

Tab 1	CS/SB 416 by JU, Montford (CO-INTRODUCERS) Book; (Similar to CS/CS/H 00151) Use of Animals in Proceedings Involving Minors					
461856	A	S	RCS	CJ, Montford	Delete L.96:	03/13 07:14 PM
Tab 2	SB 448 by Brandes; (Similar to CS/H 00367) Prearrest Diversion Programs					
353442	A	S	RCS	CJ, Brandes	Delete L.51 - 91:	03/13 07:14 PM
Tab 3	SB 450 by Brandes; (Similar to CS/H 00369) Public Records					
576030	D	S	RCS	CJ, Brandes	Delete everything after	03/13 07:14 PM
Tab 4	SB 458 by Brandes (CO-INTRODUCERS) Rouson; (Identical to H 00387) Florida Criminal Justice Reform Task Force					
Tab 5	SB 790 by Brandes; Probation and Community Control					
431552	A	S	RCS	CJ, Brandes	Delete L.120 - 153:	03/13 07:14 PM
660892	A	S	RCS	CJ, Brandes	Delete L.211 - 225:	03/13 07:14 PM
Tab 6	SB 844 by Simmons (CO-INTRODUCERS) Baxley; (Similar to CS/CS/H 00107) Criminal Offenses Involving Tombs and Memorials					
129514	D	S	RS	CJ, Simmons	Delete everything after	03/13 07:14 PM
156066	SD	S	L WD	CJ, Simmons	Delete everything after	03/13 03:13 PM
717080	SD	S	L RCS	CJ, Simmons	Delete everything after	03/13 07:14 PM
Tab 7	SB 852 by Garcia (CO-INTRODUCERS) Benacquisto, Flores, Campbell; (Similar to H 01383) Human Trafficking					
284874	A	S	RCS	CJ, Garcia	Delete L.85:	03/13 07:14 PM
Tab 8	SB 892 by Simmons; Youthful Offenders					
Tab 9	SB 894 by Simmons; (Identical to H 01091) Arrest Warrants for State Prisoners					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Bracy, Chair
Senator Baxley, Vice Chair

MEETING DATE: Monday, March 13, 2017

TIME: 4:00—6:00 p.m.

PLACE: *Mallory Horne Committee Room, 37 Senate Office Building*

MEMBERS: Senator Bracy, Chair; Senator Baxley, Vice Chair; Senators Bean, Bradley, Brandes, Clemens, and Rouson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 416 Judiciary / Montford (Similar CS/CS/H 151)	Use of Animals in Proceedings Involving Minors; Specifying that the court may allow the use of therapy animals or facility dogs in certain proceedings; removing the requirement that certain animals be registered; defining terms, etc. JU 02/21/2017 Fav/CS CJ 03/13/2017 Fav/CS RC	Fav/CS Yeas 6 Nays 0
2	SB 448 Brandes (Similar CS/H 367, Compare CS/H 369, Linked S 450)	Pearrest Diversion Programs; Encouraging local communities and public or private educational institutions to implement prearrest diversion programs for certain offenders; authorizing law enforcement officers, at their sole discretion, to issue a civil citation to adults under specified circumstances; requiring an adult who is issued a civil citation by a participating law enforcement agency to report for intake as required by the prearrest diversion program, etc. CJ 03/06/2017 Temporarily Postponed CJ 03/13/2017 Fav/CS ACJ AP	Fav/CS Yeas 6 Nays 0
3	SB 450 Brandes (Similar CS/H 369, Compare CS/H 367, Linked S 448)	Public Records; Requiring that a civil citation, documentation of a prearrest diversion program, and any other reports or documents concerning a civil citation or a prearrest diversion program which are held by a law enforcement agency, a public or private educational institution, or a program service provider are exempt from public record requirements; providing for future review and repeal of the exemption; providing a statement of public necessity, etc. CJ 03/06/2017 Temporarily Postponed CJ 03/13/2017 Fav/CS GO AP RC	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, March 13, 2017, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 458 Brandes (Identical H 387)	Florida Criminal Justice Reform Task Force; Creating the task force within the legislative branch; prescribing duties of the task force; specifying public records and public meetings requirements applicable to the task force, etc. CJ 03/13/2017 Favorable ACJ AP RC	Favorable Yeas 6 Nays 0
5	SB 790 Brandes	Probation and Community Control; Requiring the Department of Corrections to revise and make available to the courts, rather than develop and disseminate to the courts, uniform order of supervision forms; authorizing the court to require a probationer or offender to report to, to permit visits by, to submit to random testing as directed by, probation officers, rather than probation and parole supervisors or correctional probation officers; authorizing, rather than requiring, a court to require an offender to make a good faith effort toward completion of certain skills or a specific diploma as a condition of community control, probation, or probation following incarceration; requiring, rather than authorizing, the department to electronically monitor offenders sentenced to community control under certain circumstances, etc. CJ 03/13/2017 Fav/CS AP RC	Fav/CS Yeas 6 Nays 0
6	SB 844 Simmons (Similar CS/CS/H 107)	Criminal Offenses Involving Tombs and Memorials; Prohibiting the excavation, exposing, movement, removal, or other disturbance of the contents of a tomb or memorial; providing criminal penalties; providing exceptions to the prohibition against disturbance of the contents of a tomb or memorial for cemeteries that are exempt from certain regulation, etc. CJ 03/13/2017 Fav/CS ACJ AP	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, March 13, 2017, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 852 Garcia (Similar H 1383)	Human Trafficking; Requiring the Department of Children and Families or a sheriff's office to conduct a multidisciplinary staffing on child victims of commercial sexual exploitation to determine the child's service and placement needs; defining the term "commercial sexual exploitation"; adding human trafficking to the list of crimes requiring pretrial detention of the defendant, etc. CJ 03/13/2017 Fav/CS JU AP	Fav/CS Yeas 6 Nays 0
8	SB 892 Simmons	Youthful Offenders; Revising the criteria allowing a court to sentence as a youthful offender a person who is found guilty of, or who pled nolo contendere or guilty to, committing a felony before the person turned 21 years of age, etc. CJ 03/13/2017 Favorable ACJ AP	Favorable Yeas 6 Nays 0
9	SB 894 Simmons (Identical H 1091)	Arrest Warrants for State Prisoners; Authorizing a prisoner in a state prison who has an unserved violation of probation or an unserved violation of community control warrant to file a notice of unserved warrant in the circuit court where the warrant was issued; requiring the court to send the order to the county sheriff, etc. CJ 03/13/2017 Favorable JU AP	Favorable Yeas 6 Nays 0

