

**SB 134** by **Diaz de la Portilla**; (Identical to H 0203) Lifetime Electronic Monitoring of Sex Offenders

670212	D	S		CJ, Gibson	Delete everything after	04/10 04:11 PM
536248	D	S		CJ, Bradley	Delete everything after	04/13 09:25 AM
224004	AA	S		CJ, Bradley	Delete L.13 - 41:	04/13 12:44 PM

**CS/SB 742** by **CM, Simpson**; (Similar to CS/H 0463) Ticket Sales

**SB 1132** by **Abruzzo**; (Similar to H 0955) Transmission of Pornography

**SB 1178** by **Richter**; (Similar to H 0979) Drone Surveillance

133542	D	S	RS	CJ, Bradley	Delete everything after	04/14 10:04 AM
193802	SD	S	RCS	CJ, Brandes	Delete everything after	04/14 10:04 AM
337230	AA	S	RCS	CJ, Brandes	Delete L.12 - 16:	04/14 10:04 AM

**SB 1464** by **Dean**; (Compare to CS/CS/H 0583) Public Facilities

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**CRIMINAL JUSTICE**  
**Senator Evers, Chair**  
**Senator Gibson, Vice Chair**

**MEETING DATE:** Monday, April 13, 2015  
**TIME:** 4:00 —6:00 p.m.  
**PLACE:** Mallory Horne Committee Room, 37 Senate Office Building

**MEMBERS:** Senator Evers, Chair; Senator Gibson, Vice Chair; Senators Bradley, Brandes, and Clemens

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 134</b> Diaz de la Portilla (Identical H 203, Compare CS/H 1037, CS/S 1286)	Lifetime Electronic Monitoring of Sex Offenders; Establishing the lifetime electronic monitoring program within the Department of Law Enforcement; requiring the implementation of an electronic monitoring system to monitor sex offenders sentenced to lifetime electronic monitoring; requiring a sex offender sentenced to lifetime electronic monitoring to wear or carry an electronic monitoring device as determined by the department; requiring a convicted sex offender to be sentenced to lifetime electronic monitoring; providing criminal penalties, etc.  CJ 04/07/2015 Temporarily Postponed CJ 04/13/2015 Not Considered ACJ AP	Not Considered
2	<b>CS/SB 742</b> Commerce and Tourism / Simpson (Similar CS/H 463)	Ticket Sales; Revising certain presale disclosure requirements; revising provisions relating to prohibitions on bypassing portions of the ticket-buying process, disguising the identity of a buyer, or circumventing security measures; requiring specified disclosures before resale of a ticket; prohibiting misrepresentations of affiliation or endorsement by resellers without consent; providing criminal penalties for certain violations, etc.  CM 03/30/2015 Fav/CS CJ 04/13/2015 Favorable AP	Favorable Yeas 4 Nays 1
3	<b>SB 1132</b> Abruzzo (Similar H 955, Compare CS/H 7063)	Transmission of Pornography; Providing that each act of sending or delivering pornography is a separate offense, etc.  CJ 04/13/2015 Not Considered ACJ FP	Not Considered

**COMMITTEE MEETING EXPANDED AGENDA**

Criminal Justice

Monday, April 13, 2015, 4:00 —6:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 1178</b> Richter (Similar H 979, Compare CS/CS/CS/H 649, CS/CS/S 766)	Drone Surveillance; Citing this act as the "Florida Drone Privacy Act"; requiring the Department of Law Enforcement to develop guidelines for the use of drones by state or local law enforcement agencies; specifying situations in which it is lawful to capture an image with a drone; providing criminal penalties, etc.  CJ 04/07/2015 Temporarily Postponed CJ 04/13/2015 Fav/CS ACJ AP	Fav/CS Yeas 5 Nays 0
5	<b>SB 1464</b> Dean (Compare CS/CS/H 583)	Public Facilities; Providing penalties for specified crimes; providing for a private cause of action for damages, costs, and fees; providing for liability for an owner of public accommodations under certain circumstances for damages, costs, and fees, etc.  CJ 03/23/2015 Not Considered CJ 04/13/2015 Not Considered ACJ FP	Not Considered

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Other Related Meeting Documents

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: SB 134

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Lifetime Electronic Monitoring of Sex Offenders

DATE: April 6, 2015

REVISED: 04/10/15

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	<b>Pre-meeting</b>
2.			ACJ	
3.			AP	

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**I. Summary:**

SB 134 creates s. 943.71, F.S., an act relating to lifetime electronic monitoring of sex offenders within the Florida Department of Law Enforcement (FDLE). The bill requires the FDLE to implement an electronic monitoring system to monitor, track, and record sex offenders who are released from prison, probation, community control, or conditional release and who are sentenced to lifetime electronic monitoring. It requires the sex offender to reimburse FDLE for the electronic monitoring services.

The bill creates s. 943.711, F.S., that adds three new felonies for sex offenders who tamper with the electronic device, who fail to notify officials of damage to the device, or who fail to pay the required fees. It defines sex offender for purposes of the section as an offender convicted of a crime committed in this state on or after October 1, 2015, which requires them to register on the sex offender registry.

**II. Present Situation:**

**Sexual Predator/Offender Registration**

Florida's registry laws subject sexual predators and offenders to registration and notification requirements. All qualifying sexual predators or offenders are listed on a public registry web site maintained by the Florida Department of Law Enforcement (FDLE).<sup>1</sup> The web site can also provide the public with email notifications when an offender moves nearby.

The sexual predator designation in Florida is reserved for relatively few sex offenders. As of September 11, 2013, a total of 43,640 persons located in Florida were required to register as a

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<sup>1</sup> The web site is located online at: <http://offender.fdle.state.fl.us/offender/homepage.do>. (last visited April 3, 2015).

sexual predator or sexual offender. Of that number, courts designated 21 percent as sexual predators.

### **Designation of a Sexual Predator or Sexual Offender**

A person is designated a sexual predator by a court if the person:

- Has been convicted of a current qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;
- Has been convicted of a current qualifying sex offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Is subject to civil commitment.<sup>2</sup>

A person is designated as a sexual offender by the FDLE if the person:

- Has been convicted of a qualifying sex offense and released on or after October 1, 1997 (the date the modern registry became effective) from the sanction imposed for that offense;
- Is a Florida resident and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the victim was 14 years of age or older.<sup>3</sup>

### **Registration Obligations of Sexual Predators/Offenders**

- Registrants must report to their local sheriff's office and provide a photograph, personal identifying information, driver's license/state ID number, social security number, residence address (including transient addresses), employer information, email addresses, instant message names, and crime information.<sup>4</sup>
- As of October 1, 2014, all transient sexual offenders/predators are required to report in person every 30 days to the sheriff's office in their county of transient residence to provide their addressees and locations while transient.<sup>5</sup>
- Sexual predators and some sexual offenders must report to the local sheriff's office quarterly; other sexual offenders report bi-annually.<sup>6</sup>
- Sexual predators and offenders must update their driver's license or identification card within 48 hours after any change of residence or name change.<sup>7</sup>
- Generally, sexual predators and offenders are subject to lifetime registration. Some sexual offenders may petition for removal of registration requirements if they have been released from the latest sanction for at least 25 years, remain arrest-free, and do not have an adult conviction for a disqualifying offense. Persons convicted of a qualifying sex offense as a young adult may also petition for removal of registration requirements.<sup>8</sup>

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<sup>2</sup> Section 775.21(4), F.S.

<sup>3</sup> Section 943.9435(1), F.S.

<sup>4</sup> Section 775.21(6) and 943.0435(14), F.S.

<sup>5</sup> The failure of a sexual predator who maintains a transient residence to report in person to the sheriff's office every 30 days commits a third degree felony. s. 775.21 (6)(g), F.S.

<sup>6</sup> Sections 775.21(8)(a) and 943.0435(14)(a), F.S.

<sup>7</sup> Sections 775.21(6)(g)1., and 943.0435(4)(a), F.S.

<sup>8</sup> Sections 775.21(6)(1) and 943.0435(11), F.S.

- Sexual predators are prohibited from working or volunteering at any place where children regularly congregate.<sup>9</sup>

**Lifetime Electronic Monitoring<sup>10</sup>**

The following chart is an excerpt from information gathered by NCSL representing the states that monitor a subset of the sexual offender population for life. There are at least 39 states that have enacted GPS or electronic monitory provisions specific to sex offenders. There are at least 23 states that have enacted both GPS or electronic monitoring and 25 year minimum sentences.

State	Statute Citations	Mandatory 25 year Minimum 1st Time Offense Sentencing Provisions and Related Information	Electronic/GPS Monitoring of Sex Offenders
California	Penal Code: s. 269; 288.7; s. 3010; s. 3004	25 years to life mandatory minimum sentence for intercourse or sodomy w/ child 10 years or younger and 15 years to life for oral copulation or sexual penetration w/ child 10 years or younger. 15 years to life w/ consecutive sentencing for additional sex acts w/ a child 14 years or younger.	Requires GPS monitoring of <b>felony sex offenders</b> for life.
Florida	s. 800.04 s. 775.082	25 years to life mandatory minimum sentence for lewd or lascivious molestation against a victim less than 12 years of age.	Requires electronic monitoring of <b>specified</b> sex offenders for life.
Georgia	s. 16-5-21 s. 17-10-6.2 s. 16-6-4 s. 16-5-21 s. 42-1-14	25 year mandatory minimum sentence for crimes of sexual assault, aggravated assault with intent to rape, incest, kidnapping against a child less than 14 years old; aggravated child molestation, aggravated sodomy with child 13-15 years old; rape; aggravated sexual battery.	Requires sexually <b>dangerous predators</b> to wear GPS electronic monitoring device for life.
Kansas	s. 21-4642 s. 21-4643 s. 22-3717	25 years to life mandatory minimum sentence for certain child (under 14) sex offenses including rape, sexual exploitation, sodomy, prostitution, trafficking, etc, with specific exceptions. Provides 40	Requires electronic monitoring for life of <b>certain</b> sex offenders.

<sup>9</sup> Section 775.21(3)(b)5., F.S.

<sup>10</sup> April 7, 2015 (on file with the Senate Criminal Justice Committee).

State	Statute Citations	Mandatory 25 year Minimum 1st Time Offense Sentencing Provisions and Related Information	Electronic/GPS Monitoring of Sex Offenders
		year minimum for repeat offenders of certain sex offenses. Requires life imprisonment without the possibility of parole for repeat offenders classified as aggravated habitual sex offenders.	
Louisiana	s. 14:78.1 s. 14.81.2 s. 14.81.1 s. 14.43.1 s. 15:550 s. 15:560.4	25-99 years at hard labor mandatory minimum sentence for sex crimes against a child under 13 years old including: aggravated incest, molestation of a juvenile, sexual battery, pornography involving juveniles, etc.	Requires electronic monitoring for life of <b>certain</b> sex offenders.
Michigan	s. 750.520b s. 750.520n	25 years to life mandatory minimum sentence for 1st degree sexual conduct with a child under age 13.	Requires lifetime electronic monitoring when convicted of criminal <b>sexual conduct with a child under age 13.</b>
North Carolina	s. 14-27.2A s. 14-27.4A s. 14-208.40 s. 14-208.40A	Mandatory 25 years to life for sex related offenses against a child under 13 years of age including rape of a child, sexual offense with a child.	Requires satellite based monitoring for life of <b>certain</b> sex offenders.
Oregon	s. 137.700 s. 163.235	25 year mandatory minimum sentences for 1st degree sex related offenses against a child under 12 including rape, sodomy, kidnapping, sexual penetration.	Requires lifetime “active tracking” of <b>certain</b> sex offenders.
Rhode Island	s. 11-37-8.2.1 s. 11-37-8.2 s. 13-8-30	25 years to life mandatory minimum sentence for 1st degree child molestation sexual assault against a child 14 years and under.	Requires lifetime GPS monitoring for convicted <b>child molesters and high risk offenders.</b>
Wisconsin	s. 939.616 s. 301.48	25 year mandatory minimum prison sentence for sexual assault against a child under age 13 and repeated acts of sexual assault of the same child.	Requires lifetime GPS tracking for <b>certain</b> sex offenders.

### III. Effect of Proposed Changes:

The bill creates s. 943.71, F.S., the Lifetime Electronic Monitoring Program, requiring the Florida Department of Law Enforcement (FDLE) to implement a system of monitoring sex offenders in Florida who are released from prison, probation, community control, or conditional release and who are sentenced by the court to lifetime electronic monitoring. The lifetime electronic monitoring program shall require all of the following:

- Electronic tracking of the movement and location of each sex offender sentenced to lifetime electronic monitoring from the time that he or she is released from prison, probation, community control, or conditional release for the remainder of his or her natural life; and
- Use of an electronic system that actively monitors and identifies a sex offender's location and movement, and timely reports and records his or her presence near or within a crime scene or in a prohibited area or his or her departure from specified geographic limitations. This information must be available upon request to the court or a law enforcement agency.

A sex offender who is sentenced to lifetime electronic monitoring shall wear or otherwise carry the device as determined by the department and in the manner prescribed by the program. A sex offender shall pay the department for the electronic monitoring services as provided in s. 948.09(2), F.S.<sup>11</sup>

The bill creates s. 943.711, F.S., which provides a definition of "sex offender" and creates three new felonies. The bill defines "sex offender" as an offender convicted of a crime committed in Florida on or after October 1, 2015, for which he or she is required to register pursuant to s. 775.21<sup>12</sup>, s. 943.0435<sup>13</sup>, or s. 944.607<sup>14</sup>, F.S. A person convicted as a sex offender shall be sentenced to lifetime electronic monitoring as provided in s. 943.71, F.S.

The bill provides that it is a third degree felony if the sex offender with lifetime electronic monitoring willfully and knowingly commits any of the following acts:

- Intentionally altering, tampering with, damaging, or destroying electronic monitoring equipment;
- Failure to notify the Department of Corrections of any damage to an electronic monitoring device; and
- Failure to reimburse the Department of Corrections, or its agent for the cost of electronic monitoring.

Violation of this section may result in a prison term to be served consecutively to any term of prison imposed for any other violation of law committed by the offender while in violation of this section.

The bill has an effective date of October 1, 2015.

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<sup>11</sup> This appears to be in an incorrect reference to the Department of Corrections statutory provision relating to payment for costs of supervision.

<sup>12</sup> Section 775.21, F.S., is the Florida Sexual Predators Act.

<sup>13</sup> Section 943.0435, F.S., provides the criteria for which sexual offenders are required to register with FDLE.

<sup>14</sup> Section 944.607, F.S., provides a definition of "Sexual Offender" to mean a person who is in custody or control of, or under the supervision of FDLE or in the custody of a private correctional facility.



**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:

In *Grady v. North Carolina*, 2015 WL 1400850, after completion of a convicted sex offender's sentence, he was ordered by the North Carolina Superior Court to be subjected to satellite-based monitoring as a recidivist sex offender. The sex offender appealed. The North Carolina Appeals Court affirmed and the North Carolina Supreme Court denied review. The United States Supreme Court, on a grant of certiorari, held that a State conducts a search when a device is attached to a person's body without consent for purpose of tracing that persons movements. The Court also held that North Carolina's program under which recidivist sex offenders could be subjected to satellite-based monitoring constituted a search within the meaning of the Fourth Amendment of the U.S. Constitution. The Court further stated that "the Fourth Amendment prohibits only unreasonable searches, and the reasonableness depends on the totality of the circumstances, including the nature and purpose of the search and the extent to which the search intrudes upon reasonable privacy expectations." The Court stated that the North Carolina courts did not examine whether the State's monitoring program is reasonable. The Court vacated the judgment of the Supreme Court of North Carolina and remanded for further proceeding not inconsistent with its opinion.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

There will be a cost to the individuals required to reimburse FDLE for the cost of the electronic monitoring devices.

## C. Government Sector Impact:

According to FDLE the fiscal impact is indeterminate, but will likely have substantial costs. FDLE stated though not detailed in the bill language, it is likely that sheriff's

offices and police departments would need to be involved in the administration of this program. Language is needed to identify, authorize, and direct such local responsibilities.

Statutory revenues are significantly limited by the ability of the offender to pay and a great number of offenders will not meet the established criteria to pay the actual costs for the lifetime monitoring program and equipment.

It is anticipated that the costs to establish and maintain such a lifetime program, though indeterminate at this writing, will be significant and will naturally increase at a regular rate as more individuals are convicted of the many identified offenses every year and the resource costs of equipment, systems, and staffing will similarly need to increase as a result of volume and general economic changes.

Considerations include:

- 24/7 Unit Staffing and Oversight of unspecified number of offenders for life;
- Statewide staffing to identify, determine parameters, and maintain all crime scene locations, “prohibited areas,” and “specified geographic limitations”;
- Statewide staffing for local repairs to equipment, local programming relative to each offender’s area. Issues re: offender moving, leaving state, traveling, etc.;
- Equipment/Software
  - Maintenance
  - Distribution
  - Replacement
- Financial Staff
  - Fees Collections
  - Recovery Costs
  - Bookkeeping/Reporting

## **VI. Technical Deficiencies:**

FDLE provided the following comments:

As written the bill language is unclear regarding the operating agency charged with responsibility for the proposed sex offender electronic monitoring program. The language creates new sections for the program and refers to “the department,” identified as the Florida Department of Law Enforcement (FDLE), in Chapter 943, F.S., and also references various notifications directly to the “Department of Corrections.” Lines 102-105.

A disparity in language occurs as lines 69-73 require electronic monitoring “from the time that he or she is released from prison, probation, community control, or conditional release for the remainder of his or her natural life.” As prescribed in lines 65-66, and 95-96, lifetime electronic monitoring is to be part of a conviction sentence and as such, would necessarily be included as part of some form of supervision either immediately upon sentencing or upon release from incarceration. Outside of traditional supervision forms or completion of sanctions, this provision would constitute a punitive sanction beyond a sentence served as well as implicate numerous privacy concerns and may well be ruled unconstitutional.

- “Specified geographical limitations” is undefined and would be specific to each sexual predator/offender as re: locations, type of offense, type of supervision and designation vary. (See Line 78.)
- Lines #36-44 cite a 2012 report regarding the sheriff’s offices difficulty in locating transient sexual offenders/predators.
  - Effective 10/1/2014, all transient sexual offenders/predators are required to report in person every 30 days to the sheriff’s office in their county of transient residence to provide address and location information.
  - Since the provision noted above was very recently implemented, there has not been sufficient time to determine if it is effectively assisting to reduce issues with sheriff’s offices in locating transient sexual offenders/predators.
- Lines 90-96 propose a provision for a person convicted as a sexual offender on or after October 1, 2015, to be sentenced to lifetime electronic monitoring. Lifetime electronic monitoring would be considered part of the criminal sentence. The lifetime sanction would exceed the statutory maximum punishment for many of the sexual offenses that would require sexual offender registration and may be ruled, at this time, as unlawful.
  - At this time ss. 947.1405, 948.03, 948.06, 948.063, 948.11, 948.30, 948.101, F.S., provides for the FL Department of Corrections to electronically monitor certain offenders under sanction, including sexual offenders. DOC has the same described electronic monitoring program already in place. Creating an additional section would duplicate costly programs and areas of responsibility across two agencies.
- Lines 97-109 provide punishments for violations of the proposed laws and cites punishment classification statutes s. 775.082, s. 775.083, or s. 775.084— however these sections are not revised in the bill language to reflect the proposed changes as to the level of crime and penalty. Certain sex offenses requiring registration are third degree felonies and sanctions that currently include electronic monitoring are life, first, and second degree felonies. Additionally, other statutory chapters will require amendments in order to revise associated penalties and punishments for violations and punishment in accordance with the proposed language.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 943.71 and 943.711.

