.

This Section of the bill provides the possibility that certain charges may be dismissed by a court if the defendant has not become competent to proceed *between 3 to 5 years* of the finding of incompetency. Current law requires charges to be dismissed *5 years after* such finding.

It appears that the intent is to limit the types of crimes that may qualify for early dismissal to *nonviolent felonies* (Lines 168-169 of the bill speak to “the nonviolent felony sought to be dismissed”). “Nonviolent felony” is defined in s. 948.08(6)(a), F.S., as a third degree felony violation of chapter 810²³ *or any other* felony offense that is *not* a forcible felony as defined in s. 776.08.²⁴

The crimes for which early dismissal is not an option would appear to be those listed on lines 142-163 and any attempt to commit those crimes. The crimes for which early dismissal may be an option would appear to be nonviolent felonies (based upon the language on Lines 168-169).

The potential confusion arises on Lines 166-169 because there is no clear statutory definition of “violent felony” conviction (see Line 167)²⁵.

It is suggested that Lines 166-169 could be clarified as follows: (s) An offense allegedly committed by a defendant who has been convicted of a felony offense listed in paragraphs (a)-(o) within 5 years preceding the date of arrest for the nonviolent felony charges sought to be dismissed;

An additional suggestion for clarification is to re-state Lines 139-141 as: become competent to proceed. The court may dismiss nonviolent felony charges, as defined in s. 948.08(6)(a), between 3 and 5 years after such determination, unless the charge is; if this suggestion fulfills the bill sponsor’s intent.

VII. Related Issues:

During the 2013 Session, CS/SB 1420 passed the Legislature using similar language as CS/SB 944. The Governor vetoed the bill stating:

While the bill maintains the current 5-year requirement for defendants charged with most violent crimes, it does not maintain this requirement for

²³ Chapter 810, F.S., is the Burglary and Trespass law. Third degree felony violations of chapter 810, F.S., would include such crimes as armed trespass within an unoccupied structure or conveyance, possession of burglary tools and burglary of an unoccupied structure or conveyance.

²⁴ Crimes that are *not* forcible felonies as defined in s. 776.08, F.S., would be *any felony crime except* treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

²⁵ The crimes listed on Lines 142 – 159 appear to have been pulled from the list of crimes that qualify a defendant for habitual violent felony offender sentencing enhancements. s. 775.084(b)1.a.-o., F.S.

attempted violent crimes or other serious crimes. The additional time provides an opportunity for the defendant to regain competency under state supervision in order to stand trial. Dismissal of criminal charges for individuals deemed incompetent after only 3 years who have been charged with attempting to commit violent crimes, could pose a serious public safety risk.²⁶

CS/SB 944 provides the court with discretion on the dismissal of charges rather than require dismissal, expands the types of crimes excluded from consideration, and adds situations for which the 5-year period would continue to apply.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 916.107, 916.13, 916.145, and 916.15.

IX. Additional Information:

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

CS/CS by Criminal Justice on March 31, 2014:

- The CS eliminates the requirement that a competency or commitment hearing be held within 30 days after the court receives notice that the defendant is competent to proceed or no longer meets the criteria for commitment. The CS requires a status hearing within the same time frame.
- Section 5, the section of the bill that amended current law regarding juvenile competency, is deleted from the bill by the CS.
- The CS provides that a defendant who has been charged with a forcible felony as defined in s. 776.08, F.S., that is not listed in subsection 916.145(1), F.S., as amended by the bill, rather than the listed paragraphs (a)-(o), may not be considered for early dismissal of the charge. This would take in offenses involving possession, use, or discharge of a firearm and attempts to commit the charges listed in the subsection.
- The CS makes technical and clarifying changes in Section 3 of the bill.

CS by Health Policy on March 19, 2014:

- The CS removes the mandatory dismissal of charges in certain situations after 3 years and provides the court discretion to dismiss limited charges against a defendant adjudicated incompetent to proceed due to mental illness without prejudice if the defendant remains incompetent 3 to 5 years after such determination.
- The CS also expands the list of specific charges and situations for which the reduced time period for dismissal of charges against a defendant adjudicated incompetent to proceed due to mental illness would not be an option. The expanded circumstances where the reduced time would not be applicable include:
 - Commission of any of the additional non-violent felonies;

²⁶ Governor Rick Scott, *Veto Message -CS/SB 1420* (June 12, 2013), <http://www.flgov.com/wp-content/uploads/2013/06/Veto-Letter-SB-1420.pdf> (last visited: Mar. 14, 2014).

- An attempt to commit any of the listed crimes;
- If the defendant had been previously charged with a forcible felony in the preceding 5 years;
- If the defendant is formally charged with a new felony while under court supervision in a community based program; or
- If an identifiable victim does not consent to such dismissal.

B. Amendments:

None.

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



676770

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2014	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete line 127

and insert:

(b) A status hearing must be held within 30 days after

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

And the title is amended as follows:

Delete line 8

and insert:



676770

11

status hearings must be held; amending s. 916.145,



961578

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2014	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 164 - 316

and insert:

(p) A forcible felony as defined in s. 776.08 and not listed elsewhere in this subsection;

(q) An offense involving the possession, use, or discharge of a firearm;

(r) An attempt to commit an offense listed in this subsection;



961578

11 (s) An offense allegedly committed by a defendant who has
12 had a forcible or violent felony conviction within the 5 years
13 preceding the date of arrest for the nonviolent felony sought to
14 be dismissed;

15 (t) An offense allegedly committed by a defendant who,
16 after having been found incompetent and under court supervision
17 in a community-based program, is formally charged by a State
18 Attorney with a new felony offense; or

19 (u) One for which there is an identifiable victim and such
20 victim has not consented to the dismissal.

21 (2) This section does not prohibit the state from refileing
22 dismissed charges if the defendant is declared to be competent
23 to proceed in the future.

24 Section 4. Subsection (5) is added to section 916.15,
25 Florida Statutes, to read:

26 916.15 Involuntary commitment of defendant adjudicated not
27 guilty by reason of insanity.—

28 (5) A status hearing must be held within 30 days after the
29 court receives notification that the defendant no longer meets
30 the criteria for continued commitment.

31
32 ===== T I T L E A M E N D M E N T =====

33 And the title is amended as follows:

34 Delete lines 13 - 17

35 and insert:

36 status hearings must be held; providing an effective
37 date.

By the Committee on Health Policy; and Senator Sobel

588-02833-14

2014944c1

1 A bill to be entitled
 2 An act relating to mental health treatment; amending
 3 s. 916.107, F.S.; authorizing forensic and civil
 4 facilities to order the continuation of
 5 psychotherapeutics for individuals receiving such
 6 medications in the jail before admission; amending s.
 7 916.13, F.S.; providing timeframes within which
 8 competency hearings must be held; amending s. 916.145,
 9 F.S.; revising the time for dismissal of certain
 10 charges for defendants that remain incompetent to
 11 proceed to trial; providing exceptions; amending s.
 12 916.15, F.S.; providing a timeframe within which
 13 commitment hearings must be held; amending s. 985.19,
 14 F.S.; standardizing the protocols, procedures,
 15 diagnostic criteria, and information and findings that
 16 must be included in an expert's competency evaluation
 17 report; providing an effective date.
 18

19 Be It Enacted by the Legislature of the State of Florida:
 20

21 Section 1. Paragraph (a) of subsection (3) of section
 22 916.107, Florida Statutes, is amended to read:
 23 916.107 Rights of forensic clients.—
 24 (3) RIGHT TO EXPRESS AND INFORMED CONSENT.—
 25 (a) A forensic client shall be asked to give express and
 26 informed written consent for treatment. If a client refuses such
 27 treatment as is deemed necessary and essential by the client's
 28 multidisciplinary treatment team for the appropriate care of the
 29 client, such treatment may be provided under the following

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

588-02833-14

2014944c1

30 circumstances:
 31 1. In an emergency situation in which there is immediate
 32 danger to the safety of the client or others, such treatment may
 33 be provided upon the written order of a physician for a period
 34 not to exceed 48 hours, excluding weekends and legal holidays.
 35 If, after the 48-hour period, the client has not given express
 36 and informed consent to the treatment initially refused, the
 37 administrator or designee of the civil or forensic facility
 38 shall, within 48 hours, excluding weekends and legal holidays,
 39 petition the committing court or the circuit court serving the
 40 county in which the facility is located, at the option of the
 41 facility administrator or designee, for an order authorizing the
 42 continued treatment of the client. In the interim, the need for
 43 treatment shall be reviewed every 48 hours and may be continued
 44 without the consent of the client upon the continued written
 45 order of a physician who has determined that the emergency
 46 situation continues to present a danger to the safety of the
 47 client or others.
 48 2. In a situation other than an emergency situation, the
 49 administrator or designee of the facility shall petition the
 50 court for an order authorizing necessary and essential treatment
 51 for the client.
 52 a. If the client has been receiving psychotherapeutic
 53 medications at the jail at the time of transfer to the forensic
 54 or civil facility and lacks the capacity to make an informed
 55 decision regarding mental health treatment at the time of
 56 admission, the admitting physician may order continued
 57 administration of psychotherapeutic medications if, in the
 58 clinical judgment of the physician, abrupt cessation of

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59 psychotherapeutic medications could pose a risk to the health or
 60 safety of the client during the time a court order to medicate
 61 is pursued. The administrator or designee of the civil or
 62 forensic facility shall, within 5 days after admission,
 63 excluding weekends and legal holidays, petition the committing
 64 court or the circuit court serving the county in which the
 65 facility is located, at the option of the facility administrator
 66 or designee, for an order authorizing the continued treatment of
 67 a client. The jail physician shall provide a current
 68 psychotherapeutic medication order at the time of transfer to
 69 the forensic or civil facility or upon request of the admitting
 70 physician after the client is evaluated.

71 b. The court order shall allow such treatment for up to a
 72 period not to exceed 90 days after following the date of the
 73 entry of the order. Unless the court is notified in writing that
 74 the client has provided express and informed consent in writing
 75 or that the client has been discharged by the committing court,
 76 the administrator or designee shall, before the expiration of
 77 the initial 90-day order, petition the court for an order
 78 authorizing the continuation of treatment for another 90 days
 79 90-day period. This procedure shall be repeated until the client
 80 provides consent or is discharged by the committing court.

81 3. At the hearing on the issue of whether the court should
 82 enter an order authorizing treatment for which a client was
 83 unable to or refused to give express and informed consent, the
 84 court shall determine by clear and convincing evidence that the
 85 client has mental illness, intellectual disability, or autism,
 86 that the treatment not consented to is essential to the care of
 87 the client, and that the treatment not consented to is not

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88 experimental and does not present an unreasonable risk of
 89 serious, hazardous, or irreversible side effects. In arriving at
 90 the substitute judgment decision, the court must consider at
 91 least the following factors:

- 92 a. The client's expressed preference regarding treatment;
- 93 b. The probability of adverse side effects;
- 94 c. The prognosis without treatment; and
- 95 d. The prognosis with treatment.

96
 97 The hearing shall be as convenient to the client as may be
 98 consistent with orderly procedure and shall be conducted in
 99 physical settings not likely to be injurious to the client's
 100 condition. The court may appoint a general or special magistrate
 101 to preside at the hearing. The client or the client's guardian,
 102 and the representative, shall be provided with a copy of the
 103 petition and the date, time, and location of the hearing. The
 104 client has the right to have an attorney represent him or her at
 105 the hearing, and, if the client is indigent, the court shall
 106 appoint the office of the public defender to represent the
 107 client at the hearing. The client may testify or not, as he or
 108 she chooses, and has the right to cross-examine witnesses and
 109 may present his or her own witnesses.

110 Section 2. Subsection (2) of section 916.13, Florida
 111 Statutes, is amended to read:

112 916.13 Involuntary commitment of defendant adjudicated
 113 incompetent.—

114 (2) A defendant who has been charged with a felony and who
 115 has been adjudicated incompetent to proceed due to mental
 116 illness, and who meets the criteria for involuntary commitment

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2014944c1

117 ~~to the department under the provisions of this chapter, may be~~
 118 committed to the department, and the department shall retain and
 119 treat the defendant.

120 (a) Within No later than 6 months after the date of
 121 admission and at the end of any period of extended commitment,
 122 or at any time the administrator or designee ~~has shall have~~
 123 determined that the defendant has regained competency to proceed
 124 or no longer meets the criteria for continued commitment, the
 125 administrator or designee shall file a report with the court
 126 pursuant to the applicable Florida Rules of Criminal Procedure.

127 (b) A competency hearing must be held within 30 days after
 128 the court receives notification that the defendant is competent
 129 to proceed or no longer meets the criteria for continued
 130 commitment.

131 Section 3. Section 916.145, Florida Statutes, is amended to
 132 read:

133 (Substantial rewording of section. See
 134 s. 916.145, F.S., for present text.)
 135 916.145 Dismissal of charges.—

136 (1) The charges against a defendant adjudicated incompetent
 137 to proceed due to mental illness shall be dismissed without
 138 prejudice to the state if the defendant remains incompetent to
 139 proceed 5 years after such determination, unless the court in
 140 its order specifies its reasons for believing that the defendant
 141 will become competent to proceed within the foreseeable future
 142 and specifies the time within which the defendant is expected to
 143 become competent to proceed. The court may dismiss these charges
 144 between 3 and 5 years after such determination, unless the
 145 charge is:

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146 (a) Arson;
 147 (b) Sexual battery;
 148 (c) Robbery;
 149 (d) Kidnapping;
 150 (e) Aggravated child abuse;
 151 (f) Aggravated abuse of an elderly person or disabled
 152 adult;
 153 (g) Aggravated assault with a deadly weapon;
 154 (h) Murder;
 155 (i) Manslaughter;
 156 (j) Aggravated manslaughter of an elderly person or
 157 disabled adult;
 158 (k) Aggravated manslaughter of a child;
 159 (l) Unlawful throwing, projecting, placing, or discharging
 160 of a destructive device or bomb;
 161 (m) Armed burglary;
 162 (n) Aggravated battery;
 163 (o) Aggravated stalking;
 164 (p) Any forcible felony as defined in s. 776.08, not listed
 165 in paragraphs (a)-(o);
 166 (q) Any offense involving the possession, use, or discharge
 167 of a firearm;
 168 (r) An attempt to commit any of the offenses listed in
 169 paragraphs (a)-(q);
 170 (s) Committed by a defendant who has had a forcible or
 171 violent felony conviction within the 5 years preceding the date
 172 of arrest for the nonviolent felony sought to be dismissed;
 173 (t) Committed by a defendant who, after having been found
 174 incompetent and under court supervision in a community based

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175 program, is formally charged by a state attorney with a new
 176 felony offense; or

177 (u) Where there is an identifiable victim and such victim
 178 has not consented.

179 (2) This section does not prohibit the state from refileing
 180 dismissed charges if the defendant is declared to be competent
 181 to proceed in the future.