Other Related Meeting Documents

An electronic copy of the Appearance Request form is available to download from any Senate Committee page on the Senate's website, www.flssenate.gov.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 416

INTRODUCER: Criminal Justice Committee; Judiciary Committee; and Senator Montford and others

SUBJECT: Use of Animals in Proceedings Involving Minors

DATE: March 14, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Farach	Cibula	JU	Fav/CS
2.	Cellon	Hrdlicka	CJ	Fav/CS
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 416 allows a court to permit a victim or witness to testify with the assistance of a facility dog in a proceeding involving a sexual offense or in a dependency proceeding. A victim or witness may be eligible to use a facility dog if he or she has an intellectual disability or if he or she was a minor when a victim of or witness to a sexual offense.

II. Present Situation:

Service animals are defined by the Americans with Disabilities Act as miniature horses or dogs that are “individually trained to do work or perform tasks for people with disabilities.”¹ Service animals are different from therapy dogs and other emotional support animals in the sense that emotional support animals are not trained for specific tasks and help people through companionship.²

Studies of human-dog interactions demonstrate physiological effects in subjects like lower blood pressure when touching or petting a dog.³ For children, having a dog present helps lower heart

¹ U.S. Department of Justice, *ADA 2010 Revised Requirements: Service Animals* (July 11, 2012), https://www.ada.gov/service_animals_2010.pdf (last visited March 9, 2017).

² U.S. Department of Justice, *Frequently Asked Questions about Service Animals and the ADA* (July 20, 2015) https://www.ada.gov/regs2010/service_animal_ga.html (last visited March 9, 2017).

³ Julia K. Vormbrock and John M. Grossberg, JOURNAL OF BEHAVIORAL MEDICINE, *Cardiovascular effects of human-pet dog interactions* (October 11, 1988).

rate in stressful situations, like testifying in a courtroom full of adults.⁴ Several court systems around the country acknowledge the benefit of therapy dogs in courts and offer services to help connect susceptible victims with dogs.⁵

In this state, courts are authorized by s. 92.55, F.S., to allow certain victims or witnesses to testify with the assistance of a service or therapy animal during dependency proceedings or proceedings involving a sexual offense. A victim or witness who may be eligible to use a service or therapy animal must have been a minor at the time he or she was a victim or witness or have an intellectual disability.

Section 92.55, F.S., allows a person to seek the assistance of a therapy or service animal by filing a motion with the court. When deciding whether to allow the use of the animal the court, among other things, must consider the age of the child victim or witness and the rights of the parties to the case.

In practice in the Second, Fifth, and Ninth Judicial Circuits, the use of an animal therapy team must be approved by the presiding judge, magistrate, or hearing officer. These circuits also require an introduction between the child and animal therapy team prior to entering the court chambers and the presence of a third party to oversee the child.⁶ Dogs must be properly groomed, vaccinated, and wear a vest or some other article signifying that they are therapy animals. Therapy animals must be accompanied by handlers at all times.

Florida, Arizona, Arkansas, Hawaii, Illinois, and Oklahoma may be the only states to have statutes allowing therapy animals to accompany minors or vulnerable witnesses when testifying.⁷

In addition to allowing the use of service or therapy animals, the Florida Statutes provide other protections to victims and witnesses who either are or were underage at the time of the offense or have an intellectual disability. For example, a court may order the videotaping of testimony of a victim or witness in lieu of testimony in open court.⁸ Similarly, a court may order the testimony

⁴ Erika Friedmann et al., JOURNAL OF NERVOUS AND MENTAL DISEASE, *Social Interaction and Blood Pressure: Influence of Animal Companions* (August 1983).

⁵ Second Judicial Circuit, *Courthouse Therapy Dogs*, available at <http://2ndcircuit.leoncountyfl.gov/petTherapy.php>; (last visited March 9, 2017).

⁶ Second Judicial Circuit Court of Florida, *Procedures for Animal Therapy in the Case Specific Dependency Court Events*, Revised September 30, 2014, available at http://2ndcircuit.leoncountyfl.gov/pet/documentation/Animal_Therapy_Procedures.pdf; Fifth Judicial Circuit Court of Florida, *Fifth Judicial Circuit Therapy Dog Program*, available at <http://www.circuit5.org/c5/programs-services/therapy-dog-program/>; Ninth Judicial Circuit Court of Florida, Administrative Order Establishing a Certified Therapy Dog Program (K-9th Circuit Program), Orange County, AO No. 2014-26 (October 27, 2014), available at <http://www.ninthcircuit.org/sites/default/files/2014-26%20-%20Order%20Governing%20Certified%20Therapy%20Dog%20Program%20K-9th%20Orange.pdf> (all websites last visited March 9, 2017).

⁷ John Emsinger, Michigan State University, Animal Center, *Cases and Statutes on the use of Dogs by Witnesses while Testifying in Criminal Proceedings*, last updated June 2016, available at <https://www.animallaw.info/article/recent-cases-use-facility-dogs-witnesses-while-testifying>; (last visited March 9, 2017).