**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.

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

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670212

LEGISLATIVE ACTION

Senate

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House

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The Committee on Criminal Justice (Gibson) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 921.2312, Florida Statutes, is created  
to read:

921.2312 Risk assessment reports.—If a defendant in a  
criminal case has been found guilty of or has entered a plea of  
nolo contendere or guilty to an offense specified in s.  
943.0435(1)(a)1.a.(I) which was committed on or after October 1,



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11 2015, a circuit court shall refer the case to a qualified  
12 practitioner as defined in s. 948.001. The qualified  
13 practitioner shall assess the defendant considering the factors  
14 specified in s. 948.30(1)(e)1.a.-i. and submit a written report  
15 to the circuit court at a time specified by the court before  
16 sentencing. The report must include the qualified practitioner's  
17 opinion, and the basis for that opinion, as to the defendant's  
18 risk of committing another sexual offense.

19 Section 2. Subsection (6) is added to section 948.30,  
20 Florida Statutes, to read:

21 948.30 Additional terms and conditions of probation or  
22 community control for certain sex offenses.—Conditions imposed  
23 pursuant to this section do not require oral pronouncement at  
24 the time of sentencing and shall be considered standard  
25 conditions of probation or community control for offenders  
26 specified in this section.

27 (6) Effective for a probationer or community controllee  
28 whose crime was committed on or after October 1, 2015, and who:

29 (a) Was 18 years of age or older at the time of the offense  
30 and is placed on probation or community control for a violation  
31 of chapter 794, s. 800.04(4), s. 800.04(5), s. 800.04(6), s.  
32 827.071, or s. 847.0145 relating to unlawful sexual activity  
33 involving a victim 15 years of age or younger;

34 (b) Is required to register as a sexual predator under s.  
35 775.21;

36 (c) Is required to register as a sexual offender under s.  
37 943.0435, s. 944.606, or s. 944.607; or

38 (d) Was 18 years of age or older at the time of the offense  
39 and has previously been convicted of a violation of chapter 794,



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40 s. 800.04(4), s. 800.04(5), s. 800.04(6), s. 827.071, or s.  
41 847.0145 relating to unlawful sexual activity involving a victim  
42 15 years of age or younger and the offender,

43  
44 the court shall order, in addition to any other provision of  
45 this section, a mandatory curfew from 7 p.m. to 7 a.m. as a  
46 condition of the probation or community control supervision. The  
47 court may designate alternate hours upon the recommendation of  
48 the Department of Corrections if the offender's employment or  
49 public service precludes the specified hours. The court may also  
50 limit the offender's activities by requiring the offender to be  
51 at home if he or she is not working, performing public service,  
52 or receiving treatment. If the court determines that imposing a  
53 curfew would endanger the victim, the court may consider  
54 alternative sanctions.

55 Section 3. Lifetime electronic monitoring program study.-

56 (1) The Department of Law Enforcement shall implement a  
57 study to determine the feasibility of a lifetime electronic  
58 monitoring program, which would implement a system of monitoring  
59 sex offenders who are released from prison, probation, community  
60 control, or conditional release and who are sentenced by the  
61 court to lifetime electronic monitoring. The study should  
62 include, but need not be limited to, feasibility and benefit of:

63 (a) Electronic tracking of the movement and location of  
64 each sex offender sentenced to lifetime electronic monitoring  
65 from the time that he or she is released from prison, probation,  
66 community control, or conditional release for the remainder of  
67 his or her natural life.

68 (b) The use of an electronic system that actively monitors



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69 and identifies a sex offender's location and movement, and  
70 timely reports and records his or her presence near or at a  
71 crime scene or in a prohibited area, or his or her departure  
72 from specified geographic limitations. Such recorded information  
73 would be available upon request to a court or a law enforcement  
74 agency.

75 (2) By January 1, 2016, the department shall submit a  
76 report to the President of the Senate and the Speaker of the  
77 House of Representatives detailing the findings of the study.

78 Section 4. This act shall take effect October 1, 2015.

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

80 And the title is amended as follows:

81 Delete everything before the enacting clause  
82 and insert:

83 A bill to be entitled  
84 An act relating to sexual offenders; creating s.  
85 921.2312, F.S.; requiring that a circuit court refer  
86 certain cases to a qualified practitioner for a risk  
87 assessment before sentencing for a defendant who has  
88 been found guilty of or has entered a plea of nolo  
89 contendere or guilty to specified sexual offenses;  
90 specifying factors that may be used by the qualified  
91 practitioner in making the risk assessment; amending  
92 s. 948.30, F.S.; requiring the court to order a curfew  
93 as a condition of probation or community control for  
94 offenders who commit certain sexual offenses on or  
95 after a specified date; authorizing alternate  
96 sanctions in certain circumstances creating the  
97 lifetime electronic monitoring program study;





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98           requiring the Department of Law Enforcement to  
99           implement the study; providing parameters for the  
100          study; requiring the department to submit a report to  
101          the Legislature by a certain date; providing an  
102          effective date.



536248

LEGISLATIVE ACTION

Senate

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House

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The Committee on Criminal Justice (Bradley) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (e) of subsection (3) of section  
775.082, Florida Statutes, is amended and paragraph (f) of  
subsection (3) is added to that section to read:

775.082 Penalties; applicability of sentencing structures;  
mandatory minimum sentences for certain reoffenders previously  
released from prison.—



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11 (3) A person who has been convicted of any other designated  
12 felony may be punished as follows:

13 (e) For a felony of the third degree, by a term of  
14 imprisonment not exceeding 5 years. However, notwithstanding  
15 subsection (10), if the offender has been convicted of a sexual  
16 offense listed in s. 775.21(4)(a) or s. 943.0435(1)(a)1.a.(I),  
17 and is then convicted of an additional felony of the third  
18 degree committed on or after October 1, 2015, which is listed in  
19 s. 943.0435(1)(a)1.a.(I) or s. 775.21(4)(a), the offender shall  
20 be sentenced under s. 948.012(6) or s. 948.04(2) to a mandatory  
21 10-year sex offender supervision term. For purposes of this  
22 section, "convicted" means that there has been a determination  
23 of guilt as a result of a trial or plea of guilty or nolo  
24 contendere, regardless of whether adjudication was withheld.  
25 This subsection does not preclude a court from imposing a  
26 greater sentence of incarceration as authorized by law, pursuant  
27 to s. 775.084 or any other provision of law.

28 (f) Effective for offenses committed on or after October 1,  
29 2015, for persons who are sentenced to a term of imprisonment,  
30 the court shall impose a split sentence for any person who is  
31 convicted of a violation of offenses listed in s.  
32 943.0453(1)(a)1.a.(I), or s. 775.21(4)(a) and has a prior  
33 conviction or a prior withheld adjudication of a sexual offense  
34 listed in s. 943.0435(1)(a)1.a.(I), or s. 775.21(4)(a). A  
35 mandatory 10-year sex offender supervision term shall follow the  
36 period of incarceration. Persons sentenced under this section  
37 may be sentenced to the statutory maximum term of imprisonment  
38 in addition to the mandatory 10-year sex offender supervision  
39 term. Persons sentenced under this subsection shall have



536248

40 electronic monitoring imposed as a condition of supervision for  
41 the entire term of supervision.

42 Section 2. Subsection (1) of section 948.012, Florida  
43 Statutes, is amended, present subsection (6) is redesignated as  
44 subsection (7), and a new subsection (6) is added to that  
45 section, to read:

46 948.012 Split sentence of probation or community control  
47 and imprisonment.—

48 (1) If punishment by imprisonment for a misdemeanor or a  
49 felony, except for a capital felony, is prescribed, the court  
50 may, at the time of sentencing, impose a split sentence whereby  
51 the defendant is to be placed on probation or, with respect to  
52 any such felony, into community control upon completion of any  
53 specified period of such sentence which may include a term of  
54 years or less. In such case, the court shall stay and withhold  
55 the imposition of the remainder of sentence imposed upon the  
56 defendant and direct that the defendant be placed upon probation  
57 or into community control after serving such period as may be  
58 imposed by the court. Except as provided in subsection (7) ~~(6)~~,  
59 the period of probation or community control shall commence  
60 immediately upon the release of the defendant from  
61 incarceration, whether by parole or gain-time allowances.

62 (6) If a defendant is convicted of a sexual offense listed  
63 in s. 775.21(4)(a) or s. 943.0453(1)(a)1.a.(I), committed on or  
64 after October 1, 2015 and has a prior conviction or a prior  
65 withheld adjudication of a sexual offense listed in s.  
66 775.21(4)(a) or s. 943.0435(1)(a)1.a.(I), if the court imposes a  
67 term of imprisonment, the court shall impose a split sentence  
68 followed by a mandatory 10-year sex offender supervision term.



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69 Persons sentenced under this section may be sentenced to the  
70 statutory maximum term of imprisonment in addition to the  
71 mandatory 10-year sex offender supervision term. Persons  
72 sentenced under this subsection shall have electronic monitoring  
73 imposed as a condition of supervision for the entire term of  
74 supervision.

75 Section 3. Present subsections (2) and (3) of section  
76 948.04, Florida Statutes, are redesignated as subsections (3)  
77 and (4), respectively, and subsection (2) is added to that  
78 section, to read:

79 948.04 Period of probation; duty of probationer; early  
80 termination.-

81 (2) Effective for persons who commit a sexual offense  
82 listed in s. 775.21(4) (a) or s. 943.0435(1) (a)1.a.(I), on or  
83 after October 1, 2015, if the person is sentenced to a term of  
84 supervision and has a prior conviction or a prior adjudication  
85 withheld for a sexual offense listed in s. 775.21(4) (a) or s.  
86 943.0435(1) (a)1.a.(I), the court shall impose a mandatory  
87 minimum 10-year sex offender supervision term. This subsection  
88 does not preclude a court from imposing a sentence under s.  
89 948.012(6) or a greater sentence of incarceration as authorized  
90 by law, pursuant to s. 775.084, or any other provision of law.  
91 Persons sentenced under this subsection shall have electronic  
92 monitoring imposed as a condition of supervision for the entire  
93 term of supervision.

94 Section 4. This act shall take effect October 1, 2015.

95  
96 ===== T I T L E A M E N D M E N T =====

97 And the title is amended as follows:



536248

98 Delete everything before the enacting clause  
99 and insert:

100 A bill to be entitled  
101 An act relating to electronic monitoring of sex  
102 offenders; amending ss. 775.082, 948.012, and 948.04,  
103 F.S.; requiring a court to sentence an offender  
104 convicted of certain sexual offenses who is then  
105 convicted of certain offenses after a specified date  
106 to a mandatory minimum term of years of sex offender  
107 supervision; requiring a court to impose a split  
108 sentence for a person convicted of certain offenses;  
109 requiring a mandatory term of supervision for a sex  
110 offender; providing for sentencing; providing  
111 electronic monitoring under certain circumstances;  
112 conforming a cross-reference to changes made by the  
113 act; providing an effective date.



224004

LEGISLATIVE ACTION

Senate

.  
. .  
. .  
. .  
. .

House

---

The Committee on Criminal Justice (Bradley) recommended the following:

1           **Senate Amendment to Amendment (536248) (with directory and**  
2 **title amendments)**

3  
4           Delete lines 13 - 41  
5 and insert:

6           (e) For a felony of the third degree, by a term of  
7 imprisonment not exceeding 5 years.

8           (f) Effective for offenses committed on or after October 1,  
9 2015, for persons who are not sentenced to a term of  
10 imprisonment, the court shall impose a mandatory 10-year sex



224004

11 offender supervision term for any person who is convicted of an  
12 offense listed in s. 943.0453(1) (a)1.a.(I), or s. 775.21(4) (a)  
13 and has a prior conviction of an offense listed in s.  
14 943.0435(1) (a)1.a.(I), or s. 775.21(4) (a). For purposes of this  
15 section, "convicted" or "conviction" means that there has been a  
16 determination of guilt as a result of a trial or plea of guilty  
17 or nolo contendere, regardless of whether adjudication was  
18 withheld. This subsection does not preclude a court from  
19 imposing a greater sentence of incarceration as authorized by  
20 law, pursuant to s. 775.084 or any other provision of law.

21 (g) Effective for offenses committed on or after October 1,  
22 2015, for persons who are sentenced to a term of imprisonment,  
23 the court shall impose a split sentence for any person who is  
24 convicted of an offense listed in s. 943.0453(1) (a)1.a.(I), or  
25 s. 775.21(4) (a) and has a prior conviction of an offense listed  
26 in s. 943.0435(1) (a)1.a.(I), or s. 775.21(4) (a). A mandatory 10-  
27 year sex offender supervision term shall follow the period of  
28 incarceration. Persons sentenced under this section may be  
29 sentenced to the statutory maximum term of imprisonment in  
30 addition to the mandatory 10-year sex offender supervision term.  
31 Persons sentenced under this subsection shall have electronic  
32 monitoring imposed as a condition of supervision for the entire  
33 term of supervision. This subsection does not preclude a court  
34 from imposing a greater sentence of incarceration as authorized  
35 by law, pursuant to s. 775.084 or any other provision of law.

36  
37 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

38 And the directory clause is amended as follows:

39 Delete lines 5 - 7





224004

40 and insert:

41 Section 1. Paragraphs (f) and (g) are added to subsection  
42 (3) of section 775.082, Florida Statutes, to read:

43

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

45 And the title is amended as follows:

46 Delete lines 103 - 111

47 and insert:

48 F.S.; providing that a repeat sex offender who is not  
49 sentenced to prison must be sentenced to a 10-year  
50 mandatory term of sex offender supervision; providing  
51 that a repeat sex offender who is sentenced to prison  
52 must be sentenced to a split sentence in which a 10  
53 year mandatory term of sex offender supervision  
54 follows the offender's prison sentence; requiring  
55 electronic monitoring for a repeat sex offender who  
56 receives a split sentence; providing for greater  
57 sentencing if authorized by law;

By Senator Diaz de la Portilla

40-00226-15

2015134\_\_

A bill to be entitled

An act relating to lifetime electronic monitoring of sex offenders; creating s. 943.71, F.S.; establishing the lifetime electronic monitoring program within the Department of Law Enforcement; requiring the implementation of an electronic monitoring system to monitor sex offenders sentenced to lifetime electronic monitoring; requiring tracking the movement and location of each sex offender; requiring timely reporting and recording of the sex offender's presence in certain circumstances; requiring that such records be available upon request; requiring a sex offender sentenced to lifetime electronic monitoring to wear or carry an electronic monitoring device as determined by the department; requiring the sex offender to reimburse the department for the cost of the lifetime electronic monitoring; creating s. 943.711, F.S.; defining the term "sex offender"; requiring a convicted sex offender to be sentenced to lifetime electronic monitoring; providing criminal penalties; authorizing a term of imprisonment imposed for specified violations relating to lifetime electronic monitoring to run consecutively with other violations; providing an effective date.

WHEREAS, the Legislature is concerned about convicted sex offenders who are released from custody or supervision and repeat the unlawful acts for which they were originally convicted, and

Page 1 of 4

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

40-00226-15

2015134\_\_

WHEREAS, the Legislature has a compelling interest in protecting children and other individuals from predatory sexual activity, and

WHEREAS, the Legislature finds that, despite registration and reporting requirements, law enforcement agencies encounter difficulties in locating many convicted sex offenders, and

WHEREAS, a 2012 report by the Office of Program Policy Analysis and Government Accountability found that 40 percent of sheriff's offices surveyed reported that they had difficulty locating convicted sex offenders who provide transient residences, and

WHEREAS, the Legislature believes that some convicted sex offenders report their addresses as "transient" for the express purpose of avoiding law enforcement oversight, and

WHEREAS, requiring a convicted sex offender to wear an electronic monitoring device for the duration of his or her natural life would provide law enforcement with the capability of determining the offender's precise location, and

WHEREAS, an electronic monitoring system would immediately inform law enforcement if a convicted sex offender was near a prohibited area such as a park, a child care facility, a school, or another location where children regularly congregate, and

WHEREAS, the implementation of this electronic monitoring technology can assist law enforcement agencies in marshaling their resources to more effectively protect children and others from predatory sexual activity, NOW, THEREFORE,

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

Page 2 of 4

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

40-00226-15

2015134\_\_

59 Section 1. Section 943.71, Florida Statutes, is created to  
60 read:

61 943.71 Lifetime electronic monitoring program.-

62 (1) The lifetime electronic monitoring program is  
63 established in the department, which shall implement a system of  
64 monitoring sex offenders who are released from prison,  
65 probation, community control, or conditional release and who are  
66 sentenced by the court to lifetime electronic monitoring. The  
67 lifetime electronic monitoring program shall require all of the  
68 following:

69 (a) Electronic tracking of the movement and location of  
70 each sex offender sentenced to lifetime electronic monitoring  
71 from the time that he or she is released from prison, probation,  
72 community control, or conditional release for the remainder of  
73 his or her natural life.

74 (b) Use of an electronic system that actively monitors and  
75 identifies a sex offender's location and movement, and timely  
76 reports and records his or her presence near or within a crime  
77 scene or in a prohibited area or his or her departure from  
78 specified geographic limitations. Such recorded information must  
79 be available upon request to the court or a law enforcement  
80 agency.

81 (2) A sex offender who is sentenced to lifetime electronic  
82 monitoring shall wear or otherwise carry an electronic  
83 monitoring device as determined by the department and in the  
84 manner prescribed by the program. A sex offender subject to  
85 electronic monitoring by the department shall pay the department  
86 for the electronic monitoring services as provided in s.  
87 948.09(2).

Page 3 of 4

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40-00226-15

2015134\_\_

88 Section 2. Section 943.711, Florida Statutes, is created to  
89 read:

90 943.711 Lifetime electronic monitoring.-

91 (1) For purposes of this section, "sex offender" means an  
92 offender convicted of a crime committed in this state on or  
93 after October 1, 2015, for which he or she is required to  
94 register pursuant to s. 775.21, s. 943.0435, or s. 944.607.

95 (2) A person convicted as a sex offender shall be sentenced  
96 to lifetime electronic monitoring as provided under s. 943.71.

97 (3) A sex offender who willfully or knowingly commits any  
98 of the following acts commits a felony of the third degree,  
99 punishable as provided in s. 775.082, s. 775.083, or s. 775.084:

100 (a) Intentionally altering, tampering with, damaging, or  
101 destroying electronic monitoring equipment.

102 (b) Failure to notify the Department of Corrections of any  
103 damage to an electronic monitoring device.

104 (c) Failure to reimburse the Department of Corrections or  
105 its agent for the cost of electronic monitoring.

106 (4) A term of imprisonment imposed for a violation of this  
107 section may be served consecutively to any term of imprisonment  
108 imposed for any other violation of law which is committed by the  
109 offender while in violation of this section.