182 Section 4. Subsection (5) is added to section 916.15,
 183 Florida Statutes, to read:

184 916.15 Involuntary commitment of defendant adjudicated not
 185 guilty by reason of insanity.-

186 (5) The commitment hearing must be held within 30 days
 187 after the court receives notification that the defendant no
 188 longer meets the criteria for continued commitment.

189 Section 5. Subsection (1) of section 985.19, Florida
 190 Statutes, is amended to read:

191 985.19 Incompetency in juvenile delinquency cases.-

192 (1) If, at any time prior to or during a delinquency case,
 193 the court has reason to believe that the child named in the
 194 petition may be incompetent to proceed with the hearing, the
 195 court on its own motion may, or on the motion of the child's
 196 attorney or state attorney must, stay all proceedings and order
 197 an evaluation of the child's mental condition.

198 (a) Any motion questioning the child's competency to
 199 proceed must be served upon the child's attorney, the state
 200 attorney, the attorneys representing the Department of Juvenile
 201 Justice, and the attorneys representing the Department of
 202 Children and ~~Families Family Services~~. Thereafter, any motion,
 203 notice of hearing, order, or other legal pleading relating to

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204 the child's competency to proceed with the hearing must be
 205 served upon the child's attorney, the state attorney, the
 206 attorneys representing the Department of Juvenile Justice, and
 207 the attorneys representing the Department of Children and
 208 ~~Families Family Services~~.

209 (b) All determinations of competency ~~must shall~~ be made at
 210 a hearing, with findings of fact based on an evaluation of the
 211 child's mental condition made by at least ~~not less than~~ two but
 212 not ~~more~~ more than three experts appointed by the court. The
 213 basis for the determination of incompetency must be specifically
 214 stated in the evaluation. In addition, a recommendation as to
 215 whether residential or nonresidential treatment or training is
 216 required must be included in the evaluation. Experts appointed
 217 by the court to determine the mental condition of a child shall
 218 be allowed reasonable fees for services rendered. State
 219 employees may be paid expenses pursuant to s. 112.061. The fees
 220 shall be taxed as costs in the case.

221 (c) A child is competent to proceed if the child has
 222 sufficient present ability to consult with counsel with a
 223 reasonable degree of rational understanding and the child has a
 224 rational and factual understanding of the present proceedings.
 225 The expert's competency evaluation report must specifically
 226 state the basis for the determination of the child's mental
 227 condition and must include written findings that:

- 228 1. Identify the specific matters referred for evaluation.
- 229 2. Identify the sources of information used by the expert.
- 230 3. Describe the procedures, techniques, and diagnostic
- 231 tests used in the examination to determine the basis of the
- 232 child's mental condition.

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233 4. Address the child's capacity to:
 234 a. Appreciate the charges or allegations against the child.
 235 b. Appreciate the range and nature of possible penalties
 236 that may be imposed in the proceedings against the child, if
 237 applicable.
 238 c. Understand the adversarial nature of the legal process.
 239 d. Disclose to counsel facts pertinent to the proceedings
 240 at issue.
 241 e. Display appropriate courtroom behavior.
 242 f. Testify relevantly.
 243 5. Present the factual basis for the expert's clinical
 244 findings and opinions of the child's mental condition. The
 245 expert's factual basis of his or her clinical findings and
 246 opinions must be supported by the diagnostic criteria found in
 247 the most recent edition of the Diagnostic and Statistical Manual
 248 of Mental Disorders (DSM) published by the American Psychiatric
 249 Association and must be presented in a separate section of the
 250 report entitled "summary of findings." This section must
 251 include:
 252 a. The day, month, year, and length of time of the face-to-
 253 face diagnostic clinical interview to determine the child's
 254 mental condition.
 255 b. A statement that identifies the DSM clinical name and
 256 associated diagnostic code for the specific mental disorder that
 257 forms the basis of the child's incompetency.
 258 c. A statement of how the child would benefit from
 259 competency restoration services in the community or in a secure
 260 residential treatment facility.
 261 d. An assessment of the probable duration of the treatment

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262 to restore competence and the probability that the child will
 263 attain competence to proceed in the foreseeable future.
 264 e. A description of recommended treatment or education
 265 appropriate for the mental disorder.
 266 6. If the evaluator determines the child to be incompetent
 267 to proceed to trial, the evaluator must report on the mental
 268 disorder that forms the basis of the incompetency.
 269 ~~(d)~~ (e) All court orders determining incompetency must
 270 include specific written findings by the court as to the nature
 271 of the incompetency and whether the child requires secure or
 272 nonsecure treatment or training ~~environment~~ environments.
 273 ~~(e)~~ (d) For ~~competency~~ incompetency evaluations related to
 274 mental illness, the Department of Children and ~~Families~~ Family
 275 ~~Services~~ shall maintain and annually provide the courts with a
 276 list of available mental health professionals who have completed
 277 a training program approved by the Department of Children and
 278 ~~Families~~ Family Services to perform the evaluations.
 279 ~~(f)~~ (e) For ~~competency~~ incompetency evaluations related to
 280 intellectual disability or autism, the court shall order the
 281 Agency for Persons with Disabilities to examine the child to
 282 determine if the child meets the definition of "intellectual
 283 disability" or "autism" in s. 393.063 and, provide a clinical
 284 opinion as to if so, whether the child is competent to proceed
 285 with delinquency proceedings.
 286 ~~(f)~~ (e) A child is ~~competent to proceed if the child has~~
 287 ~~sufficient present ability to consult with counsel with a~~
 288 ~~reasonable degree of rational understanding and the child has a~~
 289 ~~rational and factual understanding of the present proceedings.~~
 290 The report must address the child's capacity to:

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291 1. ~~Appreciate the charges or allegations against the child.~~
292 2. ~~Appreciate the range and nature of possible penalties~~
293 ~~that may be imposed in the proceedings against the child, if~~
294 ~~applicable.~~
295 3. ~~Understand the adversarial nature of the legal process.~~
296 4. ~~Disclose to counsel facts pertinent to the proceedings~~
297 ~~at issue.~~
298 5. ~~Display appropriate courtroom behavior.~~
299 6. ~~Testify relevantly.~~
300 (g) Immediately upon the filing of the court order finding
301 a child incompetent to proceed, the clerk of the court shall
302 notify the Department of Children and Families ~~Family Services~~
303 and the Agency for Persons with Disabilities and fax or hand
304 deliver to the department and to the agency a referral packet
305 that includes, at a minimum, the court order, the charging
306 documents, the petition, and the court-appointed evaluator's
307 reports.
308 (h) After placement of the child in the appropriate
309 setting, the Department of Children and Families ~~Family Services~~
310 in consultation with the Agency for Persons with Disabilities,
311 as appropriate, must, within 30 days after placement of the
312 child, prepare and submit to the court a treatment or training
313 plan for the child's restoration of competency. A copy of the
314 plan must be served upon the child's attorney, the state
315 attorney, and the attorneys representing the Department of
316 Juvenile Justice.
317 Section 6. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Children, Families, and Elder Affairs, *Chair*
Ethics and Elections, *Vice Chair*
Health Policy, *Vice Chair*
Appropriations
Appropriations Subcommittee on Health
and Human Services
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Regulated Industries
Rules

SELECT COMMITTEE:
Select Committee on Patient Protection
and Affordable Care Act, *Vice Chair*

SENATOR ELEANOR SOBEL

33rd District

March 20, 2014

Senator Greg Evers, Chair
Criminal Justice Committee
308 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399

Dear Chair Evers:

This letter is to request that **SB 944** relating to Mental Health Treatment be placed on the agenda of the next scheduled meeting of the committee.

The proposed legislation would authorize forensic and civil facilities to order the continuation of psychotherapeutics for individuals receiving such medications in jail before admission and provide timeframes within which competency hearings must be held. It would also revise the time for dismissal of certain charges for defendants that remain incompetent to proceed to trial and provide a timeframe within which commitment hearings must be held.

Thank you for your consideration of this request.

Respectfully,

A handwritten signature in cursive script that reads "Eleanor Sobel".

Eleanor Sobel
State Senator, 33rd District

Cc: Sue Arnold, Amanda Cannon

REPLY TO:

- The "Old" Library, First Floor, 2600 Hollywood Blvd., Hollywood, Florida 33020 (954) 924-3693 FAX: (954) 924-3695
- 410 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-31-14

Meeting Date

Topic MENTAL Health Treatment

Bill Number 944 as amended
(if applicable)

Name MONICA HOFHEINZ

Amendment Barcode _____
(if applicable)

Job Title ASSISTANT STATE ATTORNEY

Address 201 SE 6th ST

Phone 954-831-8543

Street

FORT LAUDERDALE FL 33301

E-mail hofsa17@saol7.state.fl.us

City

State

Zip

Speaking: For Against Information

Representing State Attorney MIKE SATZ AND FLORIDA PROSECUTORS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/30/2014

Meeting Date

Topic Mental Health Treatment

Bill Number 944
(if applicable)

Name Dana Farmer

Amendment Barcode _____
(if applicable)

Job Title Director Legislative Affairs

Address 2728 Centerview Dr, # 102

Phone 850.617.9709

Street

Tallahassee FL 32301

City

State

Zip

E-mail dana@2disabilityrightsflorida.org

Speaking: For Against Information

Representing Disability Rights Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1142

INTRODUCER: Commerce and Tourism Committee and Senator Lee

SUBJECT: Ticket Sales

DATE: March 28, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Sumner</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1142 increases the criminal penalties related to counterfeit tickets and sales of “multiuse tickets” to theme parks. The bill also creates criminal penalties for cloning a ticket or counterfeiting, forging, altering, cloning, or possessing a card, wristband, or other medium that accesses or is associated with a ticket.

II. Present Situation:

Generally there is little regulation on the initial sale of tickets by original ticket issuers and their agents. The resale of tickets is regulated by states for various reasons, including the belief that resale can lead to fraud by the sale of fake tickets and this harms innocent consumers.¹ Ticket issuers have also made efforts to limit fraudulent tickets, including the use of credit cards to purchase tickets, barcodes placed on tickets, and electronic tickets to provide ways for an original ticket issuer to link a ticket to a particular person and keep track of ownership of a ticket.²

¹ Benitah, Jonathan C., “Anti-Scalping Laws: Should They Be Forgotten?” 6 TXRESL 55, 60 (2005). Resale of tickets in Florida is generally regulated under s. 817.36, F.S.

² For example, Disney recently invested in a new form of ticket which is a wireless radio-frequency identification wristband. See Garcia, Jason, Orlando Sentential (March 29, 2013), available at <http://www.orlandosentinel.com/the-daily-disney/os-disney-nextgen-ticket-laws-20130329.0.2136300.story>; and Shaw Brown, Genevieve, ABC News (January 9, 2013), available at <http://abcnews.go.com/Travel/magicband-disney-park-entry/story?id=18161268> (last visited 3/13/2014).

Regulation of Fraudulent Ticket Sales in Florida

Section 817.361, F.S., makes it a second degree misdemeanor to offer for sale, sell, or transfer, with or without consideration, any nontransferable multiday or multievent ticket that has been used at least once for admission. Second or subsequent violations are first degree misdemeanors.³ A nontransferable ticket is one on which is clearly printed the phrase: “Nontransferable; must be used by the same person on all days” or a similar phrase.

Section 817.355, F.S., makes the counterfeit, forging, altering, or possession of any ticket with the intention to defraud a facility, a first degree misdemeanor.

Section 817.357, F.S., states that it is a violation of the Florida Deceptive and Unfair Trade Practices Act⁴ for knowingly purchasing a quantity of tickets from the original ticket seller that exceeds the maximum ticket limit quantity set, with the intent to resell such tickets. This does not apply to “original ticket sellers,” meaning “the issuer of such ticket or a person or firm who provides distribution services or ticket sales services under a contract with such issuer.”

III. Effect of Proposed Changes:

Penalties

Section 1 amends s. 817.355, F.S., to increase the criminal penalties for the fraudulent creation or possession of admission tickets.

Under current law, the counterfeit, forging, altering, or possession of any ticket with the intention to defraud a facility is a first degree misdemeanor. The bill creates a third degree felony for subsequent violations. Additionally, under the bill cloning a ticket and counterfeiting, forging, altering, cloning, or possessing a card, wristband, or other medium that accesses or is associated with a ticket with the intention to defraud a facility is subject to the same penalties.

The bill creates a third degree felony for the counterfeit, forging, altering, cloning, or possession of 10 or more tickets, cards, wristbands, or other media that access or are associated with a ticket with the intention to defraud a facility.

A third degree felony is punishable by a fine of \$5,000, a term of imprisonment not exceeding 5 years, or, in the case of a habitual offender a term of imprisonment not exceeding 10 years.

Section 2 amends s. 817.361, F.S., to provide criminal penalties for the resale or repurchase of a multiuse ticket that has been used at least once for admission.

Under current law it is a second degree misdemeanor to offer for sale, sell, or transfer, with or without consideration, any nontransferable multiuse ticket that has been used at least once for admission. The bill increases the penalty to a first degree misdemeanor.

³ Second degree misdemeanors are punishable by up to 60 days imprisonment and a fine of up to \$500. First degree misdemeanors are punishable by up to 1 year imprisonment and a fine of up to \$1,000. ss. 775.082 and 775.083, F.S.

⁴ Sections 501.201 – 501.213, F.S. The associated civil penalty for a violation of the act is up to \$10,000 per violation.

The penalty also applies to the sale of “a card, wristband, or other medium that accesses or is associated with a nontransferable multiuse ticket.”

A second or subsequent violation of the provisions is increased from a first degree misdemeanor to a third degree felony.

A third degree felony is punishable by a fine of \$5,000, a term of imprisonment not exceeding 5 years, or, in the case of a habitual offender a term of imprisonment not exceeding 10 years. A first degree misdemeanor is punishable by up to 1 year imprisonment and a fine of up to \$1,000. A second degree misdemeanor is punishable by up to 60 days imprisonment and a fine of up to \$500.

Because the bill limits the definition of “multiuse ticket” to admission to a theme park, the effect is to repeal penalties for the resale of used multiday or multievent tickets to entertainment venues other than theme parks.⁵

Nontransferable Multiuse Tickets

Under current law, a ticket is transferable unless otherwise stated on the ticket itself. Section 2 repeals that provision, and instead states that a multiuse ticket is nontransferable. The bill provides two instances when a multiuse ticket is transferable:

- The phrase “may be used by more than one person” is printed clearly on the ticket; or
- The issuer of the ticket explicitly states on its website that the ticket may be used by more than one person.

The bill defines a “multiuse ticket” as a ticket, other medium, or right designed for admission to:

- More than one theme park complex;
- More than one amusement location or other facility in a theme park complex;
- One or more amusement locations or other facilities in a theme park complex for more than 1 day; or
- One or more amusement locations or other facilities in a theme park complex for more than once in the same day.

Section 3 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁵ A “theme park” is an area of at least 25 acres that contains rides or other recreation activities and is owned by the same business entity.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Individuals who counterfeit tickets or sell or transfer used multiuse tickets or associated cards or wristbands will be subject to increased criminal penalties.