⁸ Section 92.53, F.S.

of a victim or witness to be taken by means of closed-circuit television and shown inside the courtroom.^{9,10}

III. Effect of Proposed Changes:

Under the bill, a court may authorize the use of a facility dog to assist a victim or witness who must testify in a proceeding involving a sexual offense or in a dependency proceeding. The bill also expands the class of victims and witnesses who may use the assistance of an animal in giving testimony to include those having an intellectual disability.

Under current law, only a service or therapy animal may assist witnesses or victims who are required to testify. The bill removes references to “service animals” from current statute, and includes “facility dogs” as animals that may assist in relevant proceedings. As used in a courtroom, therapy animals and facility dogs fulfill the same purpose. This purpose is protecting the victim or witness from severe emotional or mental harm, which might occur while testifying in the presence of the defendant.

The difference between a service or therapy animal and a facility dog appears to be in their qualifications. Under current law, a service or therapy animal must be evaluated and registered according to national standards. Under the bill, a therapy animal or facility dog must be trained and evaluated according to industry standards.

The bill takes effect July 1, 2017.

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.

⁹ Section 92.54, F.S.

¹⁰ Section 92.55(1), F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will not result in additional costs to the government, as the bill does not require the use of facility dogs in judicial proceedings. Additionally, the bill does not require courts to train or pay for the use of therapy animals or facility dogs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 92.55, Florida Statutes.

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

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

CS/CS by Criminal Justice on March 13, 2017:

The committee substitute corrects a scrivener's error.

CS by Judiciary on February 21, 2017:

The committee substitute deletes references in current law to service animals. Also, the committee substitute provides definitions for the terms "facility dog" and "therapy animal."

B. Amendments:

None.



461856

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 96
and insert:
(b) For purposes of this section, the term:

By the Committee on Judiciary; and Senators Montford and Book

590-01956-17

2017416c1

A bill to be entitled

An act relating to use of animals in proceedings involving minors; amending s. 92.55, F.S.; specifying that the court may allow the use of therapy animals or facility dogs in certain proceedings; allowing certain animals to be used when taking the testimony of a person who has an intellectual disability; removing the requirement that certain animals be registered; defining terms; providing an effective date.

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

Section 1. Section 92.55, Florida Statutes, is amended to read:

92.55 Judicial or other proceedings involving victim or witness under ~~the age of 18 years of age~~, a person who has an intellectual disability, or a sexual offense victim or witness; special protections; use of ~~registered service or~~ therapy animals or facility dogs.—

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

(a) "Sexual offense victim or witness" means a person who was under the age of 18 when he or she was the victim of or a witness to a sexual offense.

(b) "Sexual offense" means any offense specified in s. 775.21(4)(a)1. or s. 943.0435(1)(h)1.a.(I).

(2) Upon motion of any party, upon motion of a parent, guardian, attorney, guardian ad litem, or other advocate appointed by the court under s. 914.17 for a victim or witness under the age of 18, a person who has an intellectual

590-01956-17

2017416c1

disability, or a sexual offense victim or witness, or upon its own motion, the court may enter any order necessary to protect the victim or witness in any judicial proceeding or other official proceeding from severe emotional or mental harm due to the presence of the defendant if the victim or witness is required to testify in open court. Such orders must relate to the taking of testimony and include, but are not limited to:

(a) Interviewing or the taking of depositions as part of a civil or criminal proceeding.

(b) Examination and cross-examination for the purpose of qualifying as a witness or testifying in any proceeding.

(c) The use of testimony taken outside of the courtroom, including proceedings under ss. 92.53 and 92.54.

(3) In ruling upon the motion, the court shall consider:

(a) The age of the child, the nature of the offense or act, the relationship of the child to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the child as a consequence of the defendant's presence, and any other fact that the court deems relevant;

(b) The age of the person who has an intellectual disability, the functional capacity of such person, the nature of the offenses or act, the relationship of the person to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the person as a consequence of the defendant's presence, and any other fact that the court deems relevant; or

(c) The age of the sexual offense victim or witness when the sexual offense occurred, the relationship of the sexual

590-01956-17

2017416c1

offense victim or witness to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the sexual offense victim or witness as a consequence of the defendant's presence, and any other fact that the court deems relevant.

(4) In addition to such other relief provided by law, the court may enter orders limiting the number of times that a child, a person who has an intellectual disability, or a sexual offense victim or witness may be interviewed, prohibiting depositions of the victim or witness, requiring the submission of questions before the examination of the victim or witness, setting the place and conditions for interviewing the victim or witness or for conducting any other proceeding, or permitting or prohibiting the attendance of any person at any proceeding. The court shall enter any order necessary to protect the rights of all parties, including the defendant in any criminal action.

(5) The court may set any other conditions it finds just and appropriate when taking the testimony of a ~~child~~ victim or witness under 18 years of age, a person who has an intellectual disability, or a sexual offense victim or witness, including the use of a ~~service or~~ therapy animal or facility dog that has been evaluated and registered according to national standards, in any proceeding involving a sexual offense or child abuse, abandonment, or neglect.

(a) When deciding whether to allow permit a child victim or witness under 18 years of age, a person who has an intellectual disability, or a sexual offense victim or witness to testify with the assistance of a ~~registered service or~~ therapy animal, or facility dog, the court shall consider the age of the ~~child~~

590-01956-17

2017416c1

victim or witness under 18 years of age, the age of the sexual offense victim or witness at the time the sexual offense occurred, the interests of the ~~child~~ victim or witness under 18 years of age or the sexual offense victim or witness, the rights of the parties to the litigation, and any other relevant factor that would facilitate the testimony by the ~~child~~ victim or witness under 18 years of age, a person who has an intellectual disability, or a sexual offense victim or witness.

(b) For purpose of this section, the term:

1. "Facility dog" means a dog that has been trained, evaluated, and certified as a facility dog pursuant to industry standards and provides unobtrusive emotional support to children and adults in facility settings.