110 Section 3. This act shall take effect October 1, 2015.

Page 4 of 4

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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)

4/13/2015

Meeting Date

Topic \_\_\_\_\_

Bill Number 134

Name BRIAN PITTS

(if applicable)

Amendment Barcode \_\_\_\_\_

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Street

Phone 727-897-9291

SAINT PETERSBURG

City

FLORIDA

State

33705

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  
**APPEARANCE RECORD**

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

4/13/15  
Meeting Date

134  
Bill Number (if applicable)

536248  
Amendment Barcode (if applicable)

Topic Lifetime GPS Monitoring

Name Gail Colletta

Job Title President

Address \_\_\_\_\_  
Street

Phone 361-305-4959

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Action Committee

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)

4/13/15

Meeting Date

SB 134

Bill Number (if applicable)

Topic Lifetime Monitoring

Name Greg Pound

Amendment Barcode (if applicable)

Job Title

Address 9166 Sunrise Dr.

Street

Phone

Largo

City

FL

State

33773

Zip

Email

Speaking: [X] For [ ] Against [X] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing Pinellas Families

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] 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)

4/13/15  
Meeting Date

134  
Bill Number (if applicable)

Topic Lifetime GPS Monitoring

224004  
Amendment Barcode (if applicable)

Name Gail Colletta

Job Title President

Address \_\_\_\_\_  
Street

Phone 361-305-4959

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email gail@floridaactioncommittee.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Action Committee

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)

4/13/15  
Meeting Date

134  
Bill Number (if applicable)

Topic Lifetime GPS Monitoring

? Gibson  
Amendment Barcode (if applicable)

Name Gail Colletta

Job Title President

Address 7054 Palazzo Reale  
Street

Phone 561-305-4959

BB  
City State Zip

Email gail@floridaactioncommittee.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLORIDA ACTION COMMITTEE

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)

4/13/15  
Meeting Date

SB 134  
Bill Number (if applicable)

Topic Lifetime GPS Monitoring

Amendment Barcode (if applicable)

Name Gail Colletta

Job Title President

Address 7054 Palazzo Reale

Phone 561-305-4959

Street

BB  
City

FL  
State

33437  
Zip

Email gail@floridaactioncommittee.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLORIDA ACTION COMMITTEE

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)

4-13-15

Meeting Date

134

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name JESS MCCARTY

Job Title ASS'T COUNTY ATTORNEY

Address 111 NW 1ST ST 2810

Phone 305-979-7110

Street

MIAMI

33128

City

State

Zip

Email JMM2@MIAMI.DADEF.GOV

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing MIAMI-DADE COUNTY

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)

4/13/15

Meeting Date

SB 134

Bill Number (if applicable)

Topic Relating to Lifetime Electronic Monitoring of Sex Offenders

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title President & CEO

Address 204 S. Monroe St. Suite 201

Phone \_\_\_\_\_

Street

Tallahassee

FL

32301

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing The Florida Smart Justice Alliance

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

**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 742

INTRODUCER: Commerce and Tourism Committee and Senator Simpson

SUBJECT: Ticket Sales

DATE: April 10, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Siples</u>	<u>McKay</u>	<u>CM</u>	<b>Fav/CS</b>
2.	<u>Sumner</u>	<u>Cannon</u>	<u>CJ</u>	<b>Favorable</b>
3.	_____	_____	<u>AP</u>	_____

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 742 amends provisions of law that govern ticket sales in Florida. Specifically, the bill:

- Expands the prohibition on the use of technology that acts to circumvent security measures or purchase restrictions on a ticket seller's website, mobile application, or other digital platform;
- Creates criminal penalties for the use of technology that circumvent security measures on a ticket sellers website, mobile application, or other digital platform;
- Creates a private right of action for a person harmed by the use of such technology;
- Requires a person, resale website, or online marketplace to make certain disclosures to the prospective ticket buyer prior to purchase;
- Prohibits a resale website or online marketplace from representing that it is affiliated with or endorsed by a venue or artist without express written consent, except when it constitutes fair use under federal law, and provides criminal sanctions for violations;
- Allows an aggrieved individual to bring an action for declaratory and injunctive relief, and allows for the recovery of actual damages, plus attorney fees and costs;
- Authorizes the Department of Agriculture and Consumer Services to investigate suspected violations of the provisions of the bill, and bring a civil action and to seek any appropriate relief, and authorizes the Office of Attorney General or a state attorney civil or criminal actions; and
- Creates a second degree felony for any violation of s. 817.36, F.S., unless other specific criminal sanctions are provided.

## II. Present Situation:

A “ticket” is defined as “a slip of paper containing a certificate” entitling the holder to some right or privilege.<sup>1</sup> It is generally held that “in the absence of statute, a mere license to witness the performance, which the owner of proprietor may revoke at will, either before or after admission of the ticket holder, and it is immaterial whether the ticket is one for general admission, or for particular seats, or to a designated portion of the place of amusement.”<sup>2</sup> Admissions tickets are generally considered revocable licenses.<sup>3</sup> As such, a ticket can be revoked by the proprietor at any time.<sup>4</sup> When the proprietor “revokes or denies the holder’s admission to a performance, the holder has a cause of action for breach of contract.”<sup>5</sup> There has been some case law to suggest that under certain circumstances, season tickets can be regarded as a property right.<sup>6</sup> Generally, there is little regulation on the initial sale of tickets by the original ticket issuers. While traditionally tickets have been sold by venues or promoters, or resold by scalpers outside of venues where the events are taking place, the Internet has come to dominate the ticket sale industry. Some examples of online ticket sellers include Tickets.com,<sup>7</sup> Ticketmaster,<sup>8</sup> StubHub,<sup>9</sup> and eBay.<sup>10</sup> Some ticket sellers will also “hold-back” tickets from primary sale.<sup>11</sup>

### Resale of Tickets in Florida

Current Florida law provides that any person or entity offering a resale of a ticket may only charge \$1 over the admission price charged by the original ticket seller for the following transactions:

- Tickets sold for passage or accommodation on any common carrier in Florida;<sup>12</sup>
- Multiday or multi-event tickets 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;<sup>13</sup>

<sup>1</sup> Black’s Law Dictionary, *What is TICKET?*, available at <http://thelawdictionary.org/ticket/> (last visited Mar. 16, 2015).

<sup>2</sup> 27A Am. Jur. 2d Entertainment and Sports Law s. 42.

<sup>3</sup> *Jacksonville Bulls Football, Ltd. v. Blatt*, 535 So. 2d 626 (Fla. 3d DCA 1988).

<sup>4</sup> *Id* at 629.

<sup>5</sup> *Id* at 630. (citing *Marrone v. Washington Jockey Club*, 227 U.S. 633 (1913); *Burnham v. Flynn*, 189 N.Y. 180 (App. Ct. N.Y. 1907); *Boswell v. Barnum & Bailey*, 135 Tenn. 35 (Tenn. 1916)).

<sup>6</sup> *Grossman v. Boston Red Sox Baseball Club Ltd. P’ship. (In re Platt)*, 292 B.R. 12, 17 (US Bankr. Ct. for the Dist. Of Mass. 2003).

<sup>7</sup> Tickets.com, *About Us*, available at <http://www.tickets.com/about-us/> (last visited Mar. 16, 2015).

<sup>8</sup> Ticketmaster.com, *Who We Are*, available at [http://www.ticketmaster.com/about/about-us.html?tm\\_link=tm\\_i\\_abouttm](http://www.ticketmaster.com/about/about-us.html?tm_link=tm_i_abouttm) (last visited Mar. 16, 2015). Ticketmaster also owns *LiveNation*, which allows people to sell their TM+ event tickets through this website. Live Nation.com, *Frequently Asked Questions*, available at [http://concerts.livenation.com/h/help.html?tm\\_link=help\\_nav\\_4\\_top10](http://concerts.livenation.com/h/help.html?tm_link=help_nav_4_top10) (last visited Mar. 16, 2015).

<sup>9</sup> “StubHub is an eBay company.” StubHub.com, *Overview*, available at <http://www.stubhub.com/about-us/> (last visited Mar. 16, 2015).

<sup>10</sup> eBay.com, *Even Ticket Resale Policy*, available at <http://pages.ebay.com/help/policies/event-tickets.html> (last visited Mar. 16, 2015).

<sup>11</sup> Scott Simon, *Note: If You Can’t Beat ‘Em, Join ‘Em: Implications for New York’s Scalping Law in Light of Recent Developments in the Ticket Business*, 72 Fordham L. Rev. 1171, 1181.

<sup>12</sup> Section 817.36(1)(a), F.S. However, this provision does not apply to travel agencies that have an established place of business in this state and are required to pay state, county, and city occupational license taxes.

<sup>13</sup> Section 817.36(1)(b), F.S.

- Tickets for events for which 3,000 or fewer tickets are issued by a 501(c)(3) charitable organization;<sup>14</sup> and
- Tickets resold or offered through an Internet website unless authorized by the original ticket seller or when the website makes and posts the following certain guarantees and disclosures:
  - A full refund guarantee, including any servicing, handling, or processing fees, when the ticketed event is canceled, the purchaser is denied admission to the event through no fault of his or her own, or the ticket is not delivered in the requested manner and in accordance with any delivery guarantee made by the reseller and such failure results in the purchaser's inability to attend the ticketed event.
  - Disclosure that the website is not the issuer, original seller, or reseller of the ticket and does not control the pricing of the ticket.<sup>15</sup>

Any ticket outside the four categories listed above may be sold at any amount over the original admissions price. Any sales tax due on resold tickets is to be remitted to the Florida Department of Revenue, in accordance with s. 212.04, F.S.<sup>16</sup>

Section 817.36(4), F.S., imposes a civil penalty on an individual or entity who knowingly resells a ticket or tickets in violation of this section equal to three times the amount of the price of the ticket or tickets that were resold. An individual or entity that uses or sells software to circumvent security measures used to ensure equitable ticket-buying on a ticket seller's website is subject to a civil penalty, paid to the state, equal to three times the amount of the price of the ticket or tickets sold.

### **Regulation of Fraudulent Ticket Sales**

Pursuant to s. 817.361, F.S., it is a second degree misdemeanor<sup>17</sup> to offer for sale, sell, or transfer, with or without consideration, any nontransferable multiuse ticket<sup>18</sup> that has been used at least once for admission. A second or subsequent violation of this section results in a third degree felony.<sup>19</sup>

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<sup>14</sup> Section 817.36(1)(c), F.S. However, the ticket must be printed with the following statement: "Pursuant to s. 817.36, Florida Statutes, this ticket may not be resold for more than \$1 over the original admission price." This provision does not apply to tickets issued or sold by a third party contractor ticketing services on behalf of a charitable organization unless the required disclosure is printed on the ticket.

<sup>15</sup> Section 817.36(1)(d), F.S.

<sup>16</sup> Section 817.36(3), F.S. Section 212.04, F.S., imposes a tax on sale of admissions and also provides exceptions to this rule.

<sup>17</sup> Section 775.082(4)(b), F.S., provides that a misdemeanor of the second degree is punishable by a term of imprisonment not exceeding 60 days. Section 775.083(1)(e), F.S., provides that a person convicted of a misdemeanor of the second degree is subject to a fine not to exceed \$500.

<sup>18</sup> A multiuse ticket is a ticket that is designed for admission to more than one theme park complex or to more than one amusement location in a theme park complex, or for admission for more than 1 day or more than once in the same day to one or more such locations or facilities in a theme park complex.

<sup>19</sup> Section 775.082(3)(e), F.S., provides that a felony of the third degree is punishable by a term of imprisonment not exceeding 5 years. Section 775.083(1)(c), F.S., provides that a person convicted of a felony of the third degree is subject to a fine not to exceed \$5,000. Section 775.082, F.S., provides for enhanced penalties for habitual offenders.

Pursuant to s. 817.355, F.S., it is a first degree misdemeanor<sup>20</sup> to counterfeit, forge, alter, or possess a ticket with the intent to defraud a facility.

Pursuant to s. 817.357, F.S., it is a violation of the Florida Deceptive and Unfair Trade Practices Act<sup>21</sup> to knowingly purchase a quantity of tickets exceeding the maximum ticket limit with the intent to resell the tickets. This section does not apply to the original ticket seller.<sup>22</sup>

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

The bill amends s. 817.36, F.S., governing the sale of tickets in this state by regulating technology used to circumvent controls, providing disclosures that must be made by a reseller prior to a resale, providing enforcement of the bill's provisions, and revising definitions.

#### **New Definitions**

The bill provides for the following definitions:

- Department means the Department of Agriculture and Consumer Services;
- Face value means the face price of a ticket, as determined by the event presenter and printed or displayed on the ticket;
- Online marketplace means a website, software application for a mobile device, or any other digital platform that provides a forum for the buying and selling of tickets, but does not include a website, mobile application, or any other digital platform operated by a reseller, ticket issuer, event presenter, or agent of an owner or operator of a place of entertainment;
- Place of entertainment means a privately owned and operated entertainment facility or publicly owned and operated entertainment facility in this state, such as a theater, stadium, museum, arena, racetrack, or other place where performances, concerts, exhibits, games, athletic events, or contests are held for which an entry fee is charged. A facility owned by a school, college, university, or house of worship is a place of entertainment only when an event is held for which an entry fee is charged;
- Resale website means a website, software application for a mobile device, or any other digital platform or portion of a website, whose primary purpose is to facilitate the resale of tickets to consumers, but excludes an online marketplace; and
- Ticket means a printed, electronic, or other type of evidence of the right, option, or opportunity to occupy space at, or to enter or attend an entertainment event even if there is no physical manifestation of such right.

#### **Technology to Circumvent Controls**

The bill amends s. 817.36, F.S., to protect against technology that would circumvent controls by providing the following:

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<sup>20</sup> Section 775.082(4)(a), F.S., provides that a misdemeanor of the first degree is punishable by a term of imprisonment not to exceed 1 year. Section 775.083(1)(d), F.S., provides that a person convicted of a misdemeanor of the first degree is subject to a fine not to exceed \$1,000.

<sup>21</sup> Sections 501.201-501.213, F.S.

<sup>22</sup> "Original ticket seller" means the issuer of the ticket or a person or firm who provides distribution services or ticket sales services under a contract with such issuer.

- A person may not sell or use any means, technology, devices, or software that functions to bypass portions of the ticket-buying process or disguise the identity of the ticket purchaser with the intent to circumvent a security measure on a ticket issuer's or resale ticket agent's website, software application, or digital platform;
- A person may not use any means or technology that functions to disguise the identity of the purchaser with the purpose of purchasing, via online sale, a quantity of tickets to a place of entertainment in excess of authorized limits established by the owner or operator of the place of entertainment or of the entertainment event;
- A violation of these provisions is punishable as a second-degree misdemeanor or by a fine of no more than \$10,000, and each ticket purchase, sale, or violation constitutes a separate offense;
- Repeal of a provision that imposed a civil penalty, to be paid to the state, on a person who used or sold technology that would circumvent controls on a ticket seller's website; and
- Creation of a private right of action for any person injured by wrongful conduct in violation of these provisions to recover all actual damages; and authorizing the court to award up to three times the amount of actual damages.

### **Disclosures**

The bill requires a person, resale website, or online marketplace to clearly and conspicuously disclose to a prospective ticket resale purchaser:

- The refund policy of the person, resale website, or online marketplace in connection with the cancellation or postponement of an entertainment event;
- That it is a resale website or online marketplace and that the ticket prices can often exceed face value;<sup>23</sup>
- If the ticket is in the physical possession of the reseller, the face value and exact location of the seat offered for sale, including a section, row, and seat number or area specifically designated as accessible seating; and
- If the ticket is not in the physical possession of the reseller:
  - That the ticket is not in the actual possession of the reseller;
  - The period of time the reseller reasonably expects to have the ticket in its actual possession and available for delivery; and
  - Whether the reseller is actively making an offer to procure the ticket.

The bill provides that these disclosures do not apply to a person who is not regularly engaged in the business of reselling tickets and who, in any given 12-month period, resells less than 60 tickets or less than one-third of all tickets purchased from a given sports entity, whichever is less; and who obtains the tickets for personal use or use by his or her family members, friends, or acquaintances.

The bill provides that a resale website or online marketplace may not infer any representation, affiliation, or endorsement of a venue or artist without express written consent of the venue or

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<sup>23</sup> The bill defines face value as the face price of a ticket, as determined by the event presenter and printed or displayed on the ticket.



artist, except when it constitutes fair use<sup>24</sup> and is consistent with applicable laws. A violation of this provision is punishable as a third degree felony or by a fine of no more than \$10,000, or both.

### **Enforcement**

In addition to any other remedy or relief to which a person is entitled, the bill provides that a person who is aggrieved by a violation of s. 817.36, F.S., may bring an action to obtain a declaratory judgment that an act or practice violated the provisions of the bill and to enjoin a person from engaging in an activity in violation of the law. In such an action, a person suffering a loss may recover actual damages, plus attorney fees and court costs.

The bill authorizes the Department of Agriculture and Consumer Services (department) to investigate suspected violations, including conducting hearings, subpoena witnesses and evidence, and administer oaths and affirmations. If the department believes that a violation has occurred, it may, in coordination with the Office of the Attorney General or a state attorney having jurisdiction, bring a civil action and may seek other relief, such as injunctive relief, as deemed appropriate by the court. The bill authorizes the Office of the Attorney General or a state attorney having jurisdiction, to bring a civil or criminal action for violations of s. 817.36, F.S. The department is authorized to share information with any law enforcement agency or other regulatory agency.

The bill repeals a provision that subjected a person who knowingly resells a ticket in violation of the law to a civil penalty, payable to the state, of three times the price of the ticket. The bill provides that, unless provided otherwise, a person who knowingly resells a ticket in violation of the provisions of the bill commits a second degree felony,<sup>25</sup> or may be fined up to \$10,000, unless another specific criminal sanction is provided. Each violation constitutes a separate offense.

The department must adopt rules to implement the bill.

**Section 2** provides that the bill takes effect October 1, 2015.

## **IV. Constitutional Issues:**

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

None.

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<sup>24</sup> 17 U.S.C. s. 107, governs fair use under the Copyright Law of the United States of America. Generally, fair use of copyrighted work is not considered an infringement on a copyright. However, to determine whether a particular use is considered fair use, the following factors should be considered: (1) the purpose and character of the use; (2) the nature of the copyrighted work; (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (4) the effect of the use on the potential market for or value of the copyrighted work.

<sup>25</sup> Section 775.082(3)(e), F.S., provides that a felony of the third degree is punishable by imprisonment not exceeding 5 years. Section 775.083(1)(e), F.S., provides that a person convicted of a felony of the third degree is subject to a fine not to exceed \$5,000.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

For a court to exercise jurisdiction over a respondent, it must have subject matter jurisdiction and personal jurisdiction. State courts have general jurisdiction, and therefore a claim made under a state statute meets the subject matter jurisdiction requirement.<sup>26</sup> Personal jurisdiction is a constitutional requirement that a respondent have minimum contacts with the state in which the court sits so that the court may exercise power over the respondent.<sup>27</sup> A non-resident respondent may have sufficient contacts with Florida if he or she commits acts expressly enumerated in Florida's long-arm statute.<sup>28</sup> A few of the acts that would make a non-resident respondent subject to the long-arm statute include operating or conducting a business or business venture within this state, committing a tortious act within this state, or engaging in solicitation or service activities within this state.<sup>29</sup> Alternately, the non-resident respondent may be subject to a Florida court's personal jurisdiction because he or she has minimum contacts with the state that are otherwise unrelated to matter that brings him or her into court.<sup>30</sup> Examples of sufficient minimum contacts include frequent business travel to the state, owning a company with a Florida office branch, or subjecting oneself to the court's jurisdiction by presenting oneself in the Florida court.<sup>31</sup> These jurisdictional requirements ensure that a respondent has sufficient notice and due process afforded to him or her under the U.S. Constitution before his or her rights are subjected to the court.<sup>32</sup>

Whether a non-resident Internet company that sells tickets to Florida residents has sufficient minimum contacts with the state is a fact-specific question that would likely need to be addressed on a case-by-case basis by a court.<sup>33</sup>

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

None.