However, individuals will no longer be subject to criminal penalties for the resale or transfer of multiday or multievent tickets to entertainment venues other than theme parks.

C. Government Sector Impact:

The Department of Corrections indicated that the impact on the prison population is expected to be insignificant and the impact on community supervision population is expected to be minimal.

The Department of Corrections stated that the bill would require the department to create a new offense code for the Offender Based Information System, requiring IT programing.⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

There may be confusion as to when a multiuse ticket is transferrable. The bill does not provide any direction to an issuer how to “explicitly state” on its website when a ticket may be used by more than one person.

Current law prohibits the resale of tickets for more than \$1 over the original admission price for multiday or multievent access to a park or entertainment complex, or a concert, entertainment event, permanent exhibition, or recreational activity within a park or complex, including an entertainment/resort complex.⁷

⁶ Department of Corrections, 2014 Agency Legislative Bill Analysis: SB 1142 (3/6/2014). The department’s estimated average cost to program new offense codes each year due to legislation passed with penalties is \$7,650 (estimated 90 hours at \$85.00 per hour). “This amount could fluctuate due to the number of new offense codes required or other programming exceptions.”

⁷ Section 817.36(1)(b), F.S. “Entertainment/resort complex” is defined in s. 516.01(18), F.S.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 817.355 and 817.361.

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 Commerce and Tourism on March 24, 2014:

The committee substitute does the following:

- Adds “cloning” a ticket as a criminal act under s. 817.355, F.S.;
- Adds counterfeiting, forging, altering, cloning, or possessing a card, wristband, or other medium that accesses or is associated with a ticket with the intention to defraud a facility as a criminal act under s. 817.355, F.S.;
- Limits the penalty for counterfeiting, forging, altering, or possessing 10 or more tickets to the following items that access or are associated with a ticket: tickets, cards, wristbands, or other media;
- Adds to the definition of “multiuse ticket” a ticket, other medium, or right designed for admission to more than one theme park complex;
- Repeals the provisions creating criminal penalties for purchasing used multiuse tickets; and
- Repeals the provision creating a penalty to sell a card, wristband, or other medium that accesses or is associated with a nontransferable multiuse ticket that already has a card, wristband, or other medium accessing or associated with it. The provisions of the CS related to cloning address this issue.

- B. **Amendments:**

None.

By the Committee on Commerce and Tourism; and Senator Lee

577-03120-14

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1 A bill to be entitled
 2 An act relating to ticket sales; amending s. 817.355,
 3 F.S.; providing that a person who counterfeits,
 4 forges, alters, clones, or possesses a ticket, card,
 5 wristband, or other medium that accesses or is
 6 associated with a specified ticket, token, or paper
 7 with the intent to defraud commits a misdemeanor of
 8 the first degree; providing enhanced criminal
 9 penalties for second and subsequent violations
 10 concerning fraudulent creation or possession of an
 11 admission ticket; providing criminal penalties for
 12 persons who commit such violations involving more than
 13 a specified number of tickets, cards, wristbands, or
 14 other media that access or are associated with a
 15 specified ticket, token, or paper; amending s.
 16 817.361, F.S.; defining terms; prohibiting the sale,
 17 offer for sale, or transfer of certain multiuse
 18 tickets or a card, wristband, or other medium that
 19 accesses or is associated with such multiuse ticket;
 20 providing criminal penalties; providing enhanced
 21 criminal penalties for second or subsequent violations
 22 of provisions relating to the sale, offer for sale, or
 23 transfer of certain multiuse tickets; providing an
 24 effective date.

25
 26 Be It Enacted by the Legislature of the State of Florida:

27
 28 Section 1. Section 817.355, Florida Statutes, is amended to
 29 read:

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30 817.355 Fraudulent creation or possession of admission
 31 ticket.-
 32 (1) Except as provided in subsections (2) and (3), a~~Any~~
 33 person who counterfeits, forges, alters, clones, or possesses a
 34 ~~any~~ ticket, card, wristband, or other medium that accesses or is
 35 associated with a ticket; or a ticket, token, or paper designed
 36 for admission to or the rendering of services by a~~any~~ sports,
 37 amusement, concert, or other facility offering services to the
 38 general public, with the intent to defraud such facility,
 39 commits is guilty of a misdemeanor of the first degree,
 40 punishable as provided in s. 775.082 or s. 775.083.
 41 (2) A person who commits a second or subsequent violation
 42 of subsection (1) commits a felony of the third degree,
 43 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 44 (3) A person who counterfeits, forges, alters, clones, or
 45 possesses 10 or more tickets, cards, wristbands, or other media
 46 that access or are associated with a ticket, token, or paper
 47 designed for admission to or the rendering of services by a
 48 sports, amusement, concert, or other facility offering services
 49 to the general public with the intent to defraud such facility,
 50 commits a felony of the third degree, punishable as provided in
 51 s. 775.082, s. 775.083, or s. 775.084.
 52 Section 2. Section 817.361, Florida Statutes, is amended to
 53 read:
 54 817.361 Sale or transfer ~~Resale~~ of multiuse tickets
 55 ~~multiday or multievent ticket.-~~
 56 (1) As used in this section, the term:
 57 (a) "Issuer" means the person or entity that created a
 58 multiuse ticket and is obligated to allow admission thereunder.

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59 (b) "Multiuse ticket" means a ticket, other medium, or
 60 right designed for admission to more than one theme park
 61 complex, or to more than one amusement location or other
 62 facility in a theme park complex, or for admission for more than
 63 1 day or more than once in the same day to one or more such
 64 locations or facilities in a theme park complex.

65 (c) "Theme park complex" means an area comprised of at
 66 least 25 acres of land owned by the same business entity and
 67 which contains rides or other recreational activities.

68 (2) A person who ~~Whoever~~ offers for sale, sells, or
 69 transfers in connection with a commercial transaction, with or
 70 without consideration, a ~~any~~ nontransferable multiuse ticket or
 71 a card, wristband, or other medium that accesses or is
 72 associated with any such nontransferable multiuse ticket ~~or~~
 73 other nontransferable medium designed for admission to more than
 74 one amusement location or other facility offering entertainment
 75 to the general public, or for admission for more than 1 day
 76 thereof, after the nontransferable multiuse ~~said ticket or other~~
 77 medium has been used at least once for admission commits a
 78 violation of this subsection. For purposes of this subsection, a
 79 multiuse ticket is nontransferable unless the phrase "may be
 80 used by more than one person" is printed clearly on the multiuse
 81 ticket by the issuer or the issuer explicitly states on its
 82 website that the multiuse ticket may be used by more than one
 83 person, ~~is guilty of a misdemeanor of the second degree,~~
 84 ~~punishable as provided in s. 775.082 or s. 775.083. A~~
 85 ~~nontransferable ticket or other nontransferable medium is one on~~
 86 ~~which is clearly printed the phrase: "Nontransferable; must be~~
 87 ~~used by the same person on all days" or words of similar import.~~

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

91 (b) A person who commits ~~Upon conviction for~~ a second or
 92 subsequent violation of ~~this subsection (2) commits, such person~~
 93 ~~is guilty of a felony misdemeanor of the third first degree,~~
 94 punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s.
 95 775.084.

96 Section 3. This act shall take effect July 1, 2014.

Page 4 of 4

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, Chair
Appropriations
Appropriations Subcommittee on Health
and Human Services
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Ethics and Elections
Gaming
Rules
Transportation

SENATOR TOM LEE

Deputy Majority Leader
24th District

March 24, 2014

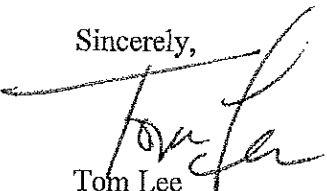
The Honorable Greg Evers
Senate Committee on Criminal Justice, Chair
510 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Evers,

I respectfully request that SB 1142 related to *Ticket Sales*, be placed on the Senate Criminal Justice committee agenda at your earliest convenience.

Thank you for your consideration,

Sincerely,


Tom Lee
Senator, District 24

Cc: Amanda Cannon, Staff Director

REPLY TO:

- 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
- 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

3 / 31 / 14
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Topic Ticket Fraud

Bill Number 1142
(if applicable)

Name Adam Babington

Amendment Barcode _____
(if applicable)

Job Title Manager, Government Relations

Address 1375 E Buena Vista Dr

Phone 407-284-8060

Lake Buena Vista FL 32830
Street City State Zip

E-mail adam.e.babington@disney.com

Speaking: For Against Information

Representing Walt Disney World

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3.31.14

Meeting Date

Topic Ticket Fraud Bill Number 1142
(if applicable)

Name Albert A Rodriguez Amendment Barcode _____
(if applicable)

Job Title Captain - Orange County Sheriff's Office

Address 2500 W. Colonial Drive Phone 407-448-6790
Street

Orl, FL 32809 E-mail Albert.rodriguez@ocfl.net
City State Zip

Speaking: For Against Information

Representing Law Enforcement

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-31-14

Meeting Date

Topic Ticket Sales

Bill Number 1142
(if applicable)

Name Will McKinley

Amendment Barcode _____
(if applicable)

Job Title _____

Address 106 E College Ave
Street
TLH FL 32301
City State Zip

Phone 681-1980

E-mail will@poole.mckinley.com

Speaking: For Against Information

Representing Universal Studios

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1426

INTRODUCER: Criminal Justice Committee and Senators Flores and Bullard

SUBJECT: Public Records/ Human Trafficking Victims

DATE: April 1, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Fav/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1426, which is linked to the passage of SB 1440 or similar legislation, expands the current public records exemption for certain criminal intelligence and criminal investigative information to include identifying information of a child victim of human trafficking for labor or services, as well as any victim of human trafficking for commercial sexual activity.

The bill also creates a public record exemption for this newly described criminal intelligence or investigative information relating to human trafficking victims that is ordered expunged under s. 943.0583, F.S.

The bill provides for repeal of the exemptions on October 2, 2019, pursuant to the Open Government Sunset Review Act, unless reviewed and reenacted by the Legislature. It also provides a statement of public necessity as required by the Florida Constitution.

This bill expands an existing public record exemption and creates a new one; therefore, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

II. Present Situation:

Public Records Laws

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.¹ The records of the legislative, executive, and judicial branches are specifically included.²

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act³ guarantees every person's right to inspect and copy any state or local government public record⁴ at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁵

Only the Legislature may create an exemption to public records requirements.⁶ Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption.⁷ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions⁸ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.⁹

The Open Government Sunset Review Act¹⁰ requires a newly created or expanded public records exemption to be repealed on October 2 of the fifth year after enactment, unless reviewed and reenacted by the Legislature.¹¹ It further provides that a public records exemption may be created

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Chapter 119, F.S.

⁴ Section 119.011(12), F.S., defines "public records" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records (*see Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992)).

⁵ Section 119.07(1)(a), F.S.

⁶ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances (*see WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption (*see Attorney General Opinion 85-62*, August 1, 1985).

⁷ FLA. CONST., art. I, s. 24(c).

⁸ The bill may, however, contain multiple exemptions that relate to one subject.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ Section 119.15, F.S.

¹¹ Section 119.15(3), F.S.

or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet the public purpose it serves.¹²

Public Record Exemption for Investigation Information

Section 119.071(2)(h), F.S., provides that specified criminal intelligence information¹³ or criminal investigative information^{14,15} is confidential and exempt from public records requirements, including the following:

- Any information, including the photograph, name, address, or other fact, which reveals the identity of the victim of the crime of child abuse as defined by ch. 827, F.S. (child abuse);
- Any information, which may reveal the identity of a person who is a victim of any sexual offense, including a sexual offense proscribed in ch. 794, F.S. (sexual battery), ch. 796, F.S. (prostitution), ch. 800, F.S. (lewdness and indecent exposure), ch. 827, F.S. (abuse of children), or ch. 847, F.S. (obscenity); and
- A photograph, videotape, or image of any part of the body of the victim of a sexual offense prohibited under ch. 794, F.S. (sexual battery), ch. 796, F.S. (prostitution), ch. 800, F.S. (lewdness and indecent exposure), s. 810.145, F.S. (video voyeurism), ch. 827, F.S. (abuse of children), or ch. 847, F.S. (obscenity), regardless of whether the photograph, videotape, or image identifies the victim.¹⁶

This confidential and exempt criminal investigative and criminal intelligence information may be disclosed by a law enforcement agency in specified instances, including:

- In the furtherance of its official duties and responsibilities;

¹² Section 119.15(5)(b), F.S.

¹³ Section 119.011(3)(a), F.S., defines “criminal intelligence information” to mean information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity.

¹⁴ Section 119.011(3)(b), F.S., defines “criminal investigative information” to mean information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance.

¹⁵ Section 119.011(3)(c), F.S., provides “criminal intelligence information” and “criminal investigative information” shall not include:

- The time, date, location, and nature of a reported crime.
- The name, sex, age, and address of a person arrested or of the victim of a crime except as provided in s. 119.071(2)(h), F.S.
- The time, date, and location of the incident and of the arrest.
- The crime charged.
- Documents given or required by law or agency rule to be given to the person arrested, except as provided in s. 119.071(2)(h), F.S., and, except that the court in a criminal case may order that certain information required by law or agency rule to be given to the person arrested be maintained in a confidential manner and exempt from the provisions of s. 119.071(1), F.S., until released at trial if it is found that the release of such information would:
 - Be defamatory to the good name of a victim or witness or would jeopardize the safety of such victim or witness; and
 - Impair the ability of a state attorney to locate or prosecute a codefendant.
- Informations and indictments except as provided in s. 905.26, F.S.

¹⁶ Section 119.071(2)(h)3., F.S., requires the exemption to apply to confidential and exempt criminal intelligence and criminal investigative information held by a law enforcement agency before, on, or after the effective date of the exemption.

- For print, publication, or broadcast if the law enforcement agency determines that such release would assist in locating or identifying a person that such agency believes to be missing or endangered;¹⁷ or
- To another governmental agency in the furtherance of its official duties and responsibilities.

Public Record Exemption for Expunged Criminal History Records

A criminal history record of a minor or an adult that is ordered expunged must be physically destroyed by any criminal justice agency having custody of such record, except that the FDLE must retain criminal history records in all cases.¹⁸ Current law provides that a criminal history record ordered expunged that is retained by FDLE is confidential and exempt from public records requirements, and is not available to any person or entity except upon order of the court with jurisdiction.¹⁹

In addition, information relating to the existence of an expunged criminal history record is confidential and exempt from public record requirements, except that FDLE must disclose the existence of such record to specified entities for their respective licensing, access authorization, and employment purposes as well as to criminal justice agencies for their respective criminal justice purposes.²⁰ Disclosure of the existence of such record to unauthorized persons is a first degree misdemeanor.²¹

Human Trafficking Victim Expunction/Public Record Exemption

Last session the Legislature created s. 943.0583, F.S., entitled “human trafficking victim expunction.”²² This statute authorizes a victim of human trafficking to petition the court for an expunction of any conviction for an offense, except an offense listed in s. 775.084(1)(b)1., F.S.,²³ committed while he or she was a victim of human trafficking, if the offense was committed as a part of the human trafficking scheme of which he or she was a victim, or at the direction of an operator of the scheme. It defines “victim of human trafficking” to mean a person subjected to coercion for the purpose of being used in human trafficking, a child under 18 years of age subjected to human trafficking, or an individual subjected to human trafficking as defined by federal law.