2. "Therapy animal" means an animal that has been trained, evaluated, and certified as a therapy animal pursuant to industry standards by an organization that certifies animals as appropriate to provide animal therapy.

Section 2. This act shall take effect July 1, 2017.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/12/17

Meeting Date

CS/SB 414

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Kelly Mallette

Job Title

Address 104 W. Jefferson St.

Phone (850) 224-3427

Street

Tallahassee, FL 32301

Email Kelly@rlhooker.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Courthouse Therapy Dogs, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/17
Meeting Date

416
Bill Number (if applicable)

Topic Animals

Amendment Barcode (if applicable)

Name Sohan Mixon or Corinne Mixon

Job Title Consultant

Address 212 Park Ave

Phone 222 2591

Tall 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 Fla Veterinary Medical Assoc

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-13-17

Meeting Date

CS/SB 416

Bill Number (if applicable)

Topic DOGS IN Court (therapy/facility)

Amendment Barcode (if applicable)

Name ALAN ABRAMOWITZ

Job Title Executive DIRECTOR

Address 600 S. Calhoun street

Phone 850-241-3232

Street

City

Tallahassee

State

FL

Zip

32300

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing GUARDIAN AD LITEM Program

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

13 Mch 17

Meeting Date

416

Bill Number (if applicable)

Topic Animals in Proceedings Involving Minors

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title Pres & CEO

Address 204 S. Monroe

Phone 850.510.9922

Street

Tall

City

State

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Fla. 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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/15/17
Meeting Date

SB 416
Bill Number (if applicable)

Topic Dogs in Court

Amendment Barcode (if applicable)

Name Cameron Swanson

Job Title _____

Address Daybranch Way
Street
Saint Johns FL 5
City State Zip

Phone _____

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing himself

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3 / 13 / 2017

Meeting Date

Topic _____

Bill Number 416
(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

APPEARANCE RECORD

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

Meeting Date

Bill Number (if applicable)

Topic JUSTICE' BEST FRIENDS ACT - DOGS IN COURT

Amendment Barcode (if applicable)

Name ~~JUSTICE' BEST FRIENDS~~ CHUCK MITCHELL

Job Title MANAGER, FLORIDA COURTHOUSE THERAPY DOGS

Address 3890 TAD MORSE RD
Street

Phone 850-566-6100

City

State

Zip

Email CMITCHELL90@COMCAST.NET

Speaking: ☒ For ☐ Against ☐ Information

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

Representing TALLAHASSEE MEMORIAL ANIMAL THERAPY / FLA COURTHOUSE THERAPY DOGS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/17
Meeting Date

416
HB 151
Bill Number (if applicable)

Topic COURTHOUSE THERAPY DOGS

Amendment Barcode (if applicable)

Name TANYA CODY

Job Title VOLUNTEER

Address 522 WILLIAMS ST
Street

Phone (850) 508-1780

TALLAHASSEE FL 32303
City State Zip

Email bigtody@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing TMH ANIMAL THERAPY

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 (10/14/14)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Chair*
Communications, Energy, and Public Utilities,
Vice Chair
Appropriations
Appropriations Subcommittee on Pre-K - 12
Education
Health Policy
Rules

SENATOR BILL MONTFORD

3rd District

March 8, 2017

Senator Randolph Bracy, Chair
Senate Committee on Criminal Justice
510 Knott Building
Tallahassee, Florida 32399-1100

Dear Senator Bracy:

I respectfully request that SB 416, a bill relating to Therapy Dogs be placed on the agenda for the next Criminal Justice Committee Meeting:

Your consideration is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Bill Montford".

William "Bill" Montford
Senate District 3

MD/WM

Cc: Jennifer Hrdlicka, Staff Director
Sue Arnold, Administrative Assistant

REPLY TO:

- ☐ 410 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5003
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Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
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 448

INTRODUCER: Criminal Justice Committee and Senator Brandes

SUBJECT: Prearrest Diversion Programs

DATE: March 15, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Hrdlicka	CJ	Fav/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 448 creates s. 901.40, F.S., to encourage local communities and public or private educational institutions to implement a prearrest diversion program. The bill prescribes a model program that local communities may adopt. The model program allows a law enforcement officer, at the officer's sole discretion, to issue a civil citation or similar prearrest diversion program notice to an adult who:

- Commits a misdemeanor offense (as determined by the program);
- Admits to committing the offense or does not contest the offense;
- Has not previously been arrested; and
- Has not previously received an adult civil citation or similar prearrest diversion program notice, unless the terms of the local adult prearrest diversion program allows otherwise.

An adult who agrees to a civil citation or similar prearrest diversion program notice must successfully complete a program that includes intervention and community service hours. If the adult does not successfully complete the program, the law enforcement officer must determine if there is good cause to arrest the adult for the original misdemeanor offense, and refer the case to the state attorney to determine if prosecution is appropriate, or to allow the adult to continue in the program.

The bill has no impact on state funds. The creation of a prearrest diversion program could result in cost savings for local governments. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2017.

II. Present Situation:

Through the years the term “diversion” has been used broadly to refer to programs that allow an individual to avoid incarceration but still result in a criminal conviction. In recent years, the term diversion has also begun to be used to refer to programs that address an individual’s behavior but do not result in a conviction. “At either end of the diversion spectrum, the overriding goals are the same – to maximize the opportunity for success and minimize the likelihood of recidivism.”¹

An example of diversion is prearrest diversion. One form of prearrest diversion is a civil citation program where a law enforcement officer may issue a civil citation to an individual who commits an eligible misdemeanor offense (as determined by the prearrest diversion program), meets other eligibility requirements, and agrees to participate in and successfully complete a program (interventions and sanctions, including community service hours). If the individual successfully completes the program, he or she does not have an arrest or arrest record.²

Juvenile civil citation programs are in operation throughout the state and are recommended by Florida law.³ Florida law does not specifically address adult civil citation programs or other prearrest diversion programs for adults.