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<sup>26</sup> *Caiazza v. American Royal Arts Corp.*, 73 S. 3d 245, 250 (Fla. 4th DCA 2011).

<sup>27</sup> *Id.* (citing *Venetian Salami Co. v. Parthenais*, 554 So. 2d 499, 500 (Fla. 1989)).

<sup>28</sup> *Id.* Florida's long arm statute may be found in s. 48.193, F.S.

<sup>29</sup> Section 48.193, F.S.

<sup>30</sup> *Caiazza v. American Royal Arts Corp.*, 73 So. 3d 245, 250 (Fla. 4th DCA 2011).

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

<sup>32</sup> *Id.* at 250-251.

<sup>33</sup> See *Caiazza v. American Royal Arts Corp.*, 73 So. 3d 245, (Fla. 4th DCA 2011); *Zippo Mfg. Co. v. Zippo Dot Com, Inc.*, 952 F. Supp. 1119, 1124 (W.D. Pa. 1997).

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

To the extent that there are violations of the provisions of this bill, the office of the state attorney in the jurisdiction in which the violation occurred may incur a negative fiscal impact due to the enforcement of the new violation.

The Criminal Justice Impact Conference determined that CS/SB 742 would have a positive insignificant impact on prison beds.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill requires the Department of Agriculture and Consumer Services to adopt rules to administer the provisions of the bill. However, the bill provides only investigative powers to the department and the promulgation of rules may not be needed to implement the bill's provisions. Additionally, should the department determine that it is necessary to adopt rules, it has broad rulemaking authority under s. 570.07(23), F.S., to adopt rules to implement "provisions of law conferring duties upon it."

It is unclear whether "resale ticket agent's website" on line 132 is intended to mean "resale website" as defined in the bill.

**VIII. Statutes Affected:**

This bill substantially amends section 817.36 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 Commerce and Tourism on March 30, 2015:**

The committee substitute:

- Revises definitions and deletes a provision that defined a ticket as a revocable license;
- Specifies that a person may not use technology with the intent to circumvent security measures instituted by a ticket seller or reseller and that a violation is subject to a fine of up to \$10,000;
- Deletes the provisions requiring ticket brokers to register with the Department of Agriculture and Consumer Services (department);
- Requires in-person resales to meet the disclosure requirements required of resale websites and online marketplaces prior to the resale;

- Provides that the disclosures that resale websites and online marketplaces must make before a resale do not apply to specified individuals;
- Provides that a resale website or online marketplace that represents that they are affiliated with a venue or artist without express consent, and inconsistent with fair use and applicable laws is subject to a third degree felony or a fine not to exceed \$10,000, or both;
- Provides that the department may investigate suspected violations of s. 817.36, F.S., and may bring a civil action or seek any other appropriate relief;
- Provides that the Office of Attorney General or any state attorney having jurisdiction, may bring a civil or criminal action against individuals violating s. 817.36, F.S.; and
- Reduces all other violations of this section of law to a second degree misdemeanor from a third degree felony.

B. Amendments:

None.

By the Committee on Commerce and Tourism; and Senator Simpson

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1 A bill to be entitled  
 2 An act relating to ticket sales; amending s. 817.36,  
 3 F.S.; defining terms; revising provisions to include  
 4 digital platforms; revising certain presale disclosure  
 5 requirements; revising provisions relating to  
 6 prohibitions on bypassing portions of the ticket-  
 7 buying process, disguising the identity of a buyer, or  
 8 circumventing security measures; providing criminal  
 9 penalties for violations; providing for recovery of  
 10 damages up to treble the amount of actual damages for  
 11 such violations; providing criminal penalties for  
 12 knowingly reselling a ticket in violation of statute;  
 13 deleting provisions imposing penalties for  
 14 intentionally using or selling software to circumvent  
 15 certain ticket seller security measures; requiring  
 16 specified disclosures before resale of a ticket;  
 17 prohibiting misrepresentations of affiliation or  
 18 endorsement by resellers without consent; providing  
 19 exceptions; authorizing declaratory judgments;  
 20 authorizing the Department of Legal Affairs or a state  
 21 attorney to bring a civil or criminal action under  
 22 certain circumstances; providing criminal penalties  
 23 for certain violations; requiring rulemaking;  
 24 providing an effective date.

25  
 26 Be It Enacted by the Legislature of the State of Florida:

27  
 28 Section 1. Section 817.36, Florida Statutes, is amended to  
 29 read:

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

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30 817.36 Ticket sales ~~Resale of tickets.~~-  
 31 (1) As used in this section, the term:  
 32 (a) "Department" means the Department of Agriculture and  
 33 Consumer Services.  
 34 (b) "Face value" means the face price of a ticket, as  
 35 determined by the event presenter and printed or displayed on  
 36 the ticket.  
 37 (c) "Online marketplace" means a website, software  
 38 application for a mobile device, or any other digital platform  
 39 that provides a forum for the buying and selling of tickets, but  
 40 does not include a website, software application for a mobile  
 41 device, or any other digital platform operated by a reseller,  
 42 ticket issuer, event presenter, or agent of an owner or operator  
 43 of a place of entertainment.  
 44 (d) "Place of entertainment" means a privately owned and  
 45 operated entertainment facility or publicly owned and operated  
 46 entertainment facility in this state, such as a theater,  
 47 stadium, museum, arena, racetrack, or other place where  
 48 performances, concerts, exhibits, games, athletic events, or  
 49 contests are held and for which an entry fee is charged. A  
 50 facility owned by a school, college, university, or house of  
 51 worship is a place of entertainment only when an event is held  
 52 for which an entry fee is charged.  
 53 (e) "Resale website" means a website, software application  
 54 for a mobile device, any other digital platform, or portion  
 55 thereof, whose primary purpose is to facilitate the resale of  
 56 tickets to consumers, but excludes an online marketplace.  
 57 (f) "Ticket" means a printed, electronic, or other type of  
 58 evidence of the right, option, or opportunity to occupy space at

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59 or to enter or attend an entertainment event even if not  
60 evidenced by any physical manifestation of such right.

61 ~~(2)(1)~~ A person or entity that offers for resale or resells  
62 any ticket may charge only \$1 above the face value admission  
63 ~~price~~ charged therefor by the original ticket seller of the  
64 ticket for the following transactions:

65 (a) Passage or accommodations on any common carrier in this  
66 state. However, this paragraph does not apply to travel agencies  
67 that have an established place of business in this state and are  
68 required to pay state, county, and city occupational license  
69 taxes.

70 (b) Multiday or multievent tickets to a park or  
71 entertainment complex or to a concert, entertainment event,  
72 permanent exhibition, or recreational activity within such a  
73 park or complex, including an entertainment/resort complex as  
74 defined in s. 561.01(18).

75 (c) Event tickets originally issued by a charitable  
76 organization exempt from taxation under s. 501(c)(3) of the  
77 Internal Revenue Code for which no more than 3,000 tickets are  
78 issued per performance. The charitable organization must issue  
79 event tickets with the following statement conspicuously printed  
80 or displayed on the face or back of the ticket: "Pursuant to s.  
81 817.36, Florida Statutes, this ticket may not be resold for more  
82 than \$1 over the face value original admission price." This  
83 paragraph does not apply to tickets issued or sold by a third  
84 party contractor ticketing services provider on behalf of a  
85 charitable organization otherwise included in this paragraph  
86 unless the required disclosure is printed or displayed on the  
87 ticket.

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88 (d) Any tickets, other than the tickets in paragraph (a),  
89 paragraph (b), or paragraph (c), that are resold or offered  
90 through a resale an Internet website, or online marketplace  
91 unless such resale website or online marketplace is authorized  
92 by the original ticket seller to sell such tickets or makes and  
93 posts the following guarantees and disclosures on through  
94 ~~Internet~~ web pages on which are visibly posted, or links to web  
95 pages on which are posted, text to which a prospective purchaser  
96 is directed before completion of the resale transaction:

97 1. The resale website or online marketplace operator  
98 guarantees a full refund of the amount paid for the ticket  
99 including any servicing, handling, or processing fees, if such  
100 fees are not disclosed, when:

101 a. The ticketed event is canceled;

102 b. The purchaser is denied admission to the ticketed event,  
103 unless such denial is due to the action or omission of the  
104 purchaser; or

105 c. The ticket is not delivered to the purchaser ~~in the~~  
106 ~~manner requested and~~ pursuant to any delivery guarantees made by  
107 the reseller and such failure results in the purchaser's  
108 inability to attend the ticketed event.

109 2. The resale website or online marketplace operator  
110 discloses that it is not the issuer, original seller, or  
111 reseller of the ticket or items and does not control the pricing  
112 of the ticket or items, which may be resold for more than their  
113 face original value.

114 ~~(3)(2)~~ This section does not authorize any individual or  
115 entity to sell or purchase tickets at any price on property or  
116 place of entertainment where an event is being held without the

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117 prior express written consent of the owner of the property or  
 118 place of entertainment.

119 ~~(4)(3)~~ Any sales tax due for resales under this section  
 120 shall be remitted to the Department of Revenue in accordance  
 121 with s. 212.04.

122 ~~(4) A person who knowingly resells a ticket or tickets in~~  
 123 ~~violation of this section is liable to the state for a civil~~  
 124 ~~penalty equal to treble the amount of the price for which the~~  
 125 ~~ticket or tickets were resold.~~

126 (5)(a) A person may not sell, use, or cause to be used any  
 127 means, method, technology, device, or software that is designed  
 128 or intended to, or that functions to, bypass portions of the  
 129 ticket-buying process or disguise the identity of the ticket  
 130 purchaser with the intent to circumvent a security measure, an  
 131 access control system or other control, authorization, or  
 132 measure on a ticket issuer's or resale ticket agent's website,  
 133 software application for a mobile device, or digital platform.

134 (b) A person may not use or cause to be used any means,  
 135 method, or technology that is designed, intended, or functions  
 136 to disguise the identity of the purchaser with the purpose of  
 137 purchasing or attempting to purchase via online sale a quantity  
 138 of tickets to a place of entertainment in excess of authorized  
 139 limits established by the owner or operator of a place of  
 140 entertainment or of the entertainment event or his or her agent.

141 (c) A person who knowingly violates this subsection commits  
 142 a misdemeanor of the second degree, punishable as provided in s.  
 143 775.082 or s. 775.083 or by a fine not to exceed \$10,000, or  
 144 both. Each ticket purchase, sale, or violation of this  
 145 subsection constitutes a separate offense.

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146 (d) A party that has been injured by wrongful conduct in  
 147 violation of this subsection may bring an action to recover all  
 148 actual damages suffered as a result of any of such wrongful  
 149 conduct. The court in its discretion may award damages up to  
 150 three times the amount of actual damages. ~~A person who~~  
 151 ~~intentionally uses or sells software to circumvent on a ticket~~  
 152 ~~seller's Internet website a security measure, an access control~~  
 153 ~~system, or any other control or measure that is used to ensure~~  
 154 ~~an equitable ticket-buying process is liable to the state for a~~  
 155 ~~civil penalty equal to treble the amount for which the ticket or~~  
 156 ~~tickets were sold.~~

157 (6) A person, resale website, or online marketplace must  
 158 clearly and conspicuously disclose to a prospective ticket  
 159 resale purchaser, whether on the resale website or online  
 160 marketplace, or in person, before a resale:

161 (a) The refund policy of the person or resale website, or  
 162 online marketplace in connection with the cancellation or  
 163 postponement of an entertainment event;

164 (b) That it is a resale website or online marketplace and  
 165 prices of tickets can often exceed face value; and

166 (c) If the ticket is in the actual physical possession of  
 167 the reseller, the face value and exact location of the seat  
 168 offered for sale, including a section, row, and seat number, or  
 169 area specifically designated as accessible seating; or

170 (d) If the ticket is not in the actual physical possession  
 171 of the reseller:

172 1. That the ticket offered for sale is not in the actual  
 173 physical possession of the reseller;

174 2. The period of time when the reseller reasonably expects

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175 to have the ticket in actual physical possession and available  
 176 for delivery; and

177 3. Whether the reseller is actively making an offer to  
 178 procure the ticket.

179  
 180 This subsection does not apply to a person who does not  
 181 regularly engage in the business of reselling tickets; who, in  
 182 any given 12-month period, resells fewer than 60 tickets or  
 183 fewer than one-third of all tickets purchased from a given  
 184 sports entity, whichever is less; and who obtains the tickets  
 185 for his or her own use or the use of his or her family members,  
 186 friends, or acquaintances. As used in this section, the term  
 187 "software" means computer programs that are primarily designed  
 188 or produced for the purpose of interfering with the operation of  
 189 any person or entity that sells, over the Internet, tickets of  
 190 admission to a sporting event, theater, musical performance, or  
 191 place of public entertainment or amusement of any kind.

192 (7) (a) A resale website or online marketplace shall not  
 193 make any representation of affiliation or endorsement with a  
 194 venue or artist without the express written consent of the venue  
 195 or artist, except when it constitutes fair use and is consistent  
 196 with applicable laws.

197 (b) A person who knowingly violates this subsection commits  
 198 a felony of the third degree, punishable as provided in s.  
 199 775.082 or s. 775.083 or by a fine not to exceed \$10,000, or  
 200 both.

201 (8) (a) A person aggrieved by a violation of this section  
 202 may, without regard to any other remedy or relief to which the  
 203 person is entitled, bring an action to obtain a declaratory

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204 judgment that an act or practice violates this section and to  
 205 enjoin a person who has violated, is violating, or is otherwise  
 206 likely to violate this section.

207 (b) In any action brought by a person who has suffered a  
 208 loss as a result of a violation of this section, such person may  
 209 recover actual damages, plus attorney fees and court costs.

210 (9) If the department, by its own inquiry or as a result of  
 211 complaints, has reason to believe that a violation of this  
 212 section has occurred or is occurring, the department may conduct  
 213 an investigation, conduct hearings, subpoena witnesses and  
 214 evidence, and administer oaths and affirmations. If, as a result  
 215 of the investigation, the department has reason to believe a  
 216 violation of this section has occurred, the department with the  
 217 coordination of the Department of Legal Affairs and any state  
 218 attorney, if the violation has occurred or is occurring within  
 219 her or his judicial circuit, shall have the authority to bring a  
 220 civil action and to seek any other relief, including injunctive  
 221 relief, as the court deems appropriate. The Department of Legal  
 222 Affairs or any state attorney having jurisdiction may bring a  
 223 civil or criminal action to seek any other relief, as the court  
 224 deems appropriate. This subsection does not prohibit the  
 225 department from providing information to any law enforcement  
 226 agency or to any other regulatory agency.

227 (10) Except as otherwise provided in this section a person  
 228 who knowingly resells a ticket or tickets in violation of this  
 229 section commits misdemeanor of the second degree, punishable as  
 230 provided in s. 775.082 or s. 775.083. Each violation of this  
 231 section constitutes a separate offense.

232 (11) The department shall adopt rules to implement this



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233 section.

234 Section 2. This act shall take effect October 1, 2015.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/15

Meeting Date

SB 742

Bill Number (if applicable)

Topic Ticket Sales

Amendment Barcode (if applicable)

Name David Shepp

Job Title Lobbyist

Address P.O. Box 3739

Phone 863 581-4250

Street

Lakeland

City

FL

State

33802

Zip

Email shepp@sostrategy.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Feld Entertainment

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)

4 / 13 / 2015  
Meeting Date

Topic \_\_\_\_\_

Bill Number 742  
*(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  
**APPEARANCE RECORD**

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

4/13/15

Meeting Date

742

Bill Number (if applicable)

Topic ~~HR~~ Ticket Sales

Amendment Barcode (if applicable)

Name Kathy Russell

Job Title

Address Street

Phone

City State Zip

Email

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing City of Orlando

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...

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/18/15

Meeting Date

742

Bill Number (if applicable)

Topic Tickets R

Amendment Barcode (if applicable)

Name Nick Iarossi

Job Title \_\_\_\_\_

Address 101 E. College Ave

Phone 222-9075

Street

Tallahassee

City

FL 32301

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Association of Ticket Brokers

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)

4-17-15

Meeting Date

SB742

Bill Number (if applicable)

Topic Ticket Sales

Amendment Barcode (if applicable)

Name John Kim

Job Title Student

Address 420 Chapel Drive #111

Phone 772-559-6202

Street

Tallahassee

City

FL

State

32304

Zip

Email jmkelt@my.fsu.edu

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

7/13/15  
Meeting Date

SB 742  
Bill Number (if applicable)

Topic Ticket Sales

Amendment Barcode (if applicable)

Name Dillon Filion

Job Title Student

Address 799 W Gaines St. #518

Phone 727-512-7188

Street

Tallahassee FL 32304

Email mf12g@my.fsu.edu

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

4-13-15  
Meeting Date

742  
Bill Number (if applicable)

Topic TICKET SALES

Amendment Barcode (if applicable)

Name JEFF JOHNSON

Job Title LOBBYIST

Address 112 E. JEFFERSON  
Street

Phone 813 777-9858

Tallahassee FL  
City State Zip

Email Jeff@corcoranfirm.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing TICKETMASTER

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)

4-13-15

Meeting Date

742

Bill Number (if applicable)

Topic Ticket Sales

Amendment Barcode (if applicable)

Name CHRIS VANDEHOEF

Job Title DIR, GOVERNMENT RELATIONS

Address 17 LINCOLN AVE.  
Street

Phone 860-716-4461

WEST HARTFORD, CT 06117  
City State Zip

Email CHRIS.VANDEHOEF@TICKETNETWORK.COM

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Ticket Network

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.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/15

Meeting Date

742

Bill Number (if applicable)

Topic Ticket Sales

Amendment Barcode (if applicable)

Name Chris Carmody

Job Title Attorney

Address 301 E. Pine St.

Phone \_\_\_\_\_

Street Orlando

City FL

State 31214

Zip \_\_\_\_\_

City

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing City of Orlando + Orlando Magic

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)

4/13/15  
Meeting Date

742  
Bill Number (if applicable)

Topic Ticket Sales

Amendment Barcode (if applicable)

Name Alice Vickers

Job Title Attorney

Address 623 Beard St.

Phone 850 556-3121

Street

Tallahassee, FL 32303

City

State

Zip

Email alicevickers@flacp.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FL Alliance For Consumer Protection

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)

4/13

Meeting Date

742

Bill Number (if applicable)

Topic Tickets

Amendment Barcode (if applicable)

Name Jim Daughton

Job Title \_\_\_\_\_

Address 215 S. Monroe St

Phone 205-9000

Street

TALL

City

FL

State

32307

Zip

Email jim.daughton@metzgroup.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Ebay/StubHub

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.

*Would like to go first*

# APPEARANCE RECORD

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

4/13/15

Meeting Date

S 742

Bill Number (if applicable)

Topic Tickets

Amendment Barcode (if applicable)

Name Chris Grimm

Job Title Executive Director, Fan Freedom

Address 1025 F Street NW Suite 720

Phone 202-250-3099

Washington  
City

DC  
State

20004  
Zip

Email chris@fanfreedom.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Fan Freedom

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

Tallahassee, Florida 32399-1100

### COMMITTEES:

Community Affairs, *Chair*  
Environmental Preservation and Conservation,  
*Vice Chair*  
Appropriations Subcommittee on General Government  
Finance and Tax  
Judiciary  
Transportation

### JOINT COMMITTEE:

Joint Legislative Auditing Committee

**SENATOR WILTON SIMPSON**  
18th District

March 31, 2015

Senator Greg Evers  
Committee on Criminal Justice  
510 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Chairman Evers,

Please place Senate Bill 742 relating to ticket sales, on the next Committee on Criminal Justice agenda.