The Legislature also created a public records exemption for such expunged criminal history records of human trafficking victims.²⁴ Specifically, these records retained by FDLE are

¹⁷ Section 119.071(2)(h)2.c., F.S., provides the information disclosed should be limited to that needed to identify or locate the victim and not include the sexual nature of the offense committed against the person.

¹⁸ Section 943.0585(4), F.S.

¹⁹ *Id.*

²⁰ Section 943.0585(4)(c), F.S.

²¹ *Id.* A first degree misdemeanor is punishable by serving up to one year in county jail and/or paying a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

²² CS/CS/HB 1325 (ch. 2013-98, L.O.F.)

²³ The offenses listed in s. 775.084(1)(b)1., F.S, are arson; sexual battery; robbery; kidnapping; aggravated child abuse; aggravated abuse of an elderly person or disabled adult; aggravated assault with a deadly weapon; murder; manslaughter; aggravated manslaughter of an elderly person or disabled adult; aggravated manslaughter of a child; unlawful throwing, placing, or discharging of a destructive device or bomb; armed burglary; aggravated battery; or aggravated stalking.

²⁴ CS/HB 1327 (ch. 2013-99, L.O.F.)

confidential and exempt from public record requirements and shall only be made available to criminal justice agencies for their respective criminal justice purposes. A criminal justice agency may retain a notation indicating compliance with an order to expunge. The exemption is repealed on October 2, 2018, unless reviewed and reenacted by the Legislature.²⁵

SB 1440 (linked to this bill)

During the current 2014 Legislative Session, SB 1440, in part, proposes to expand the provisions relating to the expunction of certain criminal records for victims of human trafficking to include the expunction of any criminal history record resulting from the filing of charges for an offense committed or reported to have been committed as a part of the human trafficking scheme of which he or she was a victim, or at the direction of an operator of the scheme.

III. Effect of Proposed Changes:

CS/SB 1426, which is linked to the passage of SB 1440 or similar legislation, expands the current public records exemption for certain criminal intelligence and criminal investigative information under s. 119.071(2)(h), F.S., to include the following:

- Any information that reveals the identity of a person under 18 who is the victim of human trafficking for labor or services under s. 787.06(3)(a), F.S.;
- Any information that may reveal the identity of a person who is the victim of human trafficking for commercial sexual activity under s. 787.06(3)(b), (d), (f), (g), or (h), F.S.; and
- Any photograph, videotape, or image of a body part of a victim of human trafficking involving commercial sexual activity under s. 787.06(3)(b), (d), (f), (g), or (h), F.S.

It also creates a public record exemption for this newly described criminal intelligence or investigative information relating to human trafficking victims that is ordered expunged under s. 943.0583, F.S. Such information is confidential and exempt from public record requirements, except that the information may be disclosed by a law enforcement agency as follows:

- In the furtherance of its official duties and responsibilities;
- For print, publication, or broadcast if the law enforcement agency determines that such release would assist in locating or identifying a person that such agency believes to be missing or endangered;²⁶ or
- To another governmental agency in the furtherance of its official duties and responsibilities.

The exemption applies to information held by a law enforcement agency before, on, or after the effective date of the exemption.

The bill provides the following public necessity statement as required by the Florida Constitution:²⁷

The Legislature finds that it is a public necessity to make confidential and exempt from public records requirements certain intelligence or investigative records revealing the

²⁵ Section 943.0583(10), F.S.

²⁶ Section 119.071(2)(h)2.c., F.S., provides the information disclosed should be limited to that needed to identify or locate the victim and not include the sexual nature of the offense committed against the person.

²⁷ FLA. CONST., art. I, s. 24 (c).

identity of a minor victim for labor or any victim for commercial sexual activity of human trafficking. The identity of such victims is of a sensitive personal nature and protecting the release of such information protects them from further embarrassment, harassment, or injury.

The Legislature also finds that it is a public necessity that intelligence or investigative records related to a criminal history record ordered expunged under s. 943.0583, Florida Statutes, which would or could reasonably be expected to reveal the identity of a victim of human trafficking whose criminal history record has been ordered expunged be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State Constitution. Persons who are victims of human trafficking and who have been charged with crimes allegedly committed at the behest of their traffickers are themselves victims of crimes. Such victims face barriers to employment and other life opportunities as long as these criminal charges remain on record and accessible to potential employers and others. It is necessary that these records be made confidential in order for human trafficking victims to have the chance to rebuild their lives and reenter society.

It also provides for repeal of the exemptions on October 2, 2019, unless reviewed and reenacted by the Legislature.

Finally, the bill will take effect on the same date that SB 1440 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the Florida Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption limited to investigative information relating to criminal history records of human trafficking victims that have been ordered expunged.

C. Trust Funds Restrictions:

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: 119.071 and 943.0583.

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 31, 2014:

- Expands the current public records exemption for certain criminal intelligence and criminal investigative information under s. 119.071(2)(h), F.S., to include identifying information of a child victim of human trafficking for labor or services, as well as any victim of human trafficking for commercial sexual activity.

- Creates a public record exemption for this newly described criminal intelligence or investigative information relating to human trafficking victims that is ordered expunged under s. 943.0583, F.S.
- Deletes the originally created public records exemption under the bill.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2014	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (h) of subsection (2) of section
119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of
public records.—

(2) AGENCY INVESTIGATIONS.—

(h)1. The following criminal intelligence information or



857298

11 criminal investigative information is confidential and exempt
12 from s. 119.07(1) and s. 24(a), Art. I of the State
13 Constitution:

14 a. Any information that, ~~including the photograph, name,~~
15 ~~address, or other fact, which~~ reveals the identity of the victim
16 of the crime of child abuse as defined by chapter 827 or that
17 reveals the identity of a person under the age of 18 who is the
18 victim of the crime of human trafficking proscribed in s.
19 787.06(3)(a).

20 b. Any information that ~~which~~ may reveal the identity of a
21 person who is a victim of any sexual offense, including a sexual
22 offense proscribed in s. 787.06(3)(b), (d), (f), (g), or (h),
23 chapter 794, chapter 796, chapter 800, chapter 827, or chapter
24 847.

25 c. A photograph, videotape, or image of any part of the
26 body of the victim of a sexual offense prohibited under s.
27 787.06(3)(b), (d), (f), (g), or (h), chapter 794, chapter 796,
28 chapter 800, s. 810.145, chapter 827, or chapter 847, regardless
29 of whether the photograph, videotape, or image identifies the
30 victim.

31 2. Criminal investigative information and criminal
32 intelligence information made confidential and exempt under this
33 paragraph may be disclosed by a law enforcement agency:

34 a. In the furtherance of its official duties and
35 responsibilities.

36 b. For print, publication, or broadcast if the law
37 enforcement agency determines that such release would assist in
38 locating or identifying a person that such agency believes to be
39 missing or endangered. The information provided should be



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40 limited to that needed to identify or locate the victim and not
41 include the sexual nature of the offense committed against the
42 person.

43 c. To another governmental agency in the furtherance of its
44 official duties and responsibilities.

45 3. This exemption applies to such confidential and exempt
46 criminal intelligence information or criminal investigative
47 information held by a law enforcement agency before, on, or
48 after the effective date of the exemption.

49 4. This paragraph is subject to the Open Government Sunset
50 Review Act in accordance with s. 119.15, and shall stand
51 repealed on October 2, 2019 ~~2016~~, unless reviewed and saved from
52 repeal through reenactment by the Legislature.

53 Section 2. Subsection (11) is added to section 943.0583,
54 Florida Statutes, to read:

55 943.0583 Human trafficking victim expunction.—

56 (11) (a) The following criminal intelligence information or
57 criminal investigative information is confidential and exempt
58 from s. 119.07(1) and s. 24(a), Art. I of the State
59 Constitution:

60 1. Any information that reveals the identity of a person
61 who is a victim of human trafficking whose criminal history
62 record has been expunged under this section.

63 2. Any information that may reveal the identity of a person
64 who is a victim of human trafficking whose criminal history
65 record has been ordered expunged under this section.

66 (b) Criminal investigative information and criminal
67 intelligence information made confidential and exempt under this
68 subsection may be disclosed by a law enforcement agency:



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69 1. In the furtherance of its official duties and
70 responsibilities.

71 2. For print, publication, or broadcast if the law
72 enforcement agency determines that such release would assist in
73 locating or identifying a person that the agency believes to be
74 missing or endangered. The information provided should be
75 limited to that needed to identify or locate the victim.

76 3. To another governmental agency in the furtherance of its
77 official duties and responsibilities.

78 (c) This exemption applies to such confidential and exempt
79 criminal intelligence information or criminal investigative
80 information held by a law enforcement agency before, on, or
81 after the effective date of the exemption.

82 (d) This subsection is subject to the Open Government
83 Sunset Review Act in accordance with s. 119.15 and shall stand
84 repealed on October 2, 2019, unless reviewed and saved from
85 repeal through reenactment by the Legislature.

86 Section 3. The Legislature finds that it is a public
87 necessity to make confidential and exempt from public records
88 requirements certain criminal intelligence information or
89 criminal investigative information that reveals the identity of
90 a victim of the crime of human trafficking of a minor for labor
91 or any victim of human trafficking for commercial sexual
92 activity. The Legislature finds that it is important to
93 strengthen the protections afforded victims of human trafficking
94 for labor who are minors and victims of human trafficking for
95 commercial sexual activity, regardless of age, in order to
96 ensure their privacy and to prevent their revictimization by
97 making such information confidential and exempt. The identity of



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98 these victims is information of a sensitive personal nature. As
99 such, this exemption serves to minimize the trauma to victims
100 because the release of such information would compound the
101 tragedy already visited upon their lives and would be defamatory
102 to or cause unwarranted damage to the good name or reputation of
103 the victims. Protecting the release of identifying information
104 of such victims protects them from further embarrassment,
105 harassment, or injury. The Legislature also finds that it is a
106 public necessity that information in the investigative or
107 intelligence records related to a criminal history record
108 ordered expunged under s. 943.0583, Florida Statutes, which
109 would or could reasonably be expected to reveal the identity of
110 a person who is a victim of human trafficking whose criminal
111 history record has been ordered expunged under s. 943.0583,
112 Florida Statutes, be made confidential and exempt from s.
113 119.07(1), Florida Statutes, and s. 24(a), Article I of the
114 State Constitution. Persons who are victims of human trafficking
115 and who have been charged with crimes allegedly committed at the
116 behest of their traffickers are themselves victims of crimes.
117 Such victims face barriers to employment and other life
118 opportunities as long as these criminal charges remain on record
119 and accessible to potential employers and others. It is
120 necessary that these records be made confidential and exempt in
121 order for human trafficking victims to have the chance to
122 rebuild their lives and reenter society.

123 Section 4. This act shall take effect on the same date that
124 SB 1440 or similar legislation relating to human trafficking
125 takes effect, if such legislation is adopted in the same
126 legislative session or an extension thereof and becomes a law.



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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to public records; amending s.
119.071, F.S.; revising an exemption from public
records requirements for certain criminal intelligence
and investigative information to exempt information
that reveals the identity of a victim of certain human
trafficking offenses; amending s. 943.0583, F.S.;
providing an exemption from public records
requirements for investigative information relating to
criminal history records of human trafficking victims
that have been ordered expunged; providing for future
legislative review and repeal of the exemption;
providing a statement of public necessity; providing a
contingent effective date.

By Senator Flores

37-01921-14

20141426__

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 943.0583, F.S.; providing an exemption from public
 4 records requirements for investigative information
 5 relating to criminal history records of human
 6 trafficking victims that have been ordered expunged;
 7 providing for future legislative review and repeal of
 8 the exemption; providing a statement of public
 9 necessity; providing a contingent effective date.

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

11 Section 1. Subsection (10) of section 943.0583, Florida
 12 Statutes, is amended to read:

13 943.0583 Human trafficking victim expunction.—
 14 (10) (a) A criminal history record ordered expunged under
 15 this section and related investigative information that are ~~is~~
 16 retained by the department are ~~is~~ confidential and exempt from
 17 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
 18 except that the record and investigative information shall be
 19 made available to criminal justice agencies for their respective
 20 criminal justice purposes. Otherwise, such record or information
 21 shall not be disclosed to any person or entity except upon order
 22 of a court of competent jurisdiction. A criminal justice agency
 23 may retain a notation indicating compliance with an order to
 24 expunge.

25 (b) This subsection is subject to the Open Government
 26 Sunset Review Act in accordance with s. 119.15 and shall stand
 27 repealed on October 2, 2019 ~~2018~~, unless reviewed and saved from

Page 1 of 2

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

37-01921-14

20141426__

30 repeal through reenactment by the Legislature.

31 Section 2. The Legislature finds that it is a public
 32 necessity that investigative records related to a criminal
 33 history record ordered expunged under s. 943.0583, Florida
 34 Statutes, that are retained by the Department of Law Enforcement
 35 be made confidential and exempt from s. 119.07(1), Florida
 36 Statutes, and s. 24(a), Article I of the State Constitution.
 37 Persons who are victims of human trafficking and who have been
 38 charged with crimes allegedly committed at the behest of their
 39 traffickers are themselves victims of crimes. Such victims face
 40 barriers to employment and other life opportunities as long as
 41 these criminal charges remain on record and accessible to
 42 potential employers and others. It is necessary that these
 43 records be made confidential in order for human trafficking
 44 victims to have the chance to rebuild their lives and reenter
 45 society.