Juvenile Civil Citation

Section 985.12, F.S., encourages local entities to establish juvenile civil citation programs. The statute provides a framework for a modal juvenile civil citation program, which provides an alternative to custody by the Department of Juvenile Justice (DJJ) for children who commit nonserious delinquent acts.⁴ Under the model program, if a juvenile admits to committing a misdemeanor⁵ a law enforcement officer has the discretion to:

- Issue a warning or inform the juvenile’s parent of the child’s infraction;
- Issue a civil citation or require participation in a similar diversion program; or
- Arrest the juvenile.⁶

These programs are discretionary⁷ to participate in by the child and require the youth to complete no more than 50 community service hours. The programs may also require participation in

¹ Center for Health and Justice at TASC, *No Entry: A National Survey of Criminal Justice Diversion Programs and Initiatives*, (December 2013), pg. 6 and 8, available at http://www2.centerforhealthandjustice.org/sites/www2.centerforhealthandjustice.org/files/publications/CHJ%20Diversion%20Report_web.pdf (last visited February 20, 2017).

² Civil Citation Network, *Adult Civil Citation Program*, (revised September 2013), pg. 2, available at <http://www.discvillage.com/DOCS/AdultCivilCitationBrochure.pdf> (last visited February 20, 2017).

³ Section 985.12, F.S.

⁴ Section 985.12(1), F.S.

⁵ Misdemeanors involving sexual or firearm offenses are currently ineligible for civil citation programs under the DJJ Civil Citation Model Plan. *2017 Bill Analysis for SB 196*, Department of Juvenile Justice, (January 18, 2017) (on file with the Senate Criminal Justice Committee).

⁶ Section 985.12(1), F.S.

⁷ See example, Nineteenth Judicial Circuit Court of Florida, Programs and Services, Juvenile, Civil Citation, *Juvenile Programs – Civil Citation*, available at <http://www.circuit19.org/programs/prgjuvenilecc.html> (last visited February 20, 2017).

intervention services appropriate to the identified needs of the youth, including family counseling, urinalysis monitoring, and substance abuse and mental health treatment services.⁸

The Leon County Adult Civil Citation Program

The American Bar Association has observed: “Although Florida’s civil citation programs are focused on juveniles, the guidelines and principles inherent in the programs are generally applicable to adults, as well.”⁹ Leon County operates an adult civil citation program.¹⁰

The Leon County’s program provides a law enforcement officer with the discretion to issue a civil citation once probable cause has been determined to arrest an adult and the officer has advised the adult of his or her Miranda rights and obtained an admission.¹¹ The law enforcement officer must then verify whether the adult meets all of the following criteria:

- The offense is one of the following misdemeanor offenses:
 - Possession of alcohol by a person under 21 years of age;
 - Possession of less than 20 grams of marijuana;
 - Possession of drug paraphernalia;
 - An open house party violation;
 - Selling or giving alcoholic beverages to a minor;
 - Criminal mischief (restitution may not exceed \$50);
 - Trespass;
 - Non-domestic battery or assault;
 - Petit theft (restitution may not exceed \$50); or
 - Disorderly conduct.
- The adult resides within the Second Judicial Circuit;¹² and
- The adult is a first-time adult offender (no previous arrest as an adult and no previous adult civil citation).¹³

If the officer determines that the adult is eligible to participate in the adult civil citation program and that a civil citation is appropriate, the officer then must explain to the adult that participation in the adult civil citation program is voluntary.¹⁴ If the adult chooses not to participate in the

⁸ Section 985.12(1), F.S.

⁹ American Bar Association, Criminal Justice Section, *State Policy Implementation Project*, pg. 5, available at http://www.americanbar.org/content/dam/aba/administrative/criminal_justice/spip_civilcitations.authcheckdam.pdf (last visited February 20, 2017).

¹⁰ Alert M. Kopak, *Top reasons to expand adult civil citation program*, Tallahassee Democrat, June 17, 2016, available at <http://www.tallahassee.com/story/opinion/2016/06/17/top-reasons-expand-adult-civil-citation-program/86046394/> (last visited February 20, 2017).

¹¹ Civil Citation Network, Pilot Adult Civil Citation Program, *Implementation Guide*, Second Judicial Circuit of Florida, (August 2013), pg. 4, available at <http://www.civilcitationnetwork.com/docs/Implementation-Guide.pdf> (last visited February 20, 2017).

¹² The Second Judicial Circuit includes the following counties: Franklin, Gadsden, Jefferson, Leon, Liberty, and Wakulla. *See* Florida’s Second Judicial Circuit, *Court Map*, available at <http://2ndcircuit.leoncountyfl.gov/> (last visited February 20, 2017). *Supra* note 11 at 2-3.

¹³ A prior juvenile civil citation does not make the adult ineligible for a civil citation. *Supra* note 11 at 3.

¹⁴ *Supra* note 11 at 4.

adult civil citation program, the officer either issues a Notice to Appear (NTA) or transports the adult to the jail for formal booking.¹⁵

If the adult agrees to participate in the adult civil citation program, the officer issues a civil citation and the adult has 7 days to report to DISC Village, Inc.,¹⁶ for intake and assessment. Based on the results of the assessment and initial drug screening, the provider creates an individualized intervention plan. The intervention plan includes:

- Counseling sessions (at least three with a behavioral health specialist);
- Drug screening;
- Online educational intervention modules; and
- Community service hours.¹⁷

The adult must also pay a \$350 fee to participate in the program.¹⁸ If the adult successfully completes all sanctions and intervention services, the social services provider notifies the referring law enforcement agency and the person does not have an arrest record.¹⁹

If the participant does not successfully complete the program, the referring law enforcement agency is notified and then contacts the adult and attempts to issue a NTA. If the adult does not comply with arrangements to receive a NTA, an arrest affidavit and warrant are submitted. Subsequently, the adult may face prosecution if the state attorney determines that prosecution is appropriate.²⁰

Statistics on the Leon County Adult Civil Citation Program

From March 2013 to August 2016, the Tallahassee Police Department and Leon County Sheriff's Office issued 1,113 adult civil citations with an average successful completion rate of 83 percent. Of those who successfully completed the adult civil citation program, the rearrest rate was 7 percent and for those who did not successfully complete the program, the rearrest rate was 61 percent.²¹

III. Effect of Proposed Changes:

The bill creates s. 901.40, F.S., to encourage local communities and public or private educational institutions to implement a prearrest diversion program. The bill provides a framework for a model adult civil citation program that may be adopted.