Please contact my office with any questions. Thank you.

A handwritten signature in black ink, appearing to read "Wilton Simpson".

Wilton Simpson  
Senator, 18<sup>th</sup> District

CC: Amanda Cannon, Staff Director

#### REPLY TO:

- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
- Post Office Box 938, Brooksville, Florida 34605
- Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

---

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

---

BILL: SB 1132

INTRODUCER: Senator Abruzzo

SUBJECT: Transmission of Pornography

DATE: April 10, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	<b>Pre-meeting</b>
2.			ACJ	
3.			FP	

---

**I. Summary:**

SB 1132 amends s. 847.0137, F.S., to provide that each act of sending or delivering child pornography is a separate third degree felony offense. The bill makes conforming changes to ss. 775.0847(2) and 856.022(1), F.S.

**II. Present Situation:**

Section s. 847.0137, F.S., criminalizes as third degree felony offenses, the transmissions of child pornography by electronic device or equipment. These offenses are cumulative to existing offenses under ss. 847.012 and 847.0133, F.S.,<sup>1</sup> and arise if a person:

- In this state, knowingly transmits<sup>2</sup> child pornography<sup>3</sup> to another person in this state or in another jurisdiction.
- In any jurisdiction other than this state, knowingly or reasonably should have known transmits, an image harmful to minors to a known minor or a person believed to be a minor in this state.

Section 847.0137(4), F.S., specifies that this section may not be construed to prohibit prosecution of the unlawful conduct under this section under any other section that may provide for even greater penalties. Subsection (5) establishes Florida's jurisdiction over the crimes specified in this section whether or not the violator lives or transmits in or outside of Florida.

---

<sup>1</sup> Section 847.012, F.S., relates to sale or other distribution of harmful materials to a person under 18 years of age and includes representations. Section 847.0133, F.S., in part, prohibits the transmission of obscene material to a minor.

<sup>2</sup> Section 847.0137(1)(b), F.S., defines "transmit" as the act of sending and causing to be delivered an image, information, or data from one or more persons or places to one or more other persons or places over or through any medium, including the Internet, by use of any electronic equipment or device.

<sup>3</sup> Section 847.001 defines "child pornography" as any image depicting a minor engaged in sexual conduct.

These offenses are not applicable to scenarios involving receipt of “subscription-based transmissions” from list servers. A list server is a type of on-line bulletin board to which persons can subscribe. The subscriber can post information or a question which would then be e-mailed to all other subscribers. Any subscriber could then respond to all subscribers on the list, or limit their response. The subscriber has little or no control over what arrives on their computer.

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

The bill amends s. 847.0137, F.S., to provide that each act of sending or delivering child pornography is a separate third degree felony offense. The bill makes conforming changes to ss. 775.0847(2) and 856.022(1), F.S.

The bill has an effective date of October 1, 2015.

### **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:**

Although numerous First Amendment challenges have been made to government regulation of pornography, the United States Supreme Court has definitively ruled that the First Amendment does not attach to the dissemination of child pornography. “[T]he use of children as subjects of pornographic materials is harmful to the physiological, emotional, and mental health of the child. That judgment, we think, easily passes muster under the First Amendment.”<sup>4</sup>

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

None.

---

<sup>4</sup> New York v. Ferber, 458 U.S. 747, 756-757 (1982). In Ferber, the Court upheld as a compelling state interest protection of the physical and psychological well-being of children.



C. **Government Sector Impact:**

The Criminal Justice Impact Conference found that there was an indeterminate impact on prison beds.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 847.0137, 775.0847 and 856.022.

**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.

By Senator Abruzzo

25-00336-15

20151132\_\_

1 A bill to be entitled  
 2 An act relating to transmission of pornography;  
 3 amending s. 847.0137, F.S.; providing that each act of  
 4 sending or delivering pornography is a separate  
 5 offense; reenacting ss. 775.0847(2) and 856.022(1),  
 6 F.S., relating to reclassification of certain offenses  
 7 and loitering or prowling by certain offenders,  
 8 respectively, to incorporate the amendment to s.  
 9 847.0137, F.S., in references thereto; providing an  
 10 effective date.  
 11  
 12 Be It Enacted by the Legislature of the State of Florida:  
 13  
 14 Section 1. Section 847.0137, Florida Statutes, is amended  
 15 to read:  
 16 847.0137 Transmission of pornography by electronic device  
 17 or equipment prohibited; penalties.—  
 18 (1) For purposes of this section, the term:  
 19 (a) "Minor" means any person less than 18 years of age.  
 20 (b) "Transmit" means the act of sending and causing to be  
 21 delivered an any image, information, or data from one or more  
 22 persons or places to one or more other persons or places over or  
 23 through any medium, including the Internet, by use of any  
 24 electronic equipment or device.  
 25 (2) Notwithstanding ss. 847.012 and 847.0133, any person in  
 26 this state who knew or reasonably should have known that he or  
 27 she was transmitting child pornography, as defined in s.  
 28 847.001, to another person in this state or in another  
 29 jurisdiction commits a felony of the third degree, punishable as

Page 1 of 4

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25-00336-15

20151132\_\_

30 provided in s. 775.082, s. 775.083, or s. 775.084.  
 31 (3) Notwithstanding ss. 847.012 and 847.0133, any person in  
 32 any jurisdiction other than this state who knew or reasonably  
 33 should have known that he or she was transmitting child  
 34 pornography, as defined in s. 847.001, to any person in this  
 35 state commits a felony of the third degree, punishable as  
 36 provided in s. 775.082, s. 775.083, or s. 775.084.  
 37 (4) This section ~~may shall~~ not be construed to prohibit  
 38 prosecution of a person in this state or another jurisdiction  
 39 for a violation of any law of this state, including a law  
 40 providing for greater penalties than prescribed in this section,  
 41 for the transmission of child pornography, as defined in s.  
 42 847.001, to any person in this state.  
 43 (5) A person is subject to prosecution in this state  
 44 pursuant to chapter 910 for any act or conduct proscribed by  
 45 this section, including a person in a jurisdiction other than  
 46 this state, if the act or conduct violates subsection (3).  
 47 (6) For purposes of this section, each act of sending or  
 48 causing to be delivered an image, information, or data is a  
 49 separate offense.  
 50  
 51 ~~The provisions of This section does de~~ not apply to  
 52 subscription-based transmissions such as list servers.  
 53 Section 2. For the purpose of incorporating the amendment  
 54 made by this act to section 847.0137, Florida Statutes, in a  
 55 reference thereto, subsection (2) of section 775.0847, Florida  
 56 Statutes, is reenacted to read:  
 57 775.0847 Possession or promotion of certain images of child  
 58 pornography; reclassification.—

Page 2 of 4

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25-00336-15

20151132\_\_

59 (2) A violation of s. 827.071, s. 847.0135, s. 847.0137, or  
60 s. 847.0138 shall be reclassified to the next higher degree as  
61 provided in subsection (3) if:

62 (a) The offender possesses 10 or more images of any form of  
63 child pornography regardless of content; and

64 (b) The content of at least one image contains one or more  
65 of the following:

- 66 1. A child who is younger than the age of 5.
- 67 2. Sadomasochistic abuse involving a child.
- 68 3. Sexual battery involving a child.
- 69 4. Sexual bestiality involving a child.
- 70 5. Any movie involving a child, regardless of length and  
71 regardless of whether the movie contains sound.

72 Section 3. For the purpose of incorporating the amendment  
73 made by this act to section 847.0137, Florida Statutes, in a  
74 reference thereto, subsection (1) of section 856.022, Florida  
75 Statutes, is reenacted to read:

76 856.022 Loitering or prowling by certain offenders in close  
77 proximity to children; penalty.—

78 (1) Except as provided in subsection (2), this section  
79 applies to a person convicted of committing, or attempting,  
80 soliciting, or conspiring to commit, any of the criminal  
81 offenses proscribed in the following statutes in this state or  
82 similar offenses in another jurisdiction against a victim who  
83 was under 18 years of age at the time of the offense: s. 787.01,  
84 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and  
85 the offender was not the victim's parent or guardian; s.  
86 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05;  
87 former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s.

Page 3 of 4

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25-00336-15

20151132\_\_

88 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.  
89 847.0137; s. 847.0138; s. 847.0145; s. 985.701(1); or any  
90 similar offense committed in this state which has been  
91 redesignated from a former statute number to one of those listed  
92 in this subsection, if the person has not received a pardon for  
93 any felony or similar law of another jurisdiction necessary for  
94 the operation of this subsection and a conviction of a felony or  
95 similar law of another jurisdiction necessary for the operation  
96 of this subsection has not been set aside in any postconviction  
97 proceeding.

98 Section 4. This act shall take effect October 1, 2015.

Page 4 of 4

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/2015

Meeting Date

Topic \_\_\_\_\_

Bill Number 1132

(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.*

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/15

Meeting Date

SB 1132

Bill Number (if applicable)

Topic R/T Transmission of Pornography

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title President & CEO

Address 204 S. Monroe Suite 201  
Street

Phone \_\_\_\_\_

Tallahassee FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing The Florida Smart Justice Alliance

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

This form is part of the public record of the Senate.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Finance and Tax, *Vice Chair*  
Appropriations Subcommittee on Health and Human  
Services  
Communications, Energy, and Public Utilities  
Fiscal Policy  
Regulated Industries  
Community Affairs

### JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Chair*

### SENATOR JOSEPH ABRUZZO

Minority Whip  
25th District

April 13<sup>th</sup>, 2015

The Honorable Greg Evers  
Senate Committee on Criminal Justice  
510 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Dear Chairman Evers,

I am unable to attend today's meeting of the Senate Committee on Criminal Justice due to the unexpected cancellation of my flight late last evening. I respectfully request that my Legislative Aide, Shreya Kuntawala, be permitted to present Senate Bill 1132. Senate Bill 1132: Transmission of Pornography, provides that each act of sending or delivering pornographic material is designated a separate offense.

Please let me know if I can provide further information.

Sincerely,

A handwritten signature in black ink, appearing to read "JA", written over a horizontal line.

Senator Joseph Abruzzo

cc: Staff Director Amanda Cannon

#### REPLY TO:

- 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774 FAX: (888) 284-6495
- 110 Dr. Martin Luther King, Jr. Boulevard, Belle Glade, Florida 33430-3900 (561) 829-1410
- 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

ANDY GARDINER  
President of the Senate

GARRETT RICHTER  
President Pro Tempore



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Finance and Tax, *Vice Chair*  
Appropriations Subcommittee on Health and Human Services  
Communications, Energy, and Public Utilities  
Community Affairs  
Fiscal Policy  
Regulated Industries

### JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Chair*

### SENATOR JOSEPH ABRUZZO

Minority Whip  
25th District

March 2<sup>nd</sup>, 2015

The Honorable Greg Evers  
308 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairman Evers:

I respectfully request that Senate Bill 1132, Transmission of Pornography, be considered for placement on the Criminal Justice agenda. This piece of legislation will require that each act of sending or delivering child pornography is a separate offense.

Thank you in advance for your consideration. Please feel free to notify me if I can provide you with any additional information.

Sincerely,

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

Joseph Abruzzo

Cc: Amanda Cannon, Staff Director

#### REPLY TO:

- 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774 FAX: (888) 284-6495
- 110 Dr. Martin Luther King, Jr. Boulevard, Belle Glade, Florida 33430-3900 (561) 829-1410
- 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

ANDY GARDINER  
President of the Senate

GARRETT RICHTER  
President Pro Tempore

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

---

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

---

BILL: CS/SB 1178

INTRODUCER: Criminal Justice Committee and Senator Richter

SUBJECT: Drone Surveillance

DATE: April 14, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Fav/CS
2.			ACJ	
3.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1178 creates a new section of law which specifies when it is lawful or unlawful to capture an image using a drone.

The bill provides twenty-two specific lawful uses of drones and of the images captured by drones.

The bill defines the term “image” and adopts the definition of “drone” found in s. 943.50(2)(a), F.S. The bill also defines the term “conduct surveillance” which means to monitor, track, or follow another person with the intent to intrude on the solitude, seclusion, or privacy of a person or a person’s property, if the intrusion is the primary intent and effect, and the use is not incidental to an otherwise lawful use.

The bill makes unlawful: capturing images of an individual or of privately owned real property, with the intent to conduct surveillance on the individual or property; and the possession, disclosure, display, distribution, or other use of unlawfully captured images.

Unlawfully captured images or images that are incidental to the lawful capturing of an image may not be used as evidence in criminal, juvenile, civil, or administrative proceedings or actions. Such images are not subject to discovery, subpoena, or other means of legally-compelled release.



The bill requires the Department of Transportation to review potential impacts on public safety originating from commercial applications of unmanned aerial systems. The department is also directed to coordinate with the Office of Insurance Regulation to address the appropriate amount of liability insurance that should be carried by operators of unmanned aerial systems and report to the presiding officers of the Legislature and the Governor by January 1, 2016.

The bill becomes effective on October 1, 2015. It contains a severability clause.

## II. Present Situation:

The definition of “drone” provided in s. 934.50(2)(a), F.S., is a powered aerial vehicle that:

- Is unmanned;
- Is capable of flying autonomously or being piloted remotely;
- Uses aerodynamic forces to provide lift;
- Can be expendable or recoverable; and
- Can carry a lethal or nonlethal payload.

Section 934.50, F.S., limits the use of drones by state and local law enforcement. Currently there is not any such limitation of or provisions related to the non-law enforcement use of drones in Florida law.

Drones typically range in size from wingspans of 6 inches to 246 feet and can weigh from approximately 4 ounces to over 25,600 pounds.<sup>1</sup> They may be controlled manually or through an autopilot which uses a data link to connect the drone’s pilot to the drone.<sup>2</sup> Although “drone” has become almost a household word, the devices are also called Unmanned Aerial Vehicles (UAV) and Unmanned Aerial Systems (UAS).

Drones have been used in a multitude of tasks by U.S. government agencies and other public entities including law enforcement. The U.S. Customs and Border Patrol began using them in 2004.<sup>3</sup> In February 2010, the U.S. Customs and Border Patrol began operating a center in Cocoa Beach flying eight drones along Florida’s shorelines and the Gulf Coast.<sup>4</sup> Other documented non-military tasks include earthquake damage assessment at Japan’s Fukushima power plant, volcano activity assessment of Mount St. Helens in Washington for the U.S. Geological Survey, and surveying wild fires in Texas.<sup>5</sup> At the University of Florida, the Unmanned Aerial Systems Research Group has been developing an 11 pound drone having a 9 foot wingspan, which is called “Nova 2.1.” According to researchers, it can be used to safely and accurately gather data that will be helpful to wildlife biologists and many others.<sup>6</sup>

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<sup>1</sup> 14 CFR Part 91, Docket No. FAA-2006-25714, Department of Transportation, Federal Aviation Administration, Unmanned Aircraft Operations in the National Airspace System, February 6, 2007.

<sup>2</sup> *Id.*

<sup>3</sup> *Unmanned Aerial Vehicles Support Border Security*, Customs and Border Protection Today, July 2004, [www.cbp.gov/xp/CustomsToday/2004/Aug/other/aerial\\_vehicles.xml](http://www.cbp.gov/xp/CustomsToday/2004/Aug/other/aerial_vehicles.xml).

<sup>4</sup> Howard Altman, *Space Florida Probing Drone’s Future Potential*, Tampa Bay Online, August 5, 2012, [www2.tbo.com/news/breaking-news/2012/aug/05/space-florida-probing-drones-future-potential-ar-453511/](http://www2.tbo.com/news/breaking-news/2012/aug/05/space-florida-probing-drones-future-potential-ar-453511/).

<sup>5</sup> James Chiles, *Drones for Hire*, Air & Space Smithsonian, January 2013, [www.airspacemag.com/flight-today/Drones-for-Hire-179517781.html](http://www.airspacemag.com/flight-today/Drones-for-Hire-179517781.html).

<sup>6</sup> James Dean, *Florida Hopes to Fill Its Skies with Unmanned Aircraft*, Florida Today, June 23, 2012, <http://usatoday30.usatoday.com/news/nation/story/2012-06-23/increased-drone-use-privacy-concerns/55783066/1>; UF

The drone industry is motivated to move into more civilian markets.<sup>7</sup> It also appears that civilian markets are ready to adopt the drone industry. According to the Consumer Electronics Association, drone shipments will increase from 250,000 units in 2014 to nearly a million in 2018.<sup>8</sup>

In February 2012, Congress passed the FAA Modernization and Reform Act of 2012, which required the FAA to safely open the nation's airspace to drones by September 2015.<sup>9</sup> The FAA authorized the testing of UAS at six sites around the country as part of its efforts. Amazon Logistics, Inc. was issued an "experimental airworthiness certificate" by the FAA on March 19, 2015, which will enable Amazon to conduct research and development and crew training using its own UAS at one of the FAA testing sites.<sup>10</sup> Amazon is working on a package delivery system called "Prime Air."<sup>11</sup>

Although it seems to be outside the congressional mandate and beyond the scope of the FAA's airspace-safety responsibilities, the FAA notified Congress in late 2012 that "privacy issues" are a concern as drones are integrated into the airspace.<sup>12</sup> On February 15, 2015, the President of the United States issued a Memorandum entitled Promoting Economic Competitiveness While Safeguarding Privacy, Civil Rights, and Civil Liberties in Domestic Use of Unmanned Aircraft Systems. Among other directives, the Presidential Memorandum requires the Department of Commerce, through the National Telecommunications and Information Administration, and in consultation with other interested agencies, to initiate a multi-stakeholder engagement process within 90 days to develop a framework for privacy, accountability, and transparency issues concerning the commercial and private use of UAS in the National Air Space.<sup>13</sup>

Also on February 15, 2015, the FAA issued its Proposed Rule for Operation and Certification of Small Unmanned Aircraft Systems.<sup>14</sup> The proposed rule, upon implementation, will enable small UAS operation to begin for civil non-hobby or non-recreational use.

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*Team's Work Pays Off With Unmanned-flight System that Captures Valuable Data*, Phys Org, October 20,2010, <http://phys.org/news/2010-10-uf-team-unmanned-flight-captures-valuable.html>.

<sup>7</sup> *Drones for Hire*, Air & Space Smithsonian, James Chiles, January 2013, [www.airspacemag.com/flight-today/Drones-for-Hire-179517781.html](http://www.airspacemag.com/flight-today/Drones-for-Hire-179517781.html).

<sup>8</sup> Harvard Business News, March 2, 2015, Larry Downes, "What's Wrong with the FAA's New Drone Rules."

<sup>9</sup> Public Law 112-95, February 14, 2012, The FAA Modernization and Reform Act of 2012; *Drones in Domestic Surveillance Operations*, Congressional Research Service, September 6, 2012, [www.fas.org/sgp/crs/natsec/R42701.pdf](http://www.fas.org/sgp/crs/natsec/R42701.pdf).

<sup>10</sup> <http://www.faa.gov/news/updates> (last visited March 19, 2015). Additionally, realtors and real estate-related drone operators in Texas, California, and Pennsylvania have been issued testing certificates by the FAA.