46 Section 3. This act shall take effect on the same date that
 47 SB ____ or similar legislation relating to human trafficking
 48 takes effect, if such legislation is adopted in the same
 49 legislative session or an extension thereof and becomes a law.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice



Subject: Committee Agenda Request

Date: March 10, 2014

I respectfully request that **Senate Bill #1426**, relating to Public Records/Human Trafficking, be placed on the:

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

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

THE FLORIDA SENATE
COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

3/31/2014
Date

1426
Bill Number

Barcode

Name BRIAN P. H/S

Phone 727/897-9291

Address 1119 Newton Ave S

E-mail justice2jesus@yahoo.com

Street

St Petersburg
City

FL
State

33905
Zip

Job Title Trustee

Speaking: For Against Information

Appearing at request of Chair

Subject _____

Representing Justice-2-Jesus

Lobbyist registered with Legislature: Yes No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from _____ .m. to _____ .m.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/14
Meeting Date

Topic Public Records / HT victims

Bill Number SB1424
(if applicable)

Name Ingrid Delgado

Amendment Barcode _____
(if applicable)

Job Title Associate for Social Concerns

Address 201 W Park
Street

Phone 850-339-0075

Tallahassee FL 32301
City State Zip

E-mail _____

Speaking: For Against Information

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-31-2014

Meeting Date

Topic Public Records/Human Trafficking Victims

Bill Number 1426
(if applicable)

Name Janet Lamoureux

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1345 Turkey Trl

Phone 863-899-7301

Lakeland FL 33810
City State Zip

E-mail janetL@tampabay.com

Speaking: For Against Information

Representing Florida PTA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1472

INTRODUCER: Criminal Justice Committee and Senator Abruzzo

SUBJECT: Identity Theft

DATE: April 1, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Fav/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1472 amends s. 817.568, F.S. (criminal use of personal identification information), to make it a second degree felony for any person to willfully and without authorization fraudulently use the personal identification information of an individual, without first obtaining that individual's consent, who is:

- 60 years of age or older;
- A disabled adult;
- A public servant;
- A veteran;
- A first responder; or
- A state or federal employee.

The bill also requires the court to impose a \$151 surcharge on persons convicted of any crime in s. 817.568, F.S., and specifies how that surcharge is allocated.

The bill also creates s. 817.5686, F.S., which establishes the Identity Theft and Fraud Task Force within the Florida Department of Law Enforcement (FDLE). The purpose of this task force is to develop strategies and techniques that will assist in the investigation and prosecution of the criminal use of personal identification information in Palm Beach County, Broward County, and Miami-Dade County.

II. Present Situation:

Section 817.568, F.S., punishes criminal use of personal identification information (often referred to as “identity theft” or “identity fraud”). For purposes of this statute, “personal identification information” is any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual including any of the following:

- Name.
- Postal or electronic mail address.
- Telephone number.
- Social security number.
- Date of birth.
- Mother’s maiden name.
- Official state-issued or United States-issued driver’s license or identification number.
- Alien registration number.
- Government passport number.
- Employer or taxpayer identification number.
- Medicaid or food assistance account number.
- Bank account number.
- Credit or debit card number.
- Personal identification number or code assigned to the holder of a debit card by the issuer to permit authorized electronic use of such card.
- Unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation.
- Unique electronic identification number, address, or routing code.
- Medical records.
- Telecommunication identifying information or access device.
- Other number or information that can be used to access a person’s financial resources.¹

It is a third degree felony² for a person to willfully and without authorization fraudulently use, or possess with intent to fraudulently use, personal identification information concerning an individual without first obtaining that individual’s consent.³ However, it is:

- A second degree felony,⁴ punishable by a 3-year minimum mandatory sentence, if the person commits the prohibited act and the pecuniary benefit, the value of the services received, the payment sought to be avoided, or the amount of the injury or fraud perpetrated is \$5,000 or more or if the person fraudulently uses the personal identification information of 10 or more individuals, but fewer than 20 individuals, without their consent;⁵

¹ Section s. 817.568(1)(f), F.S.

² A third degree felony is punishable by up to 5 years in state prison, a fine of up to \$5,000, or prison and a fine. Sections 775.082 and 775.083, F.S. However, if the third degree felony is not a forcible felony (excluding ch. 810, F.S.) and total sentence points are 22 points or fewer, the court must impose a nonstate prison sanction, unless the court makes written findings that a nonstate prison sanction could present a danger to the public. Section 775.082, F.S.

³ Section s. 817.568(2)(a), F.S.

⁴ A second degree felony is punishable by up to 15 years in state prison, a fine of up to \$10,000, or prison and a fine. Sections 775.082 and 775.083, F.S.

⁵ Section s. 817.568(2)(b), F.S.

- A first degree felony,⁶ punishable by a 5-year minimum mandatory sentence, if the person commits the prohibited act and the pecuniary benefit, the value of the services received, the payment sought to be avoided, or the amount of the injury or fraud perpetrated is \$50,000 or more, or if the person fraudulently used the personal identification information of 20 or more but fewer than 30 individuals;⁷ or
- A first degree felony, punishable by a 10-year minimum mandatory sentence, if the person commits the prohibited act and the pecuniary benefit, the value of the services received, the payment sought to be avoided, or the amount of the injury or fraud perpetrated is \$100,000 or more, or if the person fraudulently used the personal identification information of 30 or more individuals.^{8,9}

The statute also provides that it is a second degree felony for any person to willfully and without authorization fraudulently use personal identification information concerning an individual who is less than 18 years of age without first obtaining the consent of that individual or of his or her legal guardian.¹⁰ It is a second degree felony for a person who is in the relationship of parent or legal guardian, or otherwise exercises custodial authority over an individual who is less than 18 years of age, to willfully and fraudulently use personal identification of that individual.¹¹

III. Effect of Proposed Changes:

The bill creates an identity theft offense, imposes a surcharge on persons convicted of identity theft, and establishes a task force to address identity theft in three counties. The effective date of the bill is July 1, 2014.

Creates an Identity Theft Offense

The bill amends s. 817.568, F.S. (criminal use of personal identification information), to make it a second degree felony for any person to willfully and without authorization fraudulently use the personal identification information of an individual, without first obtaining that individual's consent, who is:

- 60 years of age or older;
- A disabled adult as defined in s. 825.101, F.S.;¹²
- A public servant as defined in s. 838.014, F.S.;¹³

⁶ A first degree felony is generally punishable by up to 30 years in state prison, a fine of up to \$10,000, or prison and a fine. Sections 775.082 and 775.083, F.S.

⁷ Section s. 817.568(2)(c), F.S.

⁸ Section s. 817.568(2)(c), F.S.

⁹ Section 817.568(8), F.S., imposes punishments similar to s. 817.568(2)(a)-(c), F.S., when the personal identification information involves a deceased individual.

¹⁰ Section s. 817.568(6), F.S.

¹¹ Section s. 817.568(7), F.S.

¹² The statute defines a "disabled adult" as 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.

¹³ The statute defines a "public servant" to mean:

- Any officer or employee of a state, county, municipal, or special district agency or entity;
- Any legislative or judicial officer or employee;

- A veteran as defined in s. 1.01, F.S.;¹⁴
- A first responder as defined in s. 125.01045, F.S.;¹⁵
- An individual who is employed by the State of Florida; or
- An individual who is employed by the Federal Government.

Identity Theft Surcharge

The bill also requires the court to impose a \$151 surcharge on persons convicted of any crime in s. 817.568, F.S. Payment of the surcharge must be a condition of probation, community control, or any other court-ordered supervision and may not be waived by the court. If a defendant has been ordered to pay restitution in accordance with s. 775.089, F.S., the \$151 surcharge must be included in a judgment. The bill allocates the surcharge as follows:

- \$75 of the surcharge is deposited into the FDLE Operating Trust Fund for FDLE to provide grants to local law enforcement agencies in Palm Beach County, Broward County, and Miami-Dade County to investigate the criminal use of personal identification information;
- \$75 of the surcharge is deposited into the State Attorneys Revenue Trust Fund for the purpose of funding prosecutions of offenses relating to the criminal use of personal identification information in the Eleventh Judicial Circuit, Fifteenth Judicial Circuit, and Seventeenth Judicial Circuit; and
- The clerk of the court retains \$1 of the surcharge.

Establishes the Identity Theft and Fraud Task Force

The bill creates s. 817.5686, F.S.,¹⁶ which establishes the Identity Theft and Fraud Task Force within FDLE. The purpose of this task force is to develop strategies and techniques that will assist in the investigation and prosecution of the criminal use of personal identification information in Palm Beach County, Broward County, and Miami-Dade County.¹⁷

The task force consists of the following members or their designees:

- The special agent in charge of the FDLE's Miami Regional Operation Center, who serves as chair;
- The sheriffs of Palm Beach County and Broward County;
- The police chief from the Miami-Dade Police Department;

-
- Any person, except a witness, who acts as a general or special magistrate, receiver, auditor, arbitrator, umpire, referee, consultant, or hearing officer while performing a governmental function;
 - A candidate for election or appointment to any of the positions listed in this subsection, or
 - An individual who has been elected to, but has yet to officially assume the responsibilities of, public office.

¹⁴ The statute defines a "veteran" as a person who served in the active military, naval, or air service and who was discharged or released therefrom under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges.

¹⁵ The statute defines a "first responder" as a law enforcement officer as defined in s. 943.10, F.S., a firefighter as defined in s. 633.102, F.S., or an emergency medical technician or paramedic as defined in s. 401.23, F.S., who is employed by the state or a local government

¹⁶ The statute is repealed on December 31, 2017.

¹⁷ The bill provides the following legislative intent language: "The Legislature finds that there is a need to develop and implement a strategy to address the investigation and prosecution of the criminal use of personal identification information in Palm Beach, Broward, and Miami-Dade Counties."

- The state attorneys of the Eleventh Judicial Circuit, Fifteenth Judicial Circuit, and Seventeenth Judicial Circuit; and
- Six members appointed by the chair, consisting of two chiefs of police from Palm Beach County, two chiefs of police from Broward County, and two representatives from the Miami-Dade Police Department.

Members of the task force serve without compensation but are entitled to reimbursement for per diem and travel expenses in accordance with s. 112.061, F.S. Further, the bill provides the following legislative finding that task force participation does not preclude holding public office or employment with a public entity: “The Legislature finds that the task force serves a legitimate state, county, and municipal purpose and that service on the task force is consistent with a member’s principal service in public office or employment. Therefore, membership on the task force does not disqualify a member from holding any other public office or from being employed by a public entity.”

The FDLE must provide administrative and support services for the task force, and must also adopt rules to implement the requirements of s. 817.5686, F.S.

The task force must organize by December 31, 2014, and meet at least four times per year thereafter.¹⁸ Additional meetings may be held if the chair determines that extraordinary circumstances require such meetings. A majority of the members of the task force constitutes a quorum. The chair of the task force may appoint subcommittees and subcommittee chairs as necessary in order to address issues related to the task force.¹⁹

The task force must coordinate efforts in Palm Beach County, Broward County, and Miami-Dade County to:

- Develop strategies and techniques that will assist in the investigation and prosecution of the criminal use of personal identification information; and
- Incorporate other objectives reasonably related to the goals of enhancing the investigation and prosecution of the criminal use of personal identification information and a citizen’s ability to prevent and detect identity theft and fraud.

By December 1, 2017, the task force must submit a report on its activities to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must include any recommendations on how to better investigate and prosecute the criminal use of personal identification information. The task force dissolves on December 31, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁸ Members may appear at meetings by electronic means.

¹⁹ A subcommittee chair serves at the pleasure of the chair.

B. Public Records/Open Meetings Issues:

The FDLE states that the Government in the Sunshine Law, s. 286.011, F.S., applies to “any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision,” and may apply to the task force created by the bill. If the law does apply to the task force, FDLE states that task force meetings will have to be noticed and public access provided.²⁰ FDLE also states that two or more task force members would be prohibited from “discussing any matter which would foreseeably come before the [task force] for action outside the public forum,” and task force members would have to avoid discussing active criminal investigations and confidential information during meetings “in order to avoid compromising pending investigations.”²¹

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:**Prison Bed Impact**

The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of legislation has not reviewed CS/SB 1472. However, the CJIC has reviewed CS/HB 1029, which is substantively identical to CS/SB 1472, and estimated the bill will have an insignificant prison bed impact.²²

FDLE Impact

The FDLE has analyzed CS/SB 1472 and determined the bill will have an impact on the department.²³

²⁰ There is no separate bill providing for closed meetings of the task force or for closing a portion of task force meetings.

²¹ 2014 FDLE Legislative Analysis (CS/SB 1472) (March 31, 2014) (on file with the Senate Committee on Criminal Justice).

²² The identity theft offense created by the bill is a second degree felony. Since this second degree felony is not specifically ranked in the offense severity ranking chart of the Criminal Punishment Code, it defaults to a Level 4 ranking pursuant to s. 921.0023, F.S.

²³ 2014 FDLE Legislative Analysis (CS/SB 1472) (March 26, 2014). All information in the “Government Sector Impact” section of this analysis relevant to FDLE impact and court impact is from the FDLE analysis.

Revenue:

The FDLE states:

\$151 will be imposed for any sanction applied by the Court for criminal use of personal identification violations. State Attorneys will receive \$75 to assist with prosecution, but the \$75 deposited with FDLE is for establishment of a grant program for specific local law enforcement agencies to assist with their investigation of criminal use of personal identification, rather than to fund identity theft investigations statewide.

Expenditures:

The FDLE states that to implement the task force provision (included in the bill) it will need, at a minimum, 4 additional FTEs at a total cost of \$318,767 for salary, benefits, and expenses. The FTEs are itemized below:

- 1 Government Analyst I to coordinate meetings, minutes, analyze funding requests and make funding recommendations, and to prepare quarterly and annual task force reports.
- 1 Operations Review Specialist to monitor and report each grant’s performance.
- 1 Accountant II to track grant awards, expenditures, requests for reimbursements, and prepare financial reports required by the Department of Financial Services.
- 1 Special Agent in the MROC region (includes Palm Beach, Broward, and Miami-Dade counties) trained and equipped for identity theft investigations and investigative forensics.

Position	Salary & Benefits	Expenses & Equipment	Total Including Nonrecurring
GA I	\$53,142	\$10,378	\$63,520
ORS	\$58,296	\$10,378	\$68,674
Accountant II	\$41,722	\$10,378	\$52,100
Special Agent	\$75,832	\$58,641	\$134,473
Total	\$228,992	\$89,775	\$318,767

Court Impact

An analysis of CS/SB 1472 by the Office of the State Courts Administrator was not available. The FDLE states the bill “[c]ould impact costs incurred by Clerks of the Courts for collection and transmitting of fines, although the Clerks are authorized to retain \$1 of the imposed fine which could offset these costs.”

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 817.568 of the Florida Statutes.

This bill creates section 817.5686 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 31, 2014:

- Creates a second degree felony for criminal use of personal ID of a person 60 years of age or older, a public servant, a veteran, a first responder, or a state or federal employee;
- Requires a court-imposed \$150 surcharge for an ID theft violation and specifies surcharge disbursement;
- Creates a temporary task force (dissolves December 31, 2017) in the FDLE to develop strategies/techniques to assist ID theft investigations/prosecutions in Palm Beach, Broward, and Miami-Dade Counties; and
- Changes the effective date of the bill to July 1, 2014.

B. Amendments:

None.



119136

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2014	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (11) through (17) of section
817.568, Florida Statutes, are renumbered as subsections (13)
through (19), respectively, and new subsections (11) and (12)
are added to that section to read:

817.568 Criminal use of personal identification



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11 information.-

12 (11) A person who willfully and without authorization
13 fraudulently uses personal identification information concerning
14 an individual who is 60 years of age or older; a disabled adult
15 as defined in s. 825.101; a public servant as defined in s.
16 838.014; a veteran as defined in s. 1.01; a first responder as
17 defined in s. 125.01045; an individual who is employed by the
18 State of Florida; or an individual who is employed by the
19 Federal Government without first obtaining the consent of that
20 individual commits a felony of the second degree, punishable as
21 provided in s. 775.082, s. 775.083, or s. 775.084.