¹⁵ *Supra* note 11 at 3.

¹⁶ DISC Village, Inc., is a non-profit social services provider. DISC Village, Inc., also operates the juvenile assessment center and juvenile civil citation program that serve counties in the Second Judicial Circuit. *See Disc Village*, available at <http://www.discvillage.com/home.html> (last visited February 20, 2017).

¹⁷ *Supra* note 11 at 5, 9-10, and 12.

¹⁸ Email from Barney T. Bishop, President and CEO, Florida Smart Justice Alliance, to Senate Criminal Justice Committee Staff, (February 27, 2017) (on file with the Senate Criminal Justice Committee).

¹⁹ *Id.* at 12.

²⁰ *Id.*

²¹ Civil Citation Network, *Tallahassee/Leon County Three-Year Outcomes, Pre-arrest Diversion Adult Civil Citation Program*, p. 1, (on file with the Senate Criminal Justice Committee).

The model program allows a law enforcement officer, at the officer's sole discretion, to issue a civil citation or similar prearrest diversion program notice to an adult who:

- Commits a misdemeanor offense (as determined by the program);
- Admits to committing the offense or does not contest the offense;
- Has not previously been arrested; and
- Has not previously received an adult civil citation or similar prearrest diversion program notice, unless the terms of the local adult prearrest diversion program allows otherwise.

The model program requires a committee to develop policies and procedures for the program, including, eligibility criteria, program implementation and operation, the determination of a fee, if any, to be paid by adults participating in the program, and qualifying misdemeanor offenses. The committee is comprised of:

- Representatives of participating law enforcement agencies;
- A representative of the program services provider;
- The public defender;
- The state attorney; and
- The clerk of the circuit court.

The model program committee must solicit input from other interested stakeholders when developing the program's policies and procedures. The model program may be operated by a law enforcement agency, the county or municipality, or another entity that the county or city selects.

The model program requires an adult who receives a civil citation or similar prearrest diversion program notice to report for intake and be provided appropriate assessment, intervention, education, and behavioral health care services. While in the model program, the adult must complete the required community service hours and pay restitution.

The model program provides that if the adult does not successfully complete the program, the law enforcement officer must determine if there is good cause to arrest the adult for the original misdemeanor offense, and refer the case to the state attorney to determine if prosecution is appropriate, or to allow the adult to continue in the program.

Counties and municipalities are not preempted from enacting noncriminal sanctions for a violation of an ordinance or other violation. Counties, municipalities, and public or private educational institutions are not preempted from creating their own model for a prearrest diversion program for adults. However, if a prearrest diversion program is implemented the program is encouraged to share information with other programs.

The bill is effective July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not mandate that local governments create a prearrest diversion program for adults; it only "encourages" the creation of such a program. Additionally, criminal laws

are excluded from Article VII, section 18 of the Florida Constitution, relating to state mandates that affect revenues and expenditures of local governments.

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:

Participants of a prearrest diversion program will likely have to pay fees to participate. For example, under the Leon County model, an eligible adult who chooses to participate in the adult civil citation program must pay a program fee of \$350, but this fee may be waived if the participant does not have the means to pay it.²² The participant may also have to pay restitution as part of a prearrest diversion program.

C. Government Sector Impact:

The bill has no impact on state funds.

The bill does not mandate that local governments or public or private educational institutions create prearrest diversion programs for adults. Under the Leon County model, the adult civil citation program is self-sustaining (paid for by program fees).²³ The fee for the Leon County adult civil citation program is \$350.²⁴

Creation of a prearrest diversion program could result in cost savings (e.g., reduced detention/confinement costs and booking/arrest-processing costs), depending on the number of eligible offenses, other eligibility criteria chosen, the pool of eligible adults, the number of participating law enforcement agencies, the use of civil citations or similar prearrest diversion program notices by those agencies, and any impact the program may have in reducing arrests.

The Criminal Justice Impact conference met on March 2, 2017, and found that the bill would have no impact on prison beds.

²² *Supra* note 18.

²³ Adult Civil Citation, *Senate Bill 618 – Pre-Arrest Diversion Programs*, November 5, 2015 (on file with the Senate Committee on Criminal Justice).

²⁴ *Supra* note 18.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Florida law does not specifically address adult civil citation programs or other similar prearrest diversion programs for adults. If the bill were to become law, the law would specifically indicate that the Legislature encourages the creation of such programs.

The approach taken by the bill affords law enforcement officers complete discretion in the decision to arrest or issue a civil citation or similar prearrest diversion program notice. The Florida Supreme Court has remarked that “the discretionary judgmental power granted a police officer to make an arrest and enforce the law” is “considered basic to the police power function of governmental entities and is recognized as critical to a law enforcement officer’s ability to carry out his duties.”²⁵

CS/SB 450 is the related public records bill linked to this bill.

VIII. Statutes Affected:

This bill creates section 901.40 of the Florida Statutes.