<sup>11</sup> <http://www.inman.com/2015/03/09/faa-approves-more-real-estate-drone-flights> (visited March 12, 2015).

<sup>12</sup> <http://www.theatlantic.com/business/archive/2015/02/faa-drone-regulations> (visited March 12, 2015).

<sup>13</sup> A Bloomberg report quotes the FAA Acting Chief as having written to members of the Congressional Unmanned Systems Caucus: "However, increasing the use of UAS in our airspace also raises privacy issues, and these issues will need to be addressed as unmanned aircraft are safely integrated." Alan Levine, *FAA Going Slow on Drones as Privacy Concerns Studied*, Bloomberg, November 26, 2012, <http://go.bloomberg.com/political-capital/2012-11-26/faa-going-slow->.

<sup>14</sup> President's Memorandum issued February 15, 2015, The White House, Office of the Press Secretary. <https://www.whitehouse.gov/the-press-office/2015/02/15/presidential-memorandum-promoting-economic-competitiveness-while-safegua> (last visited April 1, 2015).

<sup>14</sup> Federal Register, Vol. 80, No. 35.

### III. Effect of Proposed Changes:

#### Lawful Uses of Drones Designated

The bill provides the following twenty-two specific lawful uses of drones and of the images which may be captured:

- Professional or scholarly research and development connected with a college or university;
- In airspace designated by the Federal Aviation Administration as a test site or range for drones;
- Military operations, missions, or exercises;
- Images captured by a satellite or drone for mapping purposes;
- Images captured by or for an electric or natural gas utility for limited purposes;
- Images captured with the consent of the owner or lawful occupant of the real property;
- Use by law enforcement in conformity with s. 934.50(4), F.S.;
- Law enforcement use related to disasters, catastrophes, and states of emergency;
- At the scene of potential or actual hazardous material spills;
- Images captured for the purpose of fire suppression;
- Rescuing persons from imminent danger;
- Real estate marketing, sale, or financing;
- Persons and property within 25 miles of the United States border;
- In public places, from a height of no more than 8 feet above ground level, without amplification;
- Public property or persons on public property;
- By owners or operators of oil, gas, water, or other type of pipeline or facility for purposes of inspection, maintenance, or repair;
- For purposes of oil pipeline safety and rig protection;
- For port authority security and surveillance;
- Claim handling or insurance underwriting practice and procedure;
- Images captured by the owner or developer of real property for development, marketing, sale or financing of the property;
- For any other lawful commercial use by a commercial entity; or
- As a part of a commercial drone service that is lawful and permitted under federal law or with authorization from the FAA.

“Image” is defined by the bill as “any capturing of sound waves; thermal, infrared, ultraviolet, or visible light; or other electromagnetic waves, odor, or other conditions existing on or about real property in this state or an individual located on that property.” “Drone” is defined by reference to the definition in s. 934.50, F.S.

The bill also defines the term “conduct surveillance” which means to monitor, track, or follow another person with the intent to intrude on the solitude, seclusion, or privacy of a person or a person’s property, if the intrusion is the primary intent and effect, and the use is not incidental to an otherwise lawful use.

The provisions of the bill do not apply to manufacture, sale, assembly, or distribution of drones.

### **Prohibited Use of Drones**

The bill makes it illegal for a person to capture an image of an individual or of privately owned real property, with the intent to conduct surveillance on the individual or property. A person may not possess, disclose, display, distribute or otherwise use an image that is illegally captured as prohibited by the bill.

### **Protection of Unlawfully or Incidentally Captured Images**

The bill provides that unlawfully captured images or images that are incidental to the lawful capturing of an image may not be used as evidence in criminal, juvenile, civil, or administrative proceedings or actions. Such images are not subject to discovery, subpoena, or other means of legally-compelled release.

The images may, however, be released and used as evidence in a prosecution for any violation of the newly-created s. 934.55, F.S.

The effective date of the bill is October 1, 2015.

The bill contains a severability clause.

## **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:**

Although unquantifiable, the industry and commercial applications deemed “lawful” by the bill should experience a positive fiscal impact.<sup>15</sup>

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<sup>15</sup> <http://www.theatlantic.com/business/archive/2015/02/faa-drone-regulations>. (visited March 12, 2015).

**C. Government Sector Impact:**

The Office of Insurance Regulation estimates that the cost to do the research required by the bill will be \$50,000.

The Department of Transportation estimates that the study required by the bill will cost the department \$500,000.

**VI. Technical Deficiencies:**

On line 151, after the word “juvenile” it is suggested that the word “delinquency” be inserted for clarification.

It is suggested that the term “within 25 miles of the United States border” be drafted as “outside the United States border by up to 25 miles” to more clearly effectuate the apparent purpose.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 330.60 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 April 13, 2015:**

- Deletes Section 2 of the original bill. This section contained the requirement that law enforcement agencies report certain drone-related information to FDLE annually. Section 2 required FDLE to summarize the information and report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Section 2 also required FDLE to develop guidelines for the use of drones by law enforcement.
- Creates four additional lawful uses of drones. These are:
  - For claim handling or insurance underwriting practice and procedure;
  - Images captured by the owner or developer of real property for development, marketing, sale, or financing of the property;
  - For any other lawful commercial use by a commercial entity; or
  - As a part of a commercial drone service that is lawful and permitted under federal law or with authorization from the FAA.
- Eliminates all criminal law violations, defenses to those violations, and all civil remedies from the original bill.
- Provides a definition for the term “conduct surveillance.”
- Requires the Department of Transportation to review potential impacts on public safety originating from commercial applications of unmanned aerial systems. The department is also directed to coordinate with the Office of Insurance Regulation to

address the appropriate amount of liability insurance that should be carried by operators of unmanned aerial systems and report to the presiding officers of the Legislature and the Governor by January 1, 2016. The research and report will result in a fiscal impact to the Office of Insurance Regulation and the Department of Transportation.

- Contains a severability clause.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/14/2015	.	
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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 330.60, Florida Statutes, is created to  
read:

330.60 Unmanned Aerial Systems.—

(1) SHORT TITLE.—This act may be cited as the “Florida  
Privacy Act.”

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



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- 11           (a) "Drone" has the same meaning as provided in s. 934.50.
- 12           (b) "Image" means any capturing of sound waves; thermal,  
13 infrared, ultraviolet, or visible light; or other  
14 electromagnetic waves or odor or other conditions existing on or  
15 about real property in this state or an individual located on  
16 that property.
- 17           (3) LAWFUL USES.—It is lawful to capture an image using a  
18 drone in this state:
- 19           (a) For purposes of professional or scholarly research and  
20 development by a person acting on behalf of a college or  
21 university, as defined in s. 1005.02, including a person who is:
- 22           1. A professor, employee, or student of the college or  
23 university; or
- 24           2. Under contract with or otherwise acting under the  
25 direction or on behalf of the college or university;
- 26           (b) In airspace designated as a test site or range  
27 authorized by the Federal Aviation Administration for the  
28 purpose of integrating drone systems into the national airspace;
- 29           (c) As part of an operation, an exercise, or a mission of  
30 any branch of the United States military;
- 31           (d) If the image is captured by a satellite for the purpose  
32 of mapping;
- 33           (e) If the image is captured by or for an electric or  
34 natural gas utility for:
- 35           1. Operating and maintaining utility facilities, including  
36 facilities used in the generation, transmission, or distribution  
37 of electricity, gas, or water for the purpose of ensuring  
38 utility system reliability and integrity;
- 39           2. Inspecting utility facilities to determine repair,





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40 maintenance, or replacement needs during and after construction  
41 of such facilities;

42 3. Assessing vegetation growth for the purpose of  
43 maintaining clearances on utility easements or right-of-ways;

44 4. Utility facility routing, siting, or permitting for the  
45 purpose of constructing utility facilities or providing utility  
46 service;

47 5. Inspecting utility facilities to determine construction,  
48 repair, maintenance, or replacement needs before, during, and  
49 after construction of such facilities;

50 6. Conducting environmental monitoring, as provided by  
51 federal, state, or local law, rule, or permit;

52 (f) With the consent of the individual who owns or lawfully  
53 occupies the real property captured in the image;

54 (g) If the image is captured by a law enforcement agency in  
55 compliance with s. 934.50(4);

56 (h) If the image is captured by state or local law  
57 enforcement authorities, or a person who is under contract with  
58 or otherwise acting under the direction or on behalf of such  
59 authorities, for the purpose of:

60 1. Surveying the scene of a catastrophe or other damage to  
61 determine whether a state of emergency should be declared, use  
62 of drones before, during, and after manmade or natural  
63 disasters, or in exercises with local, state, or federal  
64 organizations that have emergency management roles and missions;

65 2. Preserving public safety, protecting property, or  
66 surveying damage or contamination during a lawfully declared  
67 state of emergency; or

68 3. Conducting routine air quality sampling and monitoring,



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69 as provided by state or local law;  
70 (i) At the scene of a spill, or a suspected spill, of  
71 hazardous materials;  
72 (j) For the purpose of fire suppression;  
73 (k) For the purpose of rescuing a person whose life or  
74 well-being is in imminent danger;  
75 (l) If the image is captured by a real estate broker  
76 licensed in this state in connection with the marketing, sale,  
77 or financing of real property, provided that no individual is  
78 identifiable in the image;  
79 (m) Of real property or a person on real property that is  
80 within 25 miles of the United States border;  
81 (n) From a height of no more than 8 feet above ground level  
82 in a public place, if the image was captured without using any  
83 electronic, mechanical, or other means to amplify the image  
84 beyond normal human perception;  
85 (o) Of public real property or a person on such property;  
86 (p) If the image is captured by the owner or operator of an  
87 oil, gas, water, or other pipeline for the purpose of  
88 inspecting, maintaining, or repairing the pipeline or other  
89 related facility, provided that the image is captured without  
90 the intent to conduct surveillance on an individual or real  
91 property located in this state;  
92 (q) In connection with oil pipeline safety and rig  
93 protection;  
94 (r) In connection with port authority surveillance and  
95 security;  
96 (s) If the image is captured in connection with a claim  
97 handling or underwriting practice or procedure of a Florida



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98 licensed insurer, an eligible surplus lines insurer, an  
99 accredited reinsurer, or a joint underwriting association; or

100 (t) If the image is captured by the owner or developer of  
101 real property in connection with the development, marketing,  
102 sale, or financing of such real property, provided that no  
103 individual is identifiable in the image.

104 (4) ILLEGAL USE OF DRONE TO CAPTURE IMAGE.-

105 (a) Except as provided in subsection (3), a person may not  
106 use a drone to capture an image of an individual or privately  
107 owned real property in this state with the intent to conduct  
108 surveillance on the individual or property captured in the  
109 image.

110 (b) A violation of this subsection is a misdemeanor of the  
111 second degree, punishable as provided in s. 775.082 or s.  
112 775.083.

113 (c) It is a defense to prosecution under this subsection  
114 that the person destroys the image as soon as the person has  
115 knowledge that the image is captured in violation of this  
116 subsection and that the person does so without disclosing,  
117 displaying, or distributing the image to a third party.

118 (5) POSSESSION, DISCLOSURE, DISPLAY, DISTRIBUTION, OR USE  
119 OF IMAGE.-

120 (a) A person may not:

121 1. Capture an image in violation of subsection (4);

122 and

123 2. Possess, disclose, display, distribute, or otherwise use  
124 that image.

125 (b)1. A violation of paragraph (a) for the possession of an  
126 image is a misdemeanor of the second degree, punishable as



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127 provided in s. 775.082 or s. 775.083.

128 2. A violation of paragraph (a) for the disclosure,  
129 display, distribution, or other use of an image is a misdemeanor  
130 of the first degree, punishable as provided in s. 775.082 or s.  
131 775.083.

132 (c) Each image that a person possesses, discloses,  
133 displays, distributes, or otherwise uses in violation of this  
134 subsection is a separate offense.

135 (d) It is a defense to prosecution under this subsection  
136 for the possession of an image that the person destroys the  
137 image as soon as the person has knowledge that the image is  
138 captured in violation of subsection (4).

139 (e) It is a defense to prosecution under this subsection  
140 for the disclosure, display, distribution, or other use of an  
141 image that the person stops disclosing, displaying,  
142 distributing, or otherwise using the image as soon as the person  
143 has knowledge that the image is captured in violation of  
144 subsection (4).

145 (6) ILLEGALLY OR INCIDENTALY CAPTURED IMAGES NOT SUBJECT  
146 TO DISCLOSURE.—

147 (a) Except as otherwise provided in paragraph (b), an image  
148 captured in violation of subsection (4), or an image captured by  
149 a drone which was incidental to the lawful capturing of an  
150 image:

151 1. May not be used as evidence in any criminal or juvenile  
152 proceeding, civil action, or administrative proceeding; and

153 2. Is not subject to discovery, subpoena, or other means of  
154 legal compulsion for its release.

155 (b) An image described in paragraph (a) may be disclosed



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156 and used as evidence in a prosecution for any violation of this  
157 section and is subject to discovery, subpoena, or other means of  
158 legal compulsion for that purpose.

159 (7) CIVIL ACTION.-

160 (a) An owner or tenant of a privately owned real property  
161 located in this state may bring against a person, who in  
162 violation of subsection (4) captured an image of the property or  
163 the owner or tenant while on the property, an action to:

164 1. Enjoin a violation or imminent violation of subsection  
165 (4) or subsection (5).

166 2. Recover a civil penalty of:

167 a. Five thousand dollars for all images captured in a  
168 single episode in violation of subsection (4); or

169 b. Ten thousand dollars for disclosure, display,  
170 distribution, or other use of all images captured in a single  
171 episode in violation of subsection (5).

172 3. Recover actual damages if the person who captured the  
173 image in violation of subsection (4) discloses, displays, or  
174 distributes the image with malice.

175 (b) For purposes of recovering the civil penalty or actual  
176 damages under paragraph (a), all owners of a parcel of real  
177 property are considered to be a single owner and all tenants of  
178 a parcel of real property are considered to be a single tenant.

179 (c) In addition to any civil penalties authorized under  
180 this subsection, the court shall award court costs and  
181 reasonable attorney fees to the prevailing party.

182 (d) Notwithstanding s. 95.11, an action brought under this  
183 subsection must be commenced within 2 years after the date that  
184 the image was:



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185       1. Captured in violation of subsection (4); or  
186       2. Initially disclosed, displayed, distributed, or  
187 otherwise used in violation of subsection (5).

188       (8) APPLICABILITY.—This section does not apply to the  
189 manufacture, assembly, distribution, or sale of a drone.

190       Section 2. Section 330.60, Florida Statutes, as created by  
191 this act, applies only to images captured on or after October 1,  
192 2015.

193       Section 3. If any provision of this act or its application  
194 to any person or circumstance is held invalid, the invalidity  
195 does not affect other provisions or applications of the act  
196 which can be given effect without the invalid provision or  
197 application, and to this end the provisions of this act are  
198 severable.

199       Section 4. This act shall take effect October 1, 2015.

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

202 And the title is amended as follows:

203       Delete everything before the enacting clause  
204 and insert:

205                               A bill to be entitled  
206       An act relating to drone privacy; creating s. 330.60,  
207       F.S.; providing a short title; defining terms;  
208       specifying situations in which it is lawful to capture  
209       an image with a drone; prohibiting the capture of an  
210       image of an individual or privately owned real  
211       property using a drone in certain circumstances;  
212       providing penalties; providing a defense to  
213       prosecution; prohibiting the possession, disclosure,



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214 display, distribution, or use of such illegally  
215 captured images; providing penalties; providing  
216 defenses to prosecution; prohibiting the use or  
217 discovery of such images in legal proceedings;  
218 providing exceptions; providing for civil actions for  
219 damages relating to violations; providing for court  
220 costs and attorney fees; specifying a limitations  
221 period for such actions; providing applicability;  
222 providing severability; providing an effective date.



193802

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2015	.	
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The Committee on Criminal Justice (Brandes) recommended the following:

1           **Senate Substitute for Amendment (133542) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. Section 330.60, Florida Statutes, is created to  
7 read:

8           330.60 Unmanned aerial systems.—

9           (1) SHORT TITLE.—This act may be cited as the “Florida  
10 Privacy Act.”





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11           (2) DEFINITIONS.—As used in this section, the term:  
12           (a) "Conduct surveillance" means the willful act of  
13 monitoring, tracking, or following that intrudes upon the  
14 solitude or seclusion of a person or a person's property, where  
15 the intrusion is the primary intent and effect of the act and is  
16 not incident to an otherwise lawful use.  
17           (b) "Drone" has the same meaning as provided in s. 934.50.  
18           (c) "Image" means any capturing of sound waves; thermal,  
19 infrared, ultraviolet, or visible light; or other  
20 electromagnetic waves or odor or other conditions existing on or  
21 about real property in this state or of an individual located on  
22 that property.  
23           (3) LAWFUL USES.—It is lawful to capture an image using a  
24 drone in this state:  
25           (a) For purposes of professional or scholarly research and  
26 development by a person acting on behalf of a college or  
27 university, as defined in s. 1005.02, including a person who is:  
28           1. A professor, employee, or student of the college or  
29 university; or  
30           2. Under contract with or otherwise acting under the  
31 direction or on behalf of the college or university;  
32           (b) In airspace designated as a test site or range  
33 authorized by the Federal Aviation Administration for the  
34 purpose of integrating drone systems into the national airspace;  
35           (c) As part of an operation, an exercise, or a mission of  
36 any branch of the United States military;  
37           (d) For the purpose of mapping by a satellite or by a drone  
38 operating as a commercial service authorized by the Federal  
39 Aviation Administration or under regulation adopted by the



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40 administration for commercial use;  
41 (e) If the image is captured by or for an electric or  
42 natural gas utility for:  
43 1. Operating and maintaining utility facilities, including  
44 facilities used in the generation, transmission, or distribution  
45 of electricity, gas, or water for the purpose of ensuring  
46 utility system reliability and integrity;  
47 2. Inspecting utility facilities to determine repair,  
48 maintenance, or replacement needs during and after construction  
49 of such facilities;  
50 3. Assessing vegetation growth for the purpose of  
51 maintaining clearances on utility easements or rights-of-way;  
52 4. Utility facility routing, siting, or permitting for the  
53 purpose of constructing utility facilities or providing utility  
54 service;  
55 5. Inspecting utility facilities to determine construction,  
56 repair, maintenance, or replacement needs before, during, and  
57 after construction of such facilities; or  
58 6. Conducting environmental monitoring, as provided by  
59 federal, state, or local law, rule, or permit;  
60 (f) With the consent of the individual who owns or lawfully  
61 occupies the real property captured in the image;  
62 (g) If the image is captured by a law enforcement agency in  
63 compliance with s. 934.50(4);  
64 (h) If the image is captured by state or local law  
65 enforcement authorities, or a person who is under contract with  
66 or otherwise acting under the direction or on behalf of such  
67 authorities, for the purpose of:  
68 1. Surveying the scene of a catastrophe or other damage to



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69 determine whether a state of emergency should be declared;  
70 before, during, and after manmade or natural disasters; or in  
71 exercises with local, state, or federal organizations that have  
72 emergency management roles and missions;

73 2. Preserving public safety, protecting property, or  
74 surveying damage or contamination during a lawfully declared  
75 state of emergency; or

76 3. Conducting routine air quality sampling and monitoring,  
77 as provided by state or local law;

78 (i) At the scene of a spill, or a suspected spill, of  
79 hazardous materials;

80 (j) For the purpose of fire suppression;

81 (k) For the purpose of rescuing a person whose life or  
82 well-being is in imminent danger;

83 (l) If the image is captured by a real estate broker  
84 licensed in this state in connection with the marketing, sale,  
85 or financing of real property, provided that no individual is  
86 identifiable in the image;

87 (m) Of real property or a person on real property that is  
88 within 25 miles of the United States border;

89 (n) From a height of no more than 8 feet above ground level  
90 in a public place, if the image was captured without using any  
91 electronic, mechanical, or other means to amplify the image  
92 beyond normal human perception;

93 (o) Of public real property or a person on such property;

94 (p) If the image is captured by the owner or operator of an  
95 oil, gas, water, or other pipeline for the purpose of  
96 inspecting, maintaining, or repairing the pipeline or other  
97 related facility, provided that the image is captured without



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98 the intent to conduct surveillance on an individual or real  
99 property located in this state;

100 (q) In connection with oil pipeline safety and rig  
101 protection;

102 (r) In connection with port authority surveillance and  
103 security;

104 (s) If the image is captured in connection with a claim  
105 handling or underwriting practice or procedure of a Florida  
106 licensed insurer, an eligible surplus lines insurer, an  
107 accredited reinsurer, or a joint underwriting association;

108 (t) If the image is captured by the owner or developer of  
109 real property in connection with the development, marketing,  
110 sale, or financing of such real property, provided that no  
111 individual is identifiable in the image;

112 (u) For any other lawful commercial use by a commercial  
113 entity; or

114 (v) As a part of a commercial drone service that is lawful  
115 and permitted under federal law or with authorization from the  
116 Federal Aviation Administration.