22 (12) In addition to any sanction imposed when a person
23 pleads guilty or nolo contendere to, or is found guilty of,
24 regardless of adjudication, a violation of this section, the
25 court shall impose a surcharge of \$151. Payment of the surcharge
26 shall be a condition of probation, community control, or any
27 other court-ordered supervision. The sum of \$75 of the surcharge
28 shall be deposited into the Department of Law Enforcement
29 Operating Trust Fund for the department to provide grants to
30 local law enforcement agencies in Palm Beach, Broward, and
31 Miami-Dade Counties to investigate the criminal use of personal
32 identification information. The sum of \$75 of the surcharge
33 shall be deposited into the State Attorneys Revenue Trust Fund
34 for the purpose of funding prosecutions of offenses relating to
35 the criminal use of personal identification information in the
36 Eleventh Circuit, the Fifteenth Circuit, and the Seventeenth
37 Circuit. The clerk of the court shall retain \$1 of each
38 surcharge that he or she collects as a service charge of the
39 clerk's office.



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40 (a) The surcharge may not be waived by the court.

41 (b) In the event that the person has been ordered to pay
42 restitution in accordance with s. 775.089, the surcharge shall
43 be included in a judgment.

44 Section 2. Section 817.5686, Florida Statutes, is created
45 to read:

46 817.5686 Identity Theft and Fraud Task Force.—

47 (1) FINDINGS.—The Legislature finds that there is a need to
48 develop and implement a strategy to address the investigation
49 and prosecution of the criminal use of personal identification
50 information in Palm Beach, Broward, and Miami-Dade Counties.

51 (2) ESTABLISHMENT.—There is created the Identity Theft and
52 Fraud Task Force within the Department of Law Enforcement. The
53 purpose of the task force is to develop strategies and
54 techniques that will assist in the investigation and prosecution
55 of the criminal use of personal identification information in
56 Palm Beach, Broward, and Miami-Dade Counties. The task force
57 shall dissolve on December 31, 2017.

58 (3) MEMBERSHIP.—

59 (a) The task force shall consist of the following members
60 or their designees:

61 1. The special agent in charge of the Miami Regional
62 Operations Center of the Department of Law Enforcement, who
63 shall serve as chair.

64 2. The sheriffs of Palm Beach and Broward Counties.

65 3. The police chief of the Miami-Dade Police Department.

66 4. The state attorneys of the Eleventh Circuit, the
67 Fifteenth Circuit, and the Seventeenth Circuit.

68 5. Six members appointed by the chair, consisting of two



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69 police chiefs from Palm Beach County, two police chiefs from
70 Broward County, and two representatives from the Miami-Dade
71 Police Department.

72 (b) The Legislature finds that the task force serves a
73 legitimate state, county, and municipal purpose and that service
74 on the task force is consistent with a member's principal
75 service in public office or employment. Therefore, membership on
76 the task force does not disqualify a member from holding any
77 other public office or from being employed by a public entity.

78 (c) Members of the task force shall serve without
79 compensation but are entitled to reimbursement for per diem and
80 travel expenses in accordance with s. 112.061.

81 (d) The chair of the task force may appoint subcommittees
82 and subcommittee chairs as necessary in order to address issues
83 related to the task force. A subcommittee chair shall serve at
84 the pleasure of the chair.

85 (4) MEETINGS.—The task force shall organize by December 31,
86 2014. Thereafter, the task force shall meet at least four times
87 per year. Additional meetings may be held if the chair
88 determines that extraordinary circumstances require an
89 additional meeting. Members may appear at meetings by electronic
90 means. A majority of the members of the task force constitutes a
91 quorum. The Department of Law Enforcement shall provide
92 administrative and support services for the task force.

93 (5) DUTIES.—The task force shall coordinate efforts in Palm
94 Beach, Broward, and Miami-Dade Counties to:

95 (a) Develop strategies and techniques that will assist in
96 the investigation and prosecution of the criminal use of
97 personal identification information.



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98 (b) Incorporate other objectives reasonably related to the
99 goals of enhancing the investigation and prosecution of the
100 criminal use of personal identification information and a
101 citizen's ability to prevent and detect identity theft and
102 fraud.

103 (6) RULEMAKING.—The Department of Law Enforcement shall
104 adopt rules to implement the requirements of this section.

105 (7) REPORT.—By December 1, 2017, the task force shall
106 submit a report on its activities to the Governor, the President
107 of the Senate, and the Speaker of the House of Representatives.
108 The report shall include any recommendations on how to better
109 investigate and prosecute the criminal use of personal
110 identification information.

111 (8) REPEAL.—This section is repealed December 31, 2017.
112 Section 3. This act shall take effect July 1, 2014.

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

115 And the title is amended as follows:

116 Delete everything before the enacting clause
117 and insert:

118 A bill to be entitled

119 An act relating to personal identification information
120 theft; amending s. 817.568, F.S.; providing that it is
121 unlawful for any person to willfully and without
122 authorization fraudulently use personal identification
123 information concerning specified individuals without
124 their consent; providing criminal penalties; providing
125 for a surcharge and allocation thereof; providing
126 legislative findings; creating s. 817.5686, F.S.;



119136

127 creating the Identity Theft and Fraud Task Force
128 within the Department of Law Enforcement to assist in
129 investigation and prosecution of criminal use of
130 personal identification information in specified
131 counties; providing for membership; requiring the task
132 force to organize by a specified date; providing for
133 meetings; specifying the duties of the task force;
134 providing rulemaking authority; requiring a report to
135 the Governor and Legislature; providing for future
136 repeal; providing an effective date.
137

By Senator Abruzzo

25-01344-14

20141472__

1 A bill to be entitled
 2 An act relating to identity theft; amending s.
 3 817.568, F.S.; providing that possession of personal
 4 identification information without a legitimate
 5 business or professional purpose and with specified
 6 intent constitutes fraudulent use of personal
 7 identification information; providing criminal
 8 penalties; creating a rebuttable presumption that a
 9 person in possession of a specified quantity of
 10 personal identification information has fraudulent
 11 intent; providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Paragraph (a) of subsection (2) of section
 16 817.568, Florida Statutes, is amended to read:

17 817.568 Criminal use of personal identification
 18 information.—

19 (2)(a)1. ~~A~~ Any person who willfully and without
 20 authorization fraudulently uses, or possesses with intent to
 21 fraudulently use, personal identification information concerning
 22 an individual without first obtaining that individual's consent,
 23 or without a legitimate business or professional purpose,
 24 commits the offense of fraudulent use of personal identification
 25 information, which is a felony of the third degree, punishable
 26 as provided in s. 775.082, s. 775.083, or s. 775.084.

27 2. For purposes of this paragraph, a person who possesses
 28 10 or more pieces of personal identification information is
 29 presumed to have an intent to fraudulently use such personal

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

25-01344-14

20141472__

30 identification information. This presumption may be rebutted by
 31 demonstration that the possession was authorized by the
 32 individual to whom the information relates or that the person
 33 possessing the information has a legitimate business or
 34 professional purpose for possessing the information.

35 Section 2. This act shall take effect October 1, 2014.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Commerce and Tourism, *Vice Chair*
Environmental Preservation and
Conservation, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Finance and Tax
Communications, Energy, and Public Utilities
Military Affairs, Space, and Domestic Security

JOINT COMMITTEE:
Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO
25th District

March 13th, 2014

The Honorable Greg Evers
The Florida Senate
308 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Evers:

I respectfully request that Senate Bill 1472, related to identity theft, be placed on the Criminal Justice committee agenda. This legislation provides that possession of personal identification information without a legitimate business or professional purpose and with specified intent constitutes fraudulent use of personal identification information.

Thank you for your consideration. Please let me know if I can provide further information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joseph Abruzzo".

Senator Joseph Abruzzo

cc: Amanda Cannon, Staff Director

REPLY TO:

- 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774
- 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/31/2014

Meeting Date

Topic _____

Bill Number 1472
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 1594

INTRODUCER: Criminal Justice Committee; Environmental Preservation and Conservation Committee;
and Senator Bradley and others

SUBJECT: Vessel Safety

DATE: April 1, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hinton</u>	<u>Uchino</u>	<u>EP</u>	<u>Fav/CS</u>
2.	<u>Sumner</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1594 authorizes the relocation or removal of a vessel that interferes with another vessel or constitutes a navigational hazard. It authorizes the relocation or removal of a derelict vessel that constitutes a danger to property or persons. The bill requires owners to pay the costs, including those owed to third parties, for relocation or removal of a derelict vessel. It specifies the Florida Fish and Wildlife Commission (FWC), other law enforcement agencies, and officers, under certain circumstances, are not responsible for damages resulting from relocation or removal of a derelict vessel unless the damages occur due to gross negligence or willful misconduct. It defines "gross negligence" and "willful misconduct." The bill provides that a contractor performing relocation or removal activities at the direction of the commission, officers of the commission, or a law enforcement agency or officer must be licensed in accordance with applicable United States Coast Guard regulations and carry an insurance policy to insure against any accident, loss, injury, property damage, or other casualty. Lastly, the bill directs the Department of Legal Affairs to represent the FWC in actions to recover costs.

II. Present Situation:

Section 327.70, F.S., allows the Division of Law Enforcement of the FWC, and its officers, the sheriffs of the various counties and their deputies, municipal police officers, and any other law

enforcement officer as defined in s. 943.10, F.S.,¹ to order the removal of vessels deemed to be an interference or hazard to public safety.²

Section 327.44, F.S., prohibits anchoring or operating a vessel in a manner that unreasonably constitutes a navigational hazard or interferes with another vessel.

Section 376.15, F.S., authorizes the FWC, its officers and all law enforcement officers as specified in s. 327.70, F.S., to remove a derelict vessel and provides for the recovery of any costs incurred in the removal of a derelict vessel.

Section 823.11, F.S., authorizes the FWC, its officers, and all law enforcement officers as specified in s. 327.70, F.S., to remove any abandoned or derelict vessel when it threatens to obstruct navigation or constitutes a danger to the environment. It also allows for the recovery of the costs of removal from the owner of the vessel.

Florida law does not authorize law enforcement agencies to relocate vessels that create a navigational hazard or that interfere with other vessels.³ An unoccupied vessel may break free of its anchor or mooring and either remain adrift, come to rest in a location that is unsafe for other vessel traffic, or cause damage to other boats or maritime infrastructure. There is no specific authorization for law enforcement agencies to act by relocating and attempting to secure the vessel in a more appropriate location. Relocating the vessel would benefit the boat owner, the operators and owners of boats in the area, and the owners of maritime infrastructure.⁴

Section 823.11, F.S., defines “derelict vessel” to mean any vessel that is left, stored, or abandoned:

- In a wrecked, junked, or substantially dismantled condition upon any public waters of this state;
- At any port in this state without the consent of the agency having jurisdiction over the port; or
- Docked or grounded at or beached upon the property of another without the consent of the property owner.

The statute provides that anyone who stores, leaves, or abandons a derelict vessel is subject to a fine of up to \$50,000 per day.⁵

¹ Section 943.10, F.S., defines other law enforcement officers as, “any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.”

² Section 327.70, F.S.

³ FWC, *Senate Bill 1594 Agency Analysis*, 1 (Mar. 7, 2014) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁴ *Id.*

⁵ See ss. 376.15 and 376.16, F.S.

Due to liability concerns, costs, and the difficulty of removing a derelict vessel, law enforcement agencies and local governments will sometimes leave a derelict vessel where it is found until such time as the notification period has elapsed, investigation into ownership of the vessel has been completed, criminal charges (if any) have been disposed of, and transport to a disposal facility has been arranged. The FWC reports that by the time the physical removal of a derelict vessel begins, the vessel may have already sunk, leading to much greater costs for removal.⁶

According to the FWC, one of the concerns that may delay resolving problems with derelict vessels is the possibility of incurring liability for damages. In addition, the majority of derelict vessel removals in Florida are performed by local governments. The cost of removal is infrequently recovered from the owner, leaving local governments responsible for the costs of removal and potentially any liability for damages during the removal process.⁷

III. Effect of Proposed Changes:

Section 1 amends s. 327.44, F.S., providing the FWC, officers of the commission, and any law enforcement agency or officer specified in s. 327.70, F.S., authority to relocate or remove a vessel that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel.

It provides that those authorized to act under this section are held harmless for damages to a vessel as a result of relocating or removing the vessel unless the damage is the result of gross negligence or willful misconduct. It defines “gross negligence” and “willful misconduct.”

The bill provides for the recovery of costs, including those owed to a third party, incurred as a result of removing or relocating a vessel from the vessel owner and directs the Department of Legal Affairs to represent the FWC in actions to recover those costs.

Section 2 amends s. 376.15, F.S., providing the FWC, officers of the commission, and any law enforcement agency or officer specified in s. 327.70, F.S., authority to relocate a derelict vessel to its existing authority to remove such vessels. It holds anyone acting under the section harmless for any damages to the derelict vessel resulting from relocating or removing the vessel, unless it is the result of gross negligence or willful misconduct. It defines “Commission” as the Fish and Wildlife Conservation Commission, “gross negligence” and “willful misconduct.”

Section 3 amends s. 823.11, F.S., providing the FWC, officers of the commission, and any law enforcement agency or officer specified in s. 327.70, F.S., authority to relocate a derelict vessel when it obstructs or threatens to obstruct navigation or constitutes a danger to the environment, property, or persons. It does not affect the FWC’s existing authority to remove such vessels.

The bill clarifies that “Commission” means the Fish and Wildlife Conservation Commission. It holds the FWC, other law enforcement agencies, and officers acting under the section harmless for all damages to the derelict vessel resulting from relocation or removal of the vessel, unless the damages are the result of gross negligence or willful misconduct. It provides for the recovery

⁶ *Supra* note 3, at 1.

⁷ *Supra* note 3, at 2.

of costs, including those owed to a third party, as a result of relocating a derelict vessel. Lastly, the bill removes references to “abandoned vessels,” narrowing the scope of the statute to derelict vessels.

The bill provides that a contractor performing relocation or removal activities at the direction of the commission, officers of the commission, or a law enforcement agency or officer must be licensed in accordance with applicable United States Coast Guard regulations and carry an insurance policy to insure against any accident, loss, injury, property damage, or other casualty.

Section 4 and 5 make conforming cross references.

Section 6 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Vessel owners will be liable for all costs associated with relocating or removing their derelict vessels, including costs owed to third parties.

Providing liability protection to those authorized to relocate or remove a derelict vessel will shift the costs of damages to the individual whose property is damaged.

The bill will benefit property owners and the boating community as a whole if the provisions of the bill lead to more timely removal of vessels, which may limit damage to marine infrastructure and other property.