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

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

CS by Criminal Justice on March 13, 2017:

The committee substitute:

- Removes the requirement that the misdemeanor offense must be a *nonviolent* misdemeanor;
- Revises model program criteria to allow an eligible adult to not contest the offense (as an alternative to admitting to committing the offense);
- Allows local adult prearrest diversion programs to determine whether an adult can receive another civil citation or similar prearrest diversion program notice even if he or she already has received one;
- Removes the provision allowing the victim to object to the issuance of a civil citation;
- Specifies that if an adult does not successfully complete the program, the law enforcement officer has the discretion to arrest the adult or allow the adult to continue in the program;
- Clarifies that programs can determine whether to charge a fee for participation; and
- Makes technical changes recommended by staff.

²⁵ *Everton v. Willard*, 468 So.2d 936, 938 (Fla.1985).

B. Amendments:

None.

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



353442

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 51 - 91
and insert:

(2) MODEL PREARREST DIVERSION PROGRAM.—Local communities and public or private educational institutions may adopt a program in which:

(a) Law enforcement officers, at their sole discretion, may issue a civil citation or similar prearrest diversion program notice to certain adults who commit a qualifying misdemeanor



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offense selected by the program. A civil citation or similar prearrest diversion program notice may be issued if the adult:

1. Admits that he or she committed the offense or does not contest the offense; and

2. Has not previously been arrested and has not received an adult civil citation or similar prearrest diversion program, unless the terms of the local adult prearrest diversion program allows otherwise.

(b) An adult who receives a civil citation or similar prearrest diversion program notice shall report for intake as required by the local prearrest diversion program and shall be provided appropriate assessment, intervention, education, and behavioral health care services by the program. While in the local prearrest diversion program, the adult shall perform community service hours as specified by the program. The adult shall pay restitution due to the victim as a program requirement. If the adult does not successfully complete the prearrest diversion program, the law enforcement officer shall determine if there is good cause to arrest the adult for the original misdemeanor offense and refer the case to the state attorney to determine if prosecution is appropriate or allow the adult to continue in the program.

(3) PROGRAM DEVELOPMENT, IMPLEMENTATION, AND OPERATION.—
Representatives of participating law enforcement agencies, a representative of the program services provider, the public defender, the state attorney, and the clerk of the circuit court shall create the prearrest diversion program and develop its policies and procedures, including, but not limited to, eligibility criteria, program implementation and operation, and



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the determination of the fee, if any, to be paid by adults participating in the program. In developing the policies and procedures for the program, the parties must solicit input from other interested stakeholders. The program may be operated by an entity such as a law enforcement agency, the county or municipality, or another entity selected by the county or municipality.

(4) QUALIFYING OFFENSES.—Misdemeanor offenses

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete lines 9 - 28

and insert:

officers, at their sole discretion, to issue a civil citation or similar prearrest diversion program notice to adults under specified circumstances; requiring an adult who is issued a civil citation or similar prearrest diversion program notice by a participating law enforcement agency to report for intake as required by the prearrest diversion program; requiring the program to provide certain appropriate services; requiring that an adult who is issued a civil citation or similar prearrest diversion program notice fulfill a community service requirement; requiring the adult to pay restitution to a victim; requiring the law enforcement officer to determine if there is good cause to arrest a adult who did not successfully complete the program and refer the case to the state attorney or allow the adult to continue in the program; requiring specified entities to create the



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69 prearrest diversion program; requiring the entities to
70 develop policies and procedures for the development
71 and operation of the program and to solicit input from
72 other interested stakeholders; authorizing specified
73 entities to operate the program; specifying how the
74 misdemeanor offenses

By Senator Brandes

24-00112B-17

2017448__

1 A bill to be entitled
 2 An act relating to prearrest diversion programs;
 3 creating s. 901.40, F.S.; encouraging local
 4 communities and public or private educational
 5 institutions to implement prearrest diversion programs
 6 for certain offenders; encouraging prearrest diversion
 7 programs to share information with other prearrest
 8 diversion programs; authorizing law enforcement
 9 officers, at their sole discretion, to issue a civil
 10 citation to adults under specified circumstances;
 11 requiring an adult who is issued a civil citation by a
 12 participating law enforcement agency to report for
 13 intake as required by the prearrest diversion program;
 14 requiring the program to provide certain appropriate
 15 services; requiring that an adult who is issued a
 16 civil citation fulfill a community service
 17 requirement; requiring the adult to pay restitution to
 18 a victim; providing for criminal prosecution of adults
 19 who fail to complete the prearrest diversion program;
 20 prohibiting an arrest record from being associated
 21 with a certain offense for an adult who successfully
 22 completes the program; requiring specified entities to
 23 create the prearrest diversion program; requiring the
 24 entities to develop policies and procedures for the
 25 development and operation of the program and to
 26 solicit input from other interested stakeholders;
 27 authorizing specified entities to operate the program;
 28 specifying how the nonviolent misdemeanor offenses
 29 that are eligible for the prearrest diversion program
 30 are selected; providing applicability; providing an
 31 effective date.
 32

24-00112B-17

2017448__

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

34

35 Section 1. Section 901.40, Florida Statutes, is created to
 36 read:

37 901.40 Prearrest diversion programs.—

38 (1) INTENT.—The Legislature encourages local communities
 39 and public or private educational institutions to implement
 40 prearrest diversion programs that afford certain adults who
 41 fulfill specified intervention and community service obligations
 42 the opportunity to avoid an arrest record. The Legislature does
 43 not mandate that a particular prearrest diversion program for
 44 adults be adopted, but finds that the adoption of the model
 45 provided in this section would allow certain adults to avoid an
 46 arrest record, while ensuring that those adults receive
 47 appropriate intervention and fulfill community service
 48 obligations. If a prearrest diversion program is implemented,
 49 the program is encouraged to share information with other
 50 prearrest diversion programs.

51 (2) MODEL ADULT CIVIL CITATION PROGRAM.—Local communities
 52 and public or private educational institutions may adopt a
 53 program in which:

54 (a) Law enforcement officers, at their sole discretion, may
 55 issue a civil citation to certain adults who commit a qualifying
 56 nonviolent misdemeanor offense selected by the program. A civil
 57 citation may be issued only if the adult admits that he or she
 58 committed the offense and if the adult has not previously been
 59 arrested and has not received an adult civil citation. However,
 60 an adult may not be issued a civil citation if the nonviolent
 61 misdemeanor offense involves a victim and the victim objects to

24-00112B-17

2017448__

issuance of the civil citation.

(b) An adult who receives a civil citation shall report for intake as required by the local prearrest diversion program and shall be provided appropriate assessment, intervention, education, and behavioral health care services by the program. While in the local prearrest diversion program, the adult shall perform community service hours as specified by the program. The adult shall pay restitution due to the victim as a program requirement. If the adult does not successfully complete the prearrest diversion program, the law enforcement agency that issued the civil citation shall criminally charge the adult for the original offense and refer the case to the state attorney to determine if prosecution is appropriate. If the adult successfully completes the program, an arrest record may not be associated with the offense.

(3) PROGRAM DEVELOPMENT, IMPLEMENTATION, AND OPERATION.—Representatives of participating law enforcement agencies, a representative of the program services provider, the public defender, the state attorney, and the clerk of the circuit court shall create the prearrest diversion program and develop its policies and procedures, including, but not limited to, eligibility criteria, program implementation and operation, and the determination of the fee to be paid by adults participating in the program. In developing the policies and procedures for the program, the parties must solicit input from other interested stakeholders. The program may be operated by an entity such as a law enforcement agency, the county or municipality, or another entity selected by the county or municipality.

24-00112B-17

2017448__

(4) QUALIFYING OFFENSES.—Nonviolent misdemeanor offenses that qualify the offender for a prearrest diversion program must be selected as part of the program development under subsection (3).

(5) APPLICABILITY.—This section does not preempt a county or municipality from enacting noncriminal sanctions for a violation of an ordinance or other violation, and it does not preempt a county, a municipality, or a public or private educational institution from creating its own model for a prearrest diversion program for adults.

Section 2. This act shall take effect July 1, 2017.

Last

APPEARANCE RECORD

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

13 Mch 17

Meeting Date

448

Bill Number (if applicable)

Topic Precarrest Diversion

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title Pres & CEO

Address 204 S. Monroe

Phone 850.510.9922

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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 Fla. 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/17

Meeting Date

448

Bill Number (if applicable)

Topic PREARREST DIVERSION PROGRAMS

Amendment Barcode (if applicable)

Name DAPHNEE SAINVIL

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FT. LAUDERDALE

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State

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Phone 954-253-7320

Email dsainvil@broward.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing BROWARD 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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3/8/17

Meeting Date

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

448

Bill Number (if applicable)

Topic SB 448 - preamest diversion

Amendment Barcode (if applicable)

Name Chelsea Murphy

Job Title State Director

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Phone

Street Jacksonville FL 32003

City State Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Right on Crime w/TPPF

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/17
Meeting Date

SB 448
Bill Number (if applicable)

Topic PREARREST DIVERSION

Amendment Barcode (if applicable)

Name KARA GROSS

Job Title LEGISLATIVE COUNSEL

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Street

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MIAMI FL
City State Zip

Email R6GROSS@CLUEFL.ORG

Speaking: ☐ For ☐ Against ☐ Information

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

Representing ACLU OF FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/2017

448

Meeting Date

Bill Number (if applicable)

Topic Prearrest Diversion Programs

Amendment Barcode (if applicable)

Name Matt Dunagan

Job Title Deputy Director

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Email mdunagan@flsheriffs.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Sheriffs Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

March 13, 2017

Meeting Date

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

SB 448

Bill Number (if applicable)

Topic Prearrest Diversion Programs

Amendment Barcode (if applicable)

Name Scott McCoy

Job Title Senior Policy Counsel

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Phone 850-521-3042

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Tallahassee

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32302

Email scott.mccoy@splcenter.org

City

State

Zip

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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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/13/17

Meeting Date

448

Bill Number (if applicable)

Topic

Adult Citations

Amendment Barcode (if applicable)

Name

Mitchell Maxey

Job Title

Communications Director

Address

Street

Tallahassee

City

FL.

State

32311

Zip

Phone

Email

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

NORML Tallahassee

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

APPEARANCE RECORD

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

3/13/17

Meeting Date

448

Bill Number (if applicable)

Topic

Prearrest Diversion Programs

Amendment Barcode (if applicable)

Name

Lisa Hurley

Job Title

Address

Street

311 E Park Ave

Phone

727.5081

City

Lakeland

State

Zip

32301

Email

lhurley@smithmurray.com

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☒ In Support

☐

Against

☐

(The Chair will read this information into the record.)

Representing

Florida Assoc. of Counties

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/17
Meeting Date

448
Bill Number (if applicable)

Topic Prearrest Diversion Programs

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Executive Director

Address 579 E. Call St.
Street

Phone 850-321-9386

Tallahassee FL 32301
City State Zip

Email fefep@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Center for Fiscal & Economic Policy

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3/13/17

Meeting Date

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

448

Bill Number (if applicable)

Topic Adult Civil Citations

Amendment Barcode (if applicable)

Name Melissa Villar

Job Title President

Address 169 Sinclair Rd

Phone (850) 284-2090

Street

Tallahassee

FL

32312

City

State

Zip

Email The Holistic Cannabis Community

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The Holistic Cannabis Community

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/17
Meeting Date

SB 448
Bill Number (if applicable)

Topic Prearrest Diversion

Amendment Barcode (if applicable)

Name Melissa RAMBA

Job Title VP Government Affairs

Address 227 S Adams St
Street

Phone _____

Tallahassee FL 32301
City State Zip

Email Melissa@