117 (4) ILLEGAL USE OF DRONE TO CAPTURE IMAGE.—Except as  
118 provided in subsection (3), a person may not use a drone to  
119 capture an image of an individual or privately owned real  
120 property in this state with the intent to conduct surveillance  
121 on the individual or property captured in the image.

122 (5) POSSESSION, DISCLOSURE, DISPLAY, DISTRIBUTION, OR USE  
123 OF IMAGE.—A person may not:

124 (a) Capture an image in violation of subsection (4);  
125 and

126 (b) Possess, disclose, display, distribute, or otherwise



193802

127 use that image.

128 (6) ILLEGALLY OR INCIDENTALLY CAPTURED IMAGES NOT SUBJECT  
129 TO DISCLOSURE.—

130 (a) Except as otherwise provided in paragraph (b), an image  
131 captured in violation of subsection (4), or an image captured by  
132 a drone which was incidental to the lawful capturing of an  
133 image:

134 1. May not be used as evidence in any criminal or juvenile  
135 proceeding, civil action, or administrative proceeding; and

136 2. Is not subject to discovery, subpoena, or other means of  
137 legal compulsion for its release.

138 (b) An image described in paragraph (a) may be disclosed  
139 and used as evidence in a prosecution for any violation of this  
140 section and is subject to discovery, subpoena, or other means of  
141 legal compulsion for that purpose.

142 (7) APPLICABILITY.—This section does not apply to the  
143 manufacture, assembly, distribution, or sale of a drone.

144 (8) REPORT.—The Department of Transportation is directed to  
145 review potential impacts on public safety originating from  
146 commercial applications of unmanned aerial systems. The  
147 department, in coordination with the Office of Insurance  
148 Regulation, is directed to make recommendations addressing the  
149 appropriate amount of liability insurance to be carried by  
150 operators of unmanned aerial systems used in commercial  
151 applications in this state. The department shall submit a report  
152 to the Governor, the President of the Senate, and the Speaker of  
153 the House of Representatives by January 1, 2016, outlining the  
154 department's and the office's recommendations.

155 Section 2. Section 330.60, Florida Statutes, as created by



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156 this act, applies only to images captured on or after October 1,  
157 2015.

158 Section 3. If any provision of this act or its application  
159 to any person or circumstance is held invalid, the invalidity  
160 does not affect other provisions or applications of the act  
161 which can be given effect without the invalid provision or  
162 application, and to this end the provisions of this act are  
163 severable.

164 Section 4. This act shall take effect October 1, 2015.

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

166 And the title is amended as follows:

167 Delete everything before the enacting clause  
168 and insert:

169 A bill to be entitled  
170 An act relating to drone privacy; creating s. 330.60,  
171 F.S.; providing a short title; defining terms;  
172 specifying situations in or purposes for which it is  
173 lawful to capture an image with a drone; prohibiting  
174 the use of a drone to capture an image of an  
175 individual or privately owned real property in certain  
176 circumstances; prohibiting the possession, disclosure,  
177 display, distribution, or use of such illegally  
178 captured images; providing exceptions; providing  
179 applicability; requiring the Department of  
180 Transportation to review the potential impact on  
181 public safety from commercial applications of unmanned  
182 aerial systems and submit a report, in coordination  
183 with the Office of Insurance Regulation, to the  
184 Governor and the Legislature by a certain date;



185 specifying that this act only applies to images  
186 captured after a specified date; providing  
187 severability; providing an effective date.



337230

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2015	.	
	.	
	.	
	.	

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The Committee on Criminal Justice (Brandes) recommended the following:

**Senate Amendment to Amendment (193802)**

Delete lines 12 - 16  
and insert:

(a) "Conduct surveillance" means to monitor, track, or follow another person with the intent to intrude on the solitude, seclusion, or privacy of a person or a person's property, if the intrusion is the primary intent and effect, and the use is not incidental to an otherwise lawful use.



By Senator Richter

23-00818-15

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A bill to be entitled

An act relating to drone surveillance; providing a short title; amending s. 934.50, F.S.; conforming a cross-reference for purposes of a short title; requiring the Department of Law Enforcement to develop guidelines for the use of drones by state or local law enforcement agencies; requiring such law enforcement agencies to annually report to the department, and requiring the department to annually report to the Governor and Legislature, regarding drone usage; creating s. 934.55, F.S.; providing definitions; specifying situations in which it is lawful to capture an image with a drone; prohibiting the capture of an image of an individual or privately owned real property using a drone in certain circumstances; providing criminal penalties; prohibiting possession, disclosure, display, distribution, or use of such illegally captured images; providing criminal penalties; providing defenses to prosecution; prohibiting the use or discovery of such images in legal proceedings; providing exceptions; providing for civil actions for damages relating to violations; providing for court costs and attorney fees; specifying a limitations period for such actions; providing applicability; providing an effective date.

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

Section 1. This act may be cited as the "Florida Drone

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Privacy Act."

Section 2. Subsection (1) of section 934.50, Florida Statutes, is amended, and subsections (7) and (8) are added to that section, to read:

934.50 Law enforcement use of drones ~~Searches and seizure using a drone.~~

(1) SHORT TITLE.—This section ~~act~~ may be cited as the "Freedom from Unwarranted Surveillance Act."

(7) GUIDELINES.—The Department of Law Enforcement shall adopt guidelines for the use of a drone by state or local law enforcement agencies in accordance with this section.

(8) REPORTING.—

(a) Each January 15, a state law enforcement agency and a county or municipal law enforcement agency located in a county or municipality, as applicable, with a population greater than 150,000 that used or operated a drone during the preceding year shall report, to the extent such information is not exempt from disclosure under chapter 119, to the Department of Law Enforcement:

1. The number of times a drone was used by that reporting entity, organized by date, time, location, and type of incident for each use.

2. The number of criminal investigations aided by the use of a drone and a description of how the drone aided in each investigation.

3. The number of times a drone was used for a law enforcement operation other than a criminal investigation, the dates and locations of those operations, and a description of how the drone aided in each operation.

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59 4. The type of information collected on the individual,  
 60 residence, property, or area that was not the subject of a law  
 61 enforcement operation and the frequency of the collection of  
 62 this information.

63 5. The total cost of acquiring, maintaining, repairing, and  
 64 operating or otherwise using each drone for the preceding year.

65 (b) Each April 1, the Department of Law Enforcement shall  
 66 report to the Governor, the President of the Senate, and the  
 67 Speaker of the House of Representatives, summarizing the  
 68 information received under paragraph (a) concerning the use of  
 69 drones in the state, including summary totals for each  
 70 jurisdiction reporting the information received under paragraph  
 71 (a).

72 Section 3. Section 934.55, Florida Statutes, is created to  
 73 read:

74 934.55 Use of drones to capture images; generally.—

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

76 (a) "Drone" has the same meaning as provided in s. 934.50.

77 (b) "Image" means any capturing of sound waves; thermal,  
 78 infrared, ultraviolet, or visible light; or other  
 79 electromagnetic waves, odor, or other conditions existing on or  
 80 about real property in this state or an individual located on  
 81 that property.

82 (2) APPLICABILITY.—

83 (a) It is lawful to capture an image using a drone in this  
 84 state:

85 1. For purposes of professional or scholarly research and  
 86 development by a person acting on behalf of a college or  
 87 university, as defined in s. 1005.02, including a person who:

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88 a. Is a professor, employee, or student of the institution;

89 or

90 b. Is under contract with or otherwise acting under the  
 91 direction or on behalf of the institution;

92 2. In airspace designated as a test site or range  
 93 authorized by the Federal Aviation Administration for the  
 94 purpose of integrating drone systems into the national airspace;

95 3. As part of an operation, an exercise, or a mission of  
 96 any branch of the United States military;

97 4. If the image is captured by a satellite for the purpose  
 98 of mapping;

99 5. If the image is captured by or for an electric or  
 100 natural gas utility:

101 a. For operations and maintenance of utility facilities for  
 102 the purpose of maintaining utility system reliability and  
 103 integrity;

104 b. For inspecting utility facilities to determine repair,  
 105 maintenance, or replacement needs during and after construction  
 106 of such facilities;

107 c. For assessing vegetation growth for the purpose of  
 108 maintaining clearances on utility easements; and

109 d. For utility facility routing and siting for the purpose  
 110 of providing utility service;

111 6. With the consent of the individual who owns or lawfully  
 112 occupies the real property captured in the image;

113 7. If the image is captured by a law enforcement agency in  
 114 compliance with s. 934.50(4);

115 8. If the image is captured by state or local law  
 116 enforcement authorities, or a person who is under contract with

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117 or otherwise acting under the direction or on behalf of such  
 118 authorities, for the purpose of:

119 a. Surveying the scene of a catastrophe or other damage to  
 120 determine whether a state of emergency should be declared,  
 121 allowing for the use of drones before, during, and after manmade  
 122 or natural disasters, and in exercises with local, state, and  
 123 federal organizations that have emergency management roles and  
 124 missions;

125 b. Preserving public safety, protecting property, or  
 126 surveying damage or contamination during a lawfully declared  
 127 state of emergency; or

128 c. Conducting routine air quality sampling and monitoring,  
 129 as provided by state or local law;

130 9. At the scene of a spill, or a suspected spill, of  
 131 hazardous materials;

132 10. For the purpose of fire suppression;

133 11. For the purpose of rescuing a person whose life or  
 134 well-being is in imminent danger;

135 12. If the image is captured by a real estate broker  
 136 licensed in this state in connection with the marketing, sale,  
 137 or financing of real property, provided that no individual is  
 138 identifiable in the image;

139 13. Of real property or a person on real property that is  
 140 within 25 miles of the United States border;

141 14. From a height of no more than 8 feet above ground level  
 142 in a public place, if the image was captured without using any  
 143 electronic, mechanical, or other means to amplify the image  
 144 beyond normal human perception;

145 15. Of public real property or a person on such property;

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146 16. If the image is captured by the owner or operator of an  
 147 oil, gas, water, or other pipeline for the purpose of  
 148 inspecting, maintaining, or repairing the pipeline or other  
 149 related facility, provided that the image is captured without  
 150 the intent to conduct surveillance on an individual or real  
 151 property located in this state;

152 17. In connection with oil pipeline safety and rig  
 153 protection; or

154 18. In connection with port authority surveillance and  
 155 security.

156 (b) This section does not apply to the manufacture,  
 157 assembly, distribution, or sale of a drone.

158 (3) ILLEGAL USE OF DRONE TO CAPTURE IMAGE.—

159 (a) A person violates this subsection if the person uses a  
 160 drone to capture an image of an individual or privately owned  
 161 real property in this state with the intent to conduct  
 162 surveillance on the individual or property captured in the  
 163 image.

164 (b) A violation of this subsection is a misdemeanor of the  
 165 second degree, punishable as provided in s. 775.082 or s.  
 166 775.083.

167 (c) It is a defense to prosecution under this subsection  
 168 that the person destroyed the image as soon as the person had  
 169 knowledge that the image was captured in violation of this  
 170 subsection and did so without disclosing, displaying, or  
 171 distributing the image to a third party.

172 (4) POSSESSION, DISCLOSURE, DISPLAY, DISTRIBUTION, OR USE  
 173 OF IMAGE.—

174 (a) A person violates this subsection if the person:

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175 1. Captures an image in violation of subsection (3);  
 176 and  
 177 2. Possesses, discloses, displays, distributes, or  
 178 otherwise uses that image.  
 179 (b)1. A violation of paragraph (a) for the possession of an  
 180 image is a misdemeanor of the second degree, punishable as  
 181 provided in s. 775.082 or s. 775.083.  
 182 2. A violation of paragraph (a) for the disclosure,  
 183 display, distribution, or other use of an image is a misdemeanor  
 184 of the first degree, punishable as provided in s. 775.082 or s.  
 185 775.083.  
 186 (c) Each image that a person possesses, discloses,  
 187 displays, distributes, or otherwise uses in violation of this  
 188 subsection is a separate offense.  
 189 (d) It is a defense to prosecution under this subsection  
 190 for the possession of an image that the person destroyed as soon  
 191 as the person had knowledge that the image was captured in  
 192 violation of subsection (3).  
 193 (e) It is a defense to prosecution under this subsection  
 194 for the disclosure, display, distribution, or other use of an  
 195 image that the person stopped disclosing, displaying,  
 196 distributing, or otherwise using the image as soon as the person  
 197 had knowledge that the image was captured in violation of  
 198 subsection (3).  
 199 (5) ILLEGALLY OR INCIDENTALLY CAPTURED IMAGES NOT SUBJECT  
 200 TO DISCLOSURE.—  
 201 (a) Except as otherwise provided in paragraph (b), an image  
 202 captured in violation of subsection (3), or an image captured by  
 203 a drone that was incidental to the lawful capturing of an image:

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204 1. May not be used as evidence in any criminal or juvenile  
 205 proceeding, civil action, or administrative proceeding; and  
 206 2. Is not subject to discovery, subpoena, or other means of  
 207 legal compulsion for its release.  
 208 (b) An image described in paragraph (a) may be disclosed  
 209 and used as evidence in a prosecution for any violation of this  
 210 section and is subject to discovery, subpoena, or other means of  
 211 legal compulsion for that purpose.  
 212 (6) CIVIL ACTION.—  
 213 (a) An owner or tenant of privately owned real property  
 214 located in this state may bring against a person, who in  
 215 violation of subsection (3) captured an image of the property or  
 216 the owner or tenant while on the property, an action to:  
 217 1. Enjoin a violation or imminent violation of subsection  
 218 (3) or subsection (4).  
 219 2. Recover a civil penalty of:  
 220 a. Five thousand dollars for all images captured in a  
 221 single episode in violation of subsection (3); or  
 222 b. Ten thousand dollars for disclosure, display,  
 223 distribution, or other use of all images captured in a single  
 224 episode in violation of subsection (4).  
 225 3. Recover actual damages if the person who captured the  
 226 image in violation of subsection (3) discloses, displays, or  
 227 distributes the image with malice.  
 228 (b) For purposes of recovering the civil penalty or actual  
 229 damages under paragraph (a), all owners of a parcel of real  
 230 property are considered to be a single owner and all tenants of  
 231 a parcel of real property are considered to be a single tenant.  
 232 (c) In addition to any civil penalties authorized under

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233 this subsection, the court shall award court costs and  
234 reasonable attorney fees to the prevailing party.

235 (d) Notwithstanding s. 95.11, an action brought under this  
236 subsection must be commenced within 2 years after the date that  
237 the image was:

238 1. Captured in violation of subsection (3); and  
239 2. Initially disclosed, displayed, distributed, or  
240 otherwise used in violation of subsection (4).

241 Section 4. Section 934.55, Florida Statutes, as created by  
242 this act, applies only to images captured on or after October 1,  
243 2015.

244 Section 5. This act shall take effect October 1, 2015.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/13/15  
Meeting Date

1178  
Bill Number (if applicable)

193802

Amendment Barcode (if applicable)

Topic Unmanned Aerial Systems

Name Stephen Myers

Job Title President - Owner Angel Eyes UAV, LLC

Address 6610 Willow Park Drive, suite 200

Street

Phone (239) 450-1515

Naples

City

FL

State

34109

Zip

Email SJM@AngelEyesUAV.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Unmanned Aerial Systems Industry

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)

13 Apr 2015  
Meeting Date

SB 1178  
Bill Number (if applicable)

Topic Unmanned Aerial Systems "Florida Privacy Act" Amendment Barcode (if applicable) 193802

Name Grant Begley

Job Title President/Owner Drone Company

Address 1254 Green View Lane  
Street

Phone 407-697-3205

Gulf Breeze FL 32563  
City State Zip

Email GrantBegley@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Unmanned Aerial Systems (Drone) Industry

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)

13 APR 2015  
Meeting Date

SR 1178  
Bill Number (if applicable)

Topic UNMANNED AERIAL SYSTEMS

193802  
Amendment Barcode (if applicable)

Name CHAD SWAN

Job Title OWNER, PRESIDENT - UNLIMITED AERIAL SYSTEMS

Address 5945 CREEK SIDE CIR

Phone 760-846-6185

PENSACOLA FL 32514  
City State Zip

Email CHAD@CREATIVEDEVSO.COM

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FLORIDA UNMANNED AERIAL SYSTEMS INDUSTRY

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)

4/13/2015

Meeting Date

Topic \_\_\_\_\_

Bill Number 1178  
*(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.)

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

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BILL: SB 1464

INTRODUCER: Senator Dean

SUBJECT: Public Facilities

DATE: March 20, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	<b>Pre-meeting</b>
2.			ACJ	
3.			FP	

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**I. Summary:**

SB 1464 creates legislative intent to secure privacy and safety for all individuals using public facilities. It provides that there is an expectation of privacy in public facilities which are places of increased vulnerability and present the potential for crimes against individuals using the facilities.

The bill defines Public Accommodations and Public Facilities. The bill provides that a person who knowingly and willfully enters a public facility with the intent to harass or engage in harassment, lewd behavior, assault, battery, molestation, rape, or voyeurism commits a felony of the second degree.

The bill creates a private cause of action by providing that a person who knowingly and willfully enters a public facility with the intent to harass or engage in harassment, lewd behavior, assault, battery, molestation, rape, or voyeurism is liable for a civil action to any person who is using the public facility at the time of the unlawful entry for the damages caused by the unlawful entry, together with reasonable attorney fees and costs. The bill provides for civil liability of an owner of public accommodations, a school, or a place of employment who maintain public facilities who encourages use of the facilities contrary to its lawful use.