C. Government Sector Impact:

Providing authority to relocate vessels and providing liability protection to those authorized to relocate vessels, except in the cases of gross negligence or willful

misconduct, will encourage more timely removal or relocation of vessels. It is generally more expensive to remove or relocate a vessel that has sunk. In addition, any costs owed to third parties as a result of removing or relocating a derelict vessel will not be borne by any of the entities authorized to do so if the owner of the vessel can be located.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 327.44, 376.15, and 823.11.

The bill makes technical and conforming changes to section 376.11 and 705.101, Florida Statutes.

IX. Additional Information:

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

CS/CS by Criminal Justice on March 31, 2014:

The committee substitute defines “gross negligence” and “willful misconduct” as it applies to the liability of the FWC, other law enforcement agencies, and officers for damages caused during the relocation or removal of a vessel that unreasonably or unnecessarily constituted a navigation hazard or interference with another vessel. It provides that a contractor performing relocation or removal activities at the direction of the commission, officers of the commission, or a law enforcement agency or officer must be licensed in accordance with applicable United States Coast Guard regulations and carry an insurance policy to insure against any accident, loss, injury, property damage, or other casualty. It makes technical and conforming changes.

CS by Environmental Preservation and Conservation on March 13, 2014:

The committee substitute:

- Limits the liability protection in the bill to damages to a derelict vessel not caused by gross negligence or willful misconduct;
- Adds “officer” to the entities covered by the liability protection in s. 823.11, F.S.;
- Clarifies “commission” to mean the Fish and Wildlife Conservation Commission; and
- Adds a section to the bill, amending s. 376.15, F.S., providing for the relocation or removal of any abandoned or derelict vessel and associated liability protection for such actions.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2014	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 327.44, Florida Statutes, is amended to
read:

327.44 Interference with navigation; relocation or removal;
recovery of costs.—

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

(a) "Gross negligence" means conduct so reckless or wanting



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11 in care that it constituted a conscious disregard or
12 indifference to the safety of the property exposed to such
13 conduct.

14 (b) "Willful misconduct" means conduct evidencing
15 carelessness or negligence of such a degree or recurrence as to
16 manifest culpability, wrongful intent, or evil design or to show
17 an intentional and substantial disregard of the interests of the
18 vessel owner.

19 (2) No person shall anchor, operate, or permit to be
20 anchored, except in case of emergency, or operated a vessel or
21 carry on any prohibited activity in a manner which shall
22 unreasonably or unnecessarily constitute a navigational hazard
23 or interfere with another vessel. Anchoring under bridges or in
24 or adjacent to heavily traveled channels shall constitute
25 interference if unreasonable under the prevailing circumstances.

26 (3) The commission, officers of the commission, and any law
27 enforcement agency or officer specified in s. 327.70 are
28 authorized and empowered to relocate, remove, or cause to be
29 relocated or removed a vessel that unreasonably or unnecessarily
30 constitutes a navigational hazard or interferes with another
31 vessel. The commission, officers of the commission, or any other
32 law enforcement agency or officer acting under this subsection
33 to relocate, remove, or cause to be relocated or removed a
34 vessel that unreasonably or unnecessarily constitutes a
35 navigational hazard or interferes with another vessel shall be
36 held harmless for all damages to the vessel resulting from such
37 relocation or removal unless the damage results from gross
38 negligence or willful misconduct.

39 (4) A contractor performing relocation or removal



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40 activities at the direction of the commission, officers of the
41 commission, or a law enforcement agency or officer pursuant to
42 this section must be licensed in accordance with applicable
43 United States Coast Guard regulations where required; obtain and
44 carry in full force and effect a policy from a licensed
45 insurance carrier in this state to insure against any accident,
46 loss, injury, property damage, or other casualty caused by or
47 resulting from the contractor's actions; and be properly
48 equipped to perform the services to be provided.

49 (5) All costs, including costs owed to a third party,
50 incurred by the commission or other law enforcement agency in
51 the relocation or removal of a vessel that unreasonably or
52 unnecessarily constitutes a navigational hazard or interferes
53 with another vessel are recoverable against the vessel owner.
54 The Department of Legal Affairs shall represent the commission
55 in actions to recover such costs.

56 Section 2. Section 376.15, Florida Statutes, is amended to
57 read:

58 376.15 Derelict vessels; relocation or removal from public
59 waters.—

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

61 (a) "Commission" means the Fish and Wildlife Conservation
62 Commission.

63 (b) "Gross negligence" means conduct so reckless or wanting
64 in care that it constituted a conscious disregard or
65 indifference to the safety of the property exposed to such
66 conduct.

67 (c) "Willful misconduct" means conduct evidencing
68 carelessness or negligence of such a degree or recurrence as to



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69 manifest culpability, wrongful intent, or evil design or to show
70 an intentional and substantial disregard of the interests of the
71 vessel owner.

72 (2)(1) It is unlawful for any person, firm, or corporation
73 to store, leave, or abandon any derelict vessel as defined in s.
74 823.11 ~~823.11(1)~~ in this state.

75 (3)(2)(a) The ~~Fish and Wildlife Conservation~~ commission,
76 ~~and its~~ officers of the commission, and any ~~all~~ law enforcement
77 agency or officer ~~officers as~~ specified in s. 327.70 are
78 authorized and empowered to relocate, remove, or cause to be
79 relocated or removed any derelict vessel as defined in s. 823.11
80 ~~823.11(1)~~ from public waters. All costs, including costs owed to
81 a third party, incurred by the commission or other law
82 enforcement agency in the relocation or removal of any abandoned
83 or derelict vessel are ~~shall be~~ recoverable against the owner of
84 the vessel. The Department of Legal Affairs shall represent the
85 commission in ~~such~~ actions to recover such costs.

86 (b) The commission, officers of the commission, and any
87 other law enforcement agency or officer specified in s. 327.70
88 acting under this section to relocate, remove, or cause to be
89 relocated or removed a derelict vessel from public waters shall
90 be held harmless for all damages to the derelict vessel
91 resulting from such relocation or removal unless the damage
92 results from gross negligence or willful misconduct.

93 (c) A contractor performing relocation or removal
94 activities at the direction of the commission, officers of the
95 commission, or a law enforcement agency or officer pursuant to
96 this section must be licensed in accordance with applicable
97 United States Coast Guard regulations where required; obtain and



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98 carry in full force and effect a policy from a licensed
99 insurance carrier in this state to insure against any accident,
100 loss, injury, property damage, or other casualty caused by or
101 resulting from the contractor's actions; and be properly
102 equipped to perform the services to be provided.

103 (d)-(b) The commission may establish a program to provide
104 grants to local governments for the removal of derelict vessels
105 from the public waters of the state. The program shall be funded
106 from the Florida Coastal Protection Trust Fund. Notwithstanding
107 the provisions in s. 216.181(11), funds available for grants may
108 only be authorized by appropriations acts of the Legislature.

109 (e)-(e) The commission shall adopt by rule procedures for
110 submitting a grant application and criteria for allocating
111 available funds. Such criteria shall include, but not be limited
112 to, the following:

113 1. The number of derelict vessels within the jurisdiction
114 of the applicant.

115 2. The threat posed by such vessels to public health or
116 safety, the environment, navigation, or the aesthetic condition
117 of the general vicinity.

118 3. The degree of commitment of the local government to
119 maintain waters free of abandoned and derelict vessels and to
120 seek legal action against those who abandon vessels in the
121 waters of the state.

122 (f)-(d) This section constitutes ~~shall constitute~~ the
123 authority for such removal but is not intended to be in
124 contravention of any applicable federal act.

125 Section 3. Section 823.11, Florida Statutes, is amended to
126 read:



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127 823.11 ~~Abandoned and~~ Derelict vessels; relocation or
128 removal; penalty.—

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

130 (a) "Commission" means the Fish and Wildlife Conservation
131 Commission.

132 (b) "Derelict vessel" means a ~~any~~ vessel, as defined in s.
133 327.02, that is left, stored, or abandoned:

134 1. ~~(a)~~ In a wrecked, junked, or substantially dismantled
135 condition upon any public waters of this state.

136 2. ~~(b)~~ At a ~~any~~ port in this state without the consent of
137 the agency having jurisdiction thereof.

138 3. ~~(c)~~ Docked, ~~or~~ grounded, ~~at~~ or beached upon the property
139 of another without the consent of the owner of the property.

140 (c) "Gross negligence" means conduct so reckless or wanting
141 in care that it constituted a conscious disregard or
142 indifference to the safety of the property exposed to such
143 conduct.

144 (d) "Willful misconduct" means conduct evidencing
145 carelessness or negligence of such a degree or recurrence as to
146 manifest culpability, wrongful intent, or evil design or to show
147 an intentional and substantial disregard of the interests of the
148 vessel owner.

149 (2) It is unlawful for a ~~any~~ person, firm, or corporation
150 to store, leave, or abandon any derelict vessel ~~as defined in~~
151 ~~this section~~ in this state.

152 (3) ~~(a)~~ The ~~Fish and Wildlife Conservation~~ commission, ~~and~~
153 ~~its~~ officers of the commission, and any all law enforcement
154 agency or officer ~~officers~~ as specified in s. 327.70 are
155 authorized and empowered to relocate, remove, or cause to be



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156 relocated or removed a ~~any abandoned or~~ derelict vessel from
157 public waters if the derelict vessel in any instance when the
158 same obstructs or threatens to obstruct navigation or in any way
159 constitutes a danger to the environment, property, or persons.
160 The commission, officers of the commission, or any other law
161 enforcement agency or officer acting under this subsection to
162 relocate, remove, or cause to be relocated or removed a derelict
163 vessel from public waters shall be held harmless for all damages
164 to the derelict vessel resulting from such relocation or removal
165 unless the damage results from gross negligence or willful
166 misconduct.

167 (a) Removal of derelict vessels under pursuant to this
168 subsection ~~section~~ may be funded by grants provided in ss.
169 206.606 and 376.15. The ~~Fish and Wildlife Conservation~~
170 commission shall ~~is directed to~~ implement a plan for the
171 procurement of any available federal disaster funds and ~~to~~ use
172 such funds for the removal of derelict vessels.

173 (b) All costs, including costs owed to a third party,
174 incurred by the commission or other law enforcement agency in
175 the relocation or removal of a ~~any abandoned or~~ derelict vessel
176 are as set out above shall be recoverable against the vessel
177 owner thereof. The Department of Legal Affairs shall represent
178 the commission in ~~such~~ actions to recover such costs. As
179 provided in s. 705.103(4), a ~~any~~ person who neglects or refuses
180 to pay such costs may ~~amount is~~ not entitled to be issued a
181 certificate of registration for such vessel or for any other
182 vessel or motor vehicle until such ~~the~~ costs have been paid.

183 (c) A contractor performing relocation or removal
184 activities at the direction of the commission, officers of the



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185 commission, or a law enforcement agency or officer pursuant to
186 this section must be licensed in accordance with applicable
187 United States Coast Guard regulations where required; obtain and
188 carry in full force and effect a policy from a licensed
189 insurance carrier in this state to insure against any accident,
190 loss, injury, property damage, or other casualty caused by or
191 resulting from the contractor's actions; and be properly
192 equipped to perform the services to be provided.

193 (4) ~~(b)~~ When a derelict vessel is docked, ~~or~~ grounded, ~~at~~ or
194 beached upon private property without the consent of the owner
195 of the property, the owner of the property may remove the vessel
196 at the vessel owner's expense 60 days after compliance with the
197 notice requirements specified in s. 328.17(5). The private
198 property owner may not hinder reasonable efforts by the vessel
199 owner or the vessel owner's agent to remove the vessel. ~~Any~~
200 Notice given pursuant to this subsection is ~~paragraph shall be~~
201 presumed to be delivered when it is deposited with the United
202 States Postal Service, certified, and properly addressed with
203 prepaid postage.

204 (5) ~~(4)~~ A ~~Any~~ person, firm, or corporation violating this
205 section ~~act~~ commits a misdemeanor of the first degree and shall
206 be punished as provided by law. A conviction under this section
207 does ~~shall~~ not bar the assessment and collection of the civil
208 penalty provided in s. 376.16 for violation of s. 376.15. The
209 court having jurisdiction over the criminal offense,
210 notwithstanding any jurisdictional limitations on the amount in
211 controversy, may order the imposition of such civil penalty in
212 addition to any sentence imposed for the first criminal offense.

213 Section 4. Paragraph (g) of subsection (4) of section



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214 376.11, Florida Statutes, is amended to read:

215 376.11 Florida Coastal Protection Trust Fund.—

216 (4) Moneys in the Florida Coastal Protection Trust Fund
217 shall be disbursed for the following purposes and no others:

218 (g) The funding of a grant program to local governments,
219 pursuant to s. 376.15(3)(d) and (e) ~~376.15(2)(b) and (c)~~, for
220 the removal of derelict vessels from the public waters of the
221 state.

222 Section 5. Subsection (3) of section 705.101, Florida
223 Statutes, is amended to read:

224 705.101 Definitions.—As used in this chapter:

225 (3) "Abandoned property" means all tangible personal
226 property that does not have an identifiable owner and that has
227 been disposed on public property in a wrecked, inoperative, or
228 partially dismantled condition or has no apparent intrinsic
229 value to the rightful owner. The term includes derelict vessels
230 as defined in s. 823.11 ~~823.11(1)~~.

231 Section 6. This act shall take effect July 1, 2014.

232
233 ===== T I T L E A M E N D M E N T =====

234 And the title is amended as follows:

235 Delete everything before the enacting clause
236 and insert:

237 A bill to be entitled
238 An act relating to vessel safety; amending s. 327.44,
239 F.S.; defining terms; authorizing the Fish and
240 Wildlife Conservation Commission and certain law
241 enforcement agencies or officers to relocate or remove
242 vessels that unreasonably or unnecessarily constitute



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243 a navigational hazard or interfere with another
244 vessel; exempting the commission or a law enforcement
245 agency or officer from liability for damages to such a
246 vessel caused by the relocation or removal thereof;
247 providing an exception; specifying requirements for
248 contractors relocating or removing a vessel at the
249 direction of the commission or a law enforcement
250 agency or officer; providing that the commission or a
251 law enforcement agency may recover from the vessel
252 owner its costs for the relocation or removal of such
253 a vessel; requiring the Department of Legal Affairs to
254 represent the commission in actions to recover such
255 costs; amending ss. 376.15 and 823.11, F.S.; defining
256 terms; authorizing the commission and certain law
257 enforcement agencies and officers to relocate or
258 remove a derelict vessel from public waters; exempting
259 the commission or a law enforcement agency or officer
260 from liability for damages to such a vessel caused by
261 the relocation or removal thereof; providing an
262 exception; expanding costs recoverable by the
263 commission or a law enforcement agency against the
264 owner of a derelict vessel for the relocation or
265 removal thereof; specifying requirements for
266 contractors relocating or removing a vessel at the
267 direction of the commission or a law enforcement
268 agency or officer; abrogating the power of the
269 commission to remove certain abandoned vessels and
270 recover its costs therefor; conforming a cross-
271 reference; amending ss. 376.11 and 705.101, F.S.;



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272
273

conforming cross-references; providing an effective
date.

By the Committee on Environmental Preservation and Conservation;
and Senators Bradley and Dean

592-02552-14

20141594c1

1 A bill to be entitled
2 An act relating to vessel safety; amending s. 327.44,
3 F.S.; authorizing the Fish and Wildlife Conservation
4 Commission and certain law enforcement agencies or
5 officers to relocate or remove vessels that
6 unreasonably or unnecessarily constitute a navigation
7 hazard or interfere with another vessel; exempting the
8 commission or a law enforcement agency or officer from
9 liability for damages to such a vessel caused by the
10 relocation or removal thereof; providing an exception;
11 providing that the commission or a law enforcement
12 agency may recover from the vessel owner its costs for
13 the relocation or removal of such a vessel; requiring
14 the Department of Legal Affairs to represent the
15 commission in actions to recover such costs; amending
16 s. 376.15, F.S.; defining the term "commission";
17 authorizing the commission and certain law enforcement
18 agencies and officers to relocate or remove a derelict
19 vessel from public waters; exempting the commission or
20 a law enforcement agency of officer from liability for
21 damages to such a vessel caused by the relocation or
22 removal thereof; providing an exception; amending s.
23 823.11, F.S.; defining the term "commission";
24 authorizing the commission and certain law enforcement
25 agencies and officers to relocate or remove a derelict
26 vessel from public waters if such vessel poses a
27 danger to property or persons; exempting the
28 commission or a law enforcement agency of officer from
29 liability for damages to such a vessel caused by the

Page 1 of 7

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

592-02552-14

20141594c1

30 relocation or removal thereof; providing an exception;
31 expanding costs recoverable by the commission or a law
32 enforcement agency against the owner of a derelict
33 vessel for the relocation or removal thereof;
34 abrogating the power of the commission to remove
35 certain abandoned vessels and recover its costs
36 therefor; providing an effective date.
37

38 Be It Enacted by the Legislature of the State of Florida:
39

40 Section 1. Section 327.44, Florida Statutes, is amended to
41 read:

42 327.44 Interference with navigation; relocation or removal;
43 recovery of costs.-

44 (1) No person shall anchor, operate, or permit to be
45 anchored, except in case of emergency, or operated a vessel or
46 carry on any prohibited activity in a manner which shall
47 unreasonably or unnecessarily constitute a navigational hazard
48 or interfere with another vessel. Anchoring under bridges or in
49 or adjacent to heavily traveled channels shall constitute
50 interference if unreasonable under the prevailing circumstances.

51 (2) The commission, officers of the commission, and any law
52 enforcement agency or officer specified in s. 327.70 is
53 authorized and empowered to relocate, remove, or cause to be
54 relocated or removed a vessel that unreasonably or unnecessarily
55 constitutes a navigational hazard or interferes with another
56 vessel. The commission and any other law enforcement agency or
57 officer acting under this subsection to relocate, remove, or
58 cause to be relocated or removed a vessel that unreasonably or

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

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59 unnecessarily constitutes a navigational hazard or interferes
 60 with another vessel shall be held harmless for all damages to
 61 the derelict vessel resulting from such relocation or removal,
 62 unless the damage results from gross negligence or willful
 63 misconduct.

64 (3) All costs, including costs owed to a third party,
 65 incurred by the commission or other law enforcement agency in
 66 the relocation or removal of a vessel that unreasonably or
 67 unnecessarily constitutes a navigational hazard or interferes
 68 with another vessel are recoverable against the vessel owner.
 69 The Department of Legal Affairs shall represent the commission
 70 in actions to recover such costs.

71 Section 2. Section 376.15, Florida Statutes, is amended to
 72 read

73 376.15 Derelict vessels; relocation or removal from public
 74 waters.—

75 (1) For the purposes of this section, "commission" means
 76 the Fish and Wildlife Conservation Commission.

77 (2)(1) It is unlawful for any person, firm, or corporation
 78 to store, leave, or abandon any derelict vessel as defined in s.
 79 823.11(1) in this state.

80 (3)(2)(a) The ~~Fish and Wildlife Conservation~~ commission and
 81 its officers and all law enforcement officers as specified in s.
 82 327.70 are authorized and empowered to relocate or remove any
 83 derelict vessel as defined in s. 823.11(1) from public waters.
 84 All costs incurred by the commission or other law enforcement
 85 agency in the relocation or removal of any abandoned or derelict
 86 vessel shall be recoverable against the owner of the vessel. The
 87 Department of Legal Affairs shall represent the commission in

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88 such actions.

89 (b) The commission and any other law enforcement agency or
 90 officer as specified in s. 327.70 acting under this section to
 91 relocate, remove, or cause to be relocated or removed a derelict
 92 vessel from public waters shall be held harmless for all damages
 93 to the derelict vessel resulting from such relocation or
 94 removal, unless the damage results from gross negligence or
 95 willful misconduct.

96 (c)(b) The commission may establish a program to provide
 97 grants to local governments for the removal of derelict vessels
 98 from the public waters of the state. The program shall be funded
 99 from the Florida Coastal Protection Trust Fund. Notwithstanding
 100 the provisions in s. 216.181(11), funds available for grants may
 101 only be authorized by appropriations acts of the Legislature.

102 (d)(e) The commission shall adopt by rule procedures for
 103 submitting a grant application and criteria for allocating
 104 available funds. Such criteria shall include, but not be limited
 105 to, the following:

106 1. The number of derelict vessels within the jurisdiction
 107 of the applicant.

108 2. The threat posed by such vessels to public health or
 109 safety, the environment, navigation, or the aesthetic condition
 110 of the general vicinity.

111 3. The degree of commitment of the local government to
 112 maintain waters free of abandoned and derelict vessels and to
 113 seek legal action against those who abandon vessels in the
 114 waters of the state.

115 (e)(d) This section shall constitute the authority for such
 116 removal but is not intended to be in contravention of any

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117 applicable federal act.

118 Section 3. Section 823.11, Florida Statutes, is amended to
119 read:

120 823.11 ~~Abandoned and~~ Derelict vessels; relocation or
121 removal; penalty.—

122 (1) For the purposes of this section, the term:

123 (a) "Derelict vessel" means a ~~any~~ vessel, as defined in s.
124 327.02, that is left, stored, or abandoned:

125 1. ~~(a)~~ In a wrecked, junked, or substantially dismantled
126 condition upon any public waters of this state.

127 2. ~~(b)~~ At a ~~any~~ port in this state without the consent of
128 the agency having jurisdiction thereof.

129 3. ~~(c)~~ Docked, ~~or~~ grounded, ~~at~~ or beached upon the property
130 of another without the consent of the owner of the property.

131 (b) "Commission" means the Fish and Wildlife Conservation
132 Commission.

133 (2) It is unlawful for a ~~any~~ person, firm, or corporation
134 to store, leave, or abandon any derelict vessel ~~as defined in~~
135 ~~this section~~ in this state.

136 (3) ~~(a)~~ The ~~Fish and Wildlife Conservation~~ commission, and
137 ~~its~~ officers of the commission, and any ~~all~~ law enforcement
138 agency or officer ~~officers~~ as specified in s. 327.70 is ~~are~~
139 authorized and empowered to relocate, remove, or cause to be
140 relocated or removed a ~~any abandoned or~~ derelict vessel from
141 public waters if the derelict vessel in any instance when the
142 ~~same~~ obstructs or threatens to obstruct navigation or in any way
143 constitutes a danger to the environment, property, or persons.
144 The commission or any other law enforcement agency or officer
145 acting under this subsection to relocate, remove, or cause to be

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146 relocated or removed a derelict vessel from public waters shall
147 be held harmless for all damages to the derelict vessel
148 resulting from such relocation or removal, unless the damage
149 results from gross negligence or willful misconduct.

150 (a) Removal of derelict vessels under ~~pursuant to~~ this
151 subsection ~~section~~ may be funded by grants provided in ss.
152 206.606 and 376.15. The Fish and Wildlife Conservation
153 Commission shall ~~is directed to~~ implement a plan for the
154 procurement of any available federal disaster funds and ~~to~~ use
155 such funds for the removal of derelict vessels.

156 (b) All costs, including costs owed to a third party,
157 incurred by the commission or other law enforcement agency in
158 the relocation or removal of a ~~any abandoned or~~ derelict vessel
159 are as set out above shall be recoverable against the vessel
160 owner thereof. The Department of Legal Affairs shall represent
161 the commission in ~~such~~ actions to recover such costs. As
162 provided in s. 705.103(4), a ~~any~~ person who neglects or refuses
163 to pay such costs may amount ~~is not entitled to~~ be issued a
164 certificate of registration for such vessel or for any other
165 vessel or motor vehicle until such ~~the~~ costs have been paid.

166 (4) ~~(b)~~ When a derelict vessel is docked, ~~or~~ grounded, ~~at~~ or
167 beached upon private property without the consent of the owner
168 of the property, the owner of the property may remove the vessel
169 at the vessel owner's expense 60 days after compliance with the
170 notice requirements specified in s. 328.17(5). The private
171 property owner may not hinder reasonable efforts by the vessel
172 owner or the vessel owner's agent to remove the vessel. Any
173 Notice given pursuant to this subsection is ~~paragraph shall be~~
174 presumed to be delivered when it is deposited with the United

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175 States Postal Service, certified, and properly addressed with
176 prepaid postage.

177 (5)~~(4)~~ A Any person, firm, or corporation violating this
178 section ~~act~~ commits a misdemeanor of the first degree and shall
179 be punished as provided by law. A conviction under this section
180 ~~does shall~~ not bar the assessment and collection of the civil
181 penalty provided in s. 376.16 for violation of s. 376.15. The
182 court having jurisdiction over the criminal offense,
183 notwithstanding any jurisdictional limitations on the amount in
184 controversy, may order the imposition of such civil penalty in
185 addition to any sentence imposed for the first criminal offense.

186 Section 4. This act shall take effect July 1, 2014.



The Florida Senate

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: March 19, 2014

I respectfully request that **Senate Bill # 1594**, relating to Vessel Safety, be placed on the:

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

A handwritten signature in black ink, appearing to read "Rob Bradley".

Senator Rob Bradley
Florida Senate, District 7

CourtSmart Tag Report

Room: LL 37

Case:

Type:

Caption: Senate Criminal Justice Committee

Judge:

Started: 3/31/2014 4:05:03 PM

Ends: 3/31/2014 5:59:10 PM

Length: 01:54:08

4:05:06 PM Meeting to Order - Roll Call
4:06:24 PM Tab 15 - CS/SB 944 by Senator Sobel—Mental Health Treatment
4:09:13 PM Amendment Barcode 676770
4:10:03 PM Amendment Barcode 961578
4:11:36 PM Roll Call
4:12:26 PM Tab 17 - SB 1426 by Senator Flores—Public Records/ Human Trafficking Victims
4:13:04 PM Amendment Barcode 857298
4:14:48 PM Roll Call
4:16:00 PM Tab 18 - SB 1472 by Senator Abruzzo—Identity Theft
4:17:13 PM Amendment Barcode 119136
4:18:39 PM Senator Gibson asks a question on SB 1472
4:22:13 PM Brian Pitts, Justice-2-Jesus, St. Petersburg, FL
4:27:17 PM Roll Call
4:27:56 PM Tab 16 - CS/SB 1142 by Senator Lee—Ticket Sales
4:30:41 PM Senator Smith asks a question.
4:33:56 PM Senator Evers ask a question.
4:35:22 PM Adam Babington, Walt Disney World, Mgr. Government Relations, Lake Buena Vista, FL
4:39:10 PM Albert Rodrigues, Capt. Orange County Sheriff's Office, Orlando, FL
4:47:25 PM Brian Pitts, Justice-2-Jesus, St. Petersburg, FL
4:53:18 PM Senator Lee closes on SB 1142.
4:53:52 PM Roll Call
4:54:45 PM Tab 12 - CS/SB 674 by Senator Bean—Background Screening
4:56:35 PM Amendment Barcode 169528
4:57:13 PM Amendment Barcode 873382
4:58:05 PM Amendment Barcode 781948
4:58:47 PM Late-filed Amendment Barcode 301108
4:59:15 PM Jeff Kottkamp, Florida Alliance of Boys and Girls Club
4:59:58 PM Jack Cory, Florida Alliance of Boys & Girls Clubs, Tallahassee, FL
5:01:34 PM Dan Moore, Executive Director, Center for Independent Living of NF, Tallahassee, FL
5:04:07 PM Jim DeBeaugrine, Fla Assn of Centers for Independent Living, Tallahassee, FL
5:06:39 PM Senator Gibson asks a question of Senator Bean
5:08:19 PM Senator Bean closes.
5:08:27 PM Roll Call
5:09:23 PM Tab 13 - SB 698 by Senator Stargel—Sexual Misconduct with Students by Authority Figures
5:10:03 PM Amendment Barcode 723890
5:11:05 PM Senator Smith asks a question of Senator Stargel
5:11:55 PM Senator Gibson asks a question of Senator Stargel.
5:12:43 PM Brian Pitts, Justice-2-Jesus, St. Petersburg, FL
5:16:48 PM Jennifer Dritt, Executive Director, Florida Council Against Sexual Violence
5:18:17 PM Senator Smith speaks on the bill
5:18:27 PM Senator Bradley speaks on the bill
5:19:06 PM Senator Stargel closes on the bill.
5:19:19 PM Roll Call
5:20:37 PM Tab 1 - Executive Appt. -CCRC-Northern Region, Robert Friedman
5:20:51 PM Robert Friedman speaks.
5:21:46 PM Roll call
5:22:10 PM Tab 2 - Executive Appt. -CCRC-Middle Region, James Vincent,Viggiano, Jr.
5:22:49 PM Mr. Viggiano speaks
5:23:17 PM Roll Call
5:24:03 PM Tabs 3 - 9 - Executive Appt. - Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.
5:24:28 PM Vicki Lukis speaks.-

5:25:28 PM Roll Call
5:26:30 PM Tab 14 - CS/SB 764 Senator Deter—Hearsay
5:28:16 PM Late-filed Amendment Barcode 866768 by Senator Smith
5:29:10 PM Amendment withdrawn
5:29:58 PM Senator Gibson asks a question of Senator Deter
5:33:42 PM Bob Dillinger, Public Defender, 6th Circuit, Florida Public Defender Assoc. Inc.
5:44:50 PM Brian Pitts, Justice-2-Jesus, St. Petersburg, FL
5:50:13 PM Roll Call
5:51:40 PM Tab 11 - CS/SB 588 by Senator Richter—Offenses Against Vulnerable Persons
5:52:40 PM Roll Call
5:53:30 PM Tab 19 - CS/SB 1594 by Senator Bradley—Vessel Safety
5:54:15 PM Amendment Barcode 125370
5:57:59 PM Roll Call
5:58:48 PM Meeting Adjourned