**II. Present Situation:**

**Places of Public Accommodation**

Section 760.02, F.S., defines the term to mean “places of public accommodation, lodgings, facilities principally engaged in selling food for consumption on the premises, gasoline stations, places of exhibition or entertainment, and other covered establishments. Each of the following establishments which serves the public is a place of public accommodation within the meaning of this section:

- Any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than four rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his or her residence.
- Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment, or any gasoline station.
- Any motion picture theater, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment.
- Any establishment which is physically located within the premises of any establishment otherwise covered by this subsection, or within the premises of which is physically located any such covered establishment, and which holds itself out as serving patrons of such covered establishment.”

### **Lewdness**

Under s. 796.07(1)(b), F.S., prohibiting prostitution “lewdness” is defined as any indecent or obscene act. However there is nothing in the Florida Statutes prohibiting a lewd and lascivious act that does not “otherwise define the behavior that constitutes a lewd and lascivious act.”<sup>1</sup> There is case law defining lewdness as the “equivalent of both licentiousness<sup>2</sup> and lasciviousness.”<sup>3</sup>

### **Assault**

Section 784.011, F.S., defines an “assault” as an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent. Whoever commits an assault shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

### **Battery**

Section 784.03, F.S., provides that the offense of battery occurs when a person:

- Actually and intentionally touches or strikes another person against the will of the other; or
- Intentionally causes bodily harm to another person.

Except as provided below, a person who commits battery commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

A person who has one prior conviction for battery, aggravated battery, or felony battery and who commits any second or subsequent battery commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S. For purposes of this subsection,

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<sup>1</sup> 16A Fla. Jur 2d, *Criminal Law –Substantive Principles/Offenses* s. 793(2015).

<sup>2</sup> *State ex rel Swanboro v. Mayo*, 155, Fla 330, 19 So. 2d 883 (1944).

<sup>3</sup> *Holton v. State*, 28 Fla. 303, 9 So. 716(1891)

“conviction” means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

### **Harassment**

The definition of “Harass” under s. 784.048, F.S., of the Stalking statute means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.

### **Voyeurism**

Section 810.14, F.S., provides that a person commits the offense of voyeurism when he or she, with lewd, lascivious, or indecent intent:

- Secretly observes another person when the other person is located in a dwelling, structure, or conveyance and such location provides a reasonable expectation of privacy.
- Secretly observes another person’s intimate areas in which the person has a reasonable expectation of privacy, when the other person is located in a public or private dwelling, structure, or conveyance. As used in this paragraph, the term “intimate area” means any portion of a person's body or undergarments that is covered by clothing and intended to be protected from public view.

### **Sexual Battery**

Sexual Battery means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.<sup>4</sup>

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

The bill creates the following legislative intent:

The purpose of the act is to secure privacy and safety for all individual using public facilities. It makes legislative findings that:

- There is an expectation of privacy in public facilities.
- Public facilities are places of increased vulnerability and present the potential for crimes against individuals using those facilities, including, but not limited to, harassment, lewd behavior, assault, battery, molestation, rape, and voyeurism.

The bill creates s. 398.01, F.S. It provides a definition of “public accommodations” for purposes of the section to mean places of public accommodation, lodgings, facilities principally engaged in selling food for consumption on the premises, gasoline stations, places of exhibition or entertainment, and other covered establishments.

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<sup>4</sup> See s. 794.011, F.S.

The following establishments are places of public accommodation:

- Any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than four rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his or her residence.
- Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment, or any gasoline station.
- Any motion picture theater, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment.
- Any establishment which is physically located within the premises of any establishment otherwise covered by this subsection, or within the premises of which is physically located in any such covered establishment, and which holds itself out as serving patrons of such covered establishment.

The bill defines “public facilities” as bathrooms, restrooms, dressing rooms, fitting rooms, locker rooms, showers, and other similar facilities where there is a reasonable expectation of privacy; that are maintained by an owner of public accommodations, a school, or a place of employment; and that are designed or designated to be used by more than one person at a time.

### **Prohibited Conduct**

The bill provides that a person who knowingly and willfully enters a public facility with the intent to harass or engage in harassment, lewd behavior, assault, battery, molestation, rape, or voyeurism commits a felony of the second degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

### **Private Cause of Action**

The bill provides that a person who knowingly and willfully enters a public facility with the intent to harass or engage in harassment, lewd behavior, assault, battery, molestation, rape, or voyeurism is liable for a civil action to any person who is using the public facility at the time of the unlawful entry for the damages caused by the unlawful entry, together with reasonable attorney fees and costs.

The bill provides that an owner of public accommodations, a school, or a place of employment who maintains public facilities and advertises, promotes, or encourages use of those facilities in violation of the above referenced section governing prohibited conduct, or fails to take reasonable remedial measures after learning of the use, is liable in a civil action to any person who is lawfully using those facilities at the time of the unlawful entry for the damages caused by the unlawful entry, together with reasonable attorney fees and costs.

### **Effective Date**

The bill provides an effective date of October 1, 2015.

**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:

The bill creates a private cause of action for damages, costs, and fees.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

The bills use of the term “rape” is no longer used in the Florida Statutes. “Sexual Battery” is now the standard terminology to describe oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object in defined circumstances outlined in the Florida Statutes.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 398.01 of the Florida Statutes.

**IX. Additional Information:**

## A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

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By Senator Dean

5-00284B-15

20151464\_\_

A bill to be entitled

An act relating to public facilities; providing a purpose and legislative findings; creating s. 398.01, F.S.; defining terms; providing penalties for specified crimes; providing for a private cause of action for damages, costs, and fees; providing for liability for an owner of public accommodations under certain circumstances for damages, costs, and fees; providing an effective date.

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

Section 1. Purpose; legislative findings.-

(1) The purpose of this act is to secure privacy and safety for all individuals using public facilities.

(2) The Legislature finds that:

(a) There is an expectation of privacy in public facilities.

(b) Public facilities are places of increased vulnerability and present the potential for crimes against individuals using those facilities, including, but not limited to, harassment, lewd behavior, assault, battery, molestation, rape, and voyeurism.

Section 2. Section 398.01, Florida Statutes, is created to read:

398.01 Privacy for persons using public facilities.-

(1) DEFINITIONS.-For purposes of this section, the term:

(a) "Public accommodations" means places of public accommodation, lodgings, facilities principally engaged in

5-00284B-15

20151464\_\_

selling food for consumption on the premises, gasoline stations, places of exhibition or entertainment, and other covered establishments. Each of the following establishments which serves the public is a place of public accommodation within the meaning of this section:

1. Any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than four rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his or her residence.

2. Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment, or any gasoline station.

3. Any motion picture theater, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment.

4. Any establishment which is physically located within the premises of any establishment otherwise covered by this subsection, or within the premises of which is physically located in any such covered establishment, and which holds itself out as serving patrons of such covered establishment.

(b) "Public facilities" means bathrooms, restrooms, dressing rooms, fitting rooms, locker rooms, showers, and other similar facilities where there is a reasonable expectation of privacy; that are maintained by an owner of public accommodations, a school, or a place of employment; and that are designed or designated to be used by more than one person at a



5-00284B-15

20151464\_\_

59 time.

60 (2) PROHIBITED CONDUCT.—A person who knowingly and  
61 willfully enters a public facility with the intent to harass or  
62 engage in harassment, lewd behavior, assault, battery,  
63 molestation, rape, or voyeurism commits a felony of the second  
64 degree, punishable as provided in s. 775.082 or s. 775.083.

65 (3) PRIVATE CAUSE OF ACTION.—

66 (a) A person who knowingly and willfully enters a public  
67 facility with the intent to harass or engage in harassment, lewd  
68 behavior, assault, battery, molestation, rape, or voyeurism is  
69 liable in a civil action to any person who is using the public  
70 facility at the time of the unlawful entry for the damages  
71 caused by the unlawful entry, together with reasonable attorney  
72 fees and costs.

73 (b) An owner of public accommodations, a school, or a place  
74 of employment who maintains public facilities and advertises,  
75 promotes, or encourages use of those facilities in violation of  
76 subsection (2), or fails to take reasonable remedial measures  
77 after learning of such use, is liable in a civil action to any  
78 person who is lawfully using those facilities at the time of the  
79 unlawful entry for the damages caused by the unlawful entry,  
80 together with reasonable attorney fees and costs.

81 Section 3. This act shall take effect October 1, 2015.

THE FLORIDA SENATE

APPEARANCE RECORD

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

04/13/15  
Meeting Date

SB 1464  
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name FAHIDA HALILOVIC

Job Title

Address 4036 Augustine Green CT  
Street  
Jacksonville FL 32257  
City State Zip

Phone 904/207-9178

Email editaimusic@live.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

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  
**APPEARANCE RECORD**

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

4/13/15  
Meeting Date

SB1464  
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Ella mesic

Job Title Student

Address 4036 Augustine green court  
Street

Phone (904) 207-9178

Jacksonville FL 32257  
City State Zip

Email edita.mesic@live.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing SELF

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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4/13/15

Meeting Date

SB-1464

Bill Number (if applicable)

Topic ~~Security in~~ Public Facility

Amendment Barcode (if applicable)

Name Angel Diaz

Job Title Pastor

Address 3000 W. Prospect Rd  
Street

Phone 954-486-7378

Fort Lauderdale FL 33309  
City State Zip

Email adiaz77@bellsouth.net

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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4/13/15  
Meeting Date

SB-1464  
Bill Number (if applicable)

Topic ~~Safety in~~ Public Facility

Amendment Barcode (if applicable)

Name Xiomara Diaz

Job Title Pastor

Address 3000 W-Prospect Rd  
Street

Phone 954-825-6130

Fort Lauderdale Fl. 33309  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

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4/13/15

Meeting Date

SB 1464  
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Timothy PASCHAL

Job Title Utility Investigator

Address 6712 Bloxham AV

Phone 561-216-9159

Street

Jacksonville FL 32208

City

State

Zip

Email tinytim.pascal@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing my 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.

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THE FLORIDA SENATE

APPEARANCE RECORD

4-13-15

Meeting Date

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

SB 1464

Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name A. A. MAX TOVAR

Job Title

Address 9741 N.W. 45 Lane

Street

Phone (786) 306-0672

City Doral FL 33178

City

State

Zip

Email maxtovar@mediamax.cc

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

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.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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04/13/2015  
Meeting Date

SB 1464  
Bill Number (if applicable)

Topic Public facilities

Amendment Barcode (if applicable)

Name Ms. Sybil W. Lee

Job Title Retired Educator

Address 602 NW 100<sup>th</sup> Street

Phone 305 754-5073

MIAMI FL 33150  
City State Zip

Email swlee@bellsouth.net

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Self SB 1464

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

04/13/2015  
Meeting Date

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

1464  
Bill Number (if applicable)

Topic PUBLIC FACILITIES

Amendment Barcode (if applicable)

Name PASTOR Olden Reese

Job Title \_\_\_\_\_

Address 14220 NW 23 CT  
Street

Phone 786-357-0600

Opalocka Fla 33054  
City State Zip

Email OldenReese@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing myself

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
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4/13/2015  
Meeting Date

SB 1464  
Bill Number (if applicable)

Topic PUBLIC FACILITIES

Amendment Barcode (if applicable)

Name NATHANIEL J. WILCOX

Job Title EXECUTIVE DIRECTOR (PULSE)

Address 150 N.E 19<sup>th</sup> ST  
Street

Phone (786) 488-2979

MIAMI FL 33132  
City State Zip

Email nwilcox2@aol.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing PEOPLE UNITED TO LEAD THE STRUGGLE FOR EQUALITY

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

4/13/15

Meeting Date

1464

Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Antonio Verdugo

Job Title \_\_\_\_\_

Address P.O. Box 650216  
Street

Phone (786) 447-6431

Miami Florida 33265  
City State Zip

Email mdccc1@hotmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

4/13/15  
Meeting Date

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

SB-1464  
Bill Number (if applicable)

Topic PUBLIC FACILITIES

Amendment Barcode (if applicable)

Name RICARDO CALLES

Job Title \_\_\_\_\_

Address PO BOX 250273  
Street

Phone 954-401-5936

SUNRISE FL 33345  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

4/13/15

Meeting Date

SB 1464

Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Tatiana Shai TOVAR

Job Title student

Address 9741 N.W. 45 lane

Phone (786) 286-0874

Street

Doral FL 33178

Email carmen@medicamax

City

State

Zip

• CC

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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04/13/2015  
Meeting Date

SB1464  
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Josefina Michel

Job Title Christian Church Counselor

Address 182 Oakridge L, (182)  
Street

Phone (954) 673-7176

Deerfield Beach, FL, 33442  
City State Zip

Email jomichel41@hotmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

04/13/15

Meeting Date

5B/464

Bill Number (if applicable)

Topic Public facilities

Amendment Barcode (if applicable)

Name Ruth Villamizar

Job Title Pastor

Address 5790A Fox Hollow Dr

Phone 954 657 1410

Street

Boca Raton

City

FL

State

33069

Zip

Email Pastor@Dioviviente.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing COMIB

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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4/13/15

Meeting Date

SB 1464

Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Jorge Giusti

Job Title Retired

Address 633 N Crescent Dr

Phone 305-331-2898

Street

Hollywood FL 33021

City

State

Zip

Email jorgegiusti@att.net

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

4/13/18  
Meeting Date

SB 1464  
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Armando Pomar

Job Title Honored National life member

Address 7710 Abbott Ave.  
Street

Phone (786) 285-4090

Miami Beach, FL 33141  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing LULAC

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)

04/13/15  
Meeting Date

SB 1464  
Bill Number (if applicable)

Topic Public Facility

Amendment Barcode (if applicable)

Name Maria Machin

Job Title

Address 3917 Lencykn DR W  
Street  
Jacksonville FL 32277  
City State Zip

Phone 904 554 9231

Email mmachino@bellsouth.net

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing yes for SB 1464

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)

04/13/15  
Meeting Date

1464  
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Gesner Jean Philippe

Job Title \_\_\_\_\_

Address 3355 Claire Ln, 107  
Street

Phone 904 864 2089

JACKSONVILLE FL 32223  
City State Zip

Email jjgesner77@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing To support SB 1464

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)

4/13  
~~2/15~~  
Meeting Date

1464  
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title General Counsel

Address 227 S. Adams St.

Phone 222-4082

Street

Tallahassee

FL

32301

City

State

Zip

Email samantha@frf.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Retail Federation

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)

4/13/15

Meeting Date

SB 1464

Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Greg Pond

Job Title \_\_\_\_\_

Address 9166 Sunrise Dr

Street

Phone \_\_\_\_\_

Largo

City

Fla

State

33773

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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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)

4/13/15

Meeting Date

1404

Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Mark Phillipps

Job Title Legislative Affairs Director

Address 4853 S Orange Ave

Phone 407-251-5130

Street

Orlando

City

FL

State

32806

Zip

Email

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against (The Chair will read this information into the record.)

Representing Florida Family Action, legislative arm of Florida Family Policy Council

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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4/13/2015

Meeting Date

Topic \_\_\_\_\_

Bill Number 1464

(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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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4/13/15

Meeting Date

SB 1464

Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name Steven Tabb

Job Title Market development representative

Address 105 Sugar Creek Rd

Phone 863-412-7212

Street

Winter Haven FL 33880

City

State

Zip

Email stabb@tempabay.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against (The Chair will read this information into the record.)

Representing

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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4/13  
Meeting Date

SB 1464  
Bill Number (if applicable)

Topic Public Facilities

Amendment Barcode (if applicable)

Name JERRY MCDANIEL

Job Title Gov. Consultant

Address 123 ADAMS ST.

Phone 850-566-6068

Street

TALL

City

FL

State

32301

Zip

Email MCDANIEL@SO STRATEGY

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing City of Miami Beach

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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# CourtSmart Tag Report

Room: LL 37

Case:

Type:

Caption: Senate Criminal Justice Committee

Judge:

Started: 4/13/2015 4:18:35 PM

Ends: 4/13/2015 6:01:49 PM

Length: 01:43:15

4:18:37 PM Meeting called to order, Roll Call  
4:20:40 PM Tab 4 - SB 1178 by Senator Richter—Drone Surveillance  
4:21:29 PM Amendment Barcode 133542 D S FAV CJ, Senator Bradley  
4:23:05 PM Amendment Barcode 193802 SD S CJ, Senator Brandes  
4:24:16 PM Amendment Barcode 337230 handwritten, Senator Brandes  
4:26:03 PM Senator Clemons asked a question of Senator Richer. Senator Richter responds.  
4:29:28 PM Grant Begley, Florida Unmanned Aerial Systems Drone Industry, is asked a question from Senator Evers.  
4:32:30 PM Senator Gibson asks a question of Senator Richter about 25-mile area. Senator Richter responds.  
4:36:35 PM Senator Clemons tries to explain the 25-mile statement.  
4:38:52 PM Chad Swan, Naples, Florida Unmanned Aerial Systems Industry  
4:42:20 PM Grant Begley speaks on Drones in Florida.  
4:42:53 PM Steve Myers, Naples, FL. Florida Unmanned Aerial Systems Industry.  
4:43:38 PM Senator Gibson, asks a question of Steve Myers on economical impact. Mr. Myers responds.  
4:49:02 PM Brian Pitts, St. Petersburg, FL, Justice-2-Jesus  
4:52:25 PM Senator Gibson makes a statement about SB 1178.  
4:53:44 PM Senator Evers makes a statement about SB 1178.  
4:55:03 PM Roll Call for SB 1178  
4:56:01 PM Tab 2 - CS/SB 742 by Commerce and Tourism / Senator Simpson—Ticket Sales  
4:56:25 PM Senator Simpson explains CS/SB 742 and the video.  
5:01:24 PM A video presentation on CS/SB 742  
5:09:05 PM Senator Gibson addresses a question to Senator Simpson. Senator Simpson responds.  
5:18:35 PM Brian Pitts, St. Petersburg, FL, Justice-2-Jesus  
5:21:43 PM Chris Grimm, Washington, DC, Executive Director, Fan Freedom  
5:28:47 PM Senator Clemens asks a question of Chris Grimm. Mr. Grimm responds.  
5:30:59 PM Jim Daughton, Eday/Stub Hob, Tallahassee, FL  
5:32:52 PM Alice Vickers, Attorney Florida Alliance for Consumer Protection, Tallahassee, FL  
5:35:33 PM Senator Gibson asks a question of Senator Simpson. Senator Simpson responds.  
5:37:20 PM Senator Gibson asks a question of Ms. Vickers. Ms. Vickers responds.  
5:39:31 PM Chris Carmody, Attorney, City of Orlando & Orlando Magic  
5:41:41 PM Chris Van DeHoff, Director Government Relations, Ticket Network, W. Hartford, CT  
5:44:31 PM Senator Gibson asks a question of Chris Van DeHoff. Mr. Van DeHoff responds.  
5:45:57 PM Jeff Johnson, Ticketmaster, Tallahassee, FL  
5:50:02 PM Senator Clemens asks a question of Mr. Johnson. Mr. Johnson responded.  
5:51:41 PM John Kim, student.  
5:52:13 PM Nick Igrossi, Florida Assn of Ticket Brokers, Tallahassee, FL  
5:56:16 PM Roll Call for CS/SB 742  
5:56:49 PM Christina Bullins, DOC Probation  
5:58:38 PM Senator Bradley asks a question, Ms. Bullins responded.  
6:01:05 PM Meeting adjourned

THE FLORIDA SENATE

APPEARANCE RECORD

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4/13/15

Meeting Date

Bill Number (if applicable)

Topic DOC- Probation

Amendment Barcode (if applicable)

Name Christina Bullins

Job Title

Address Street

Phone 954-816-8385

City State Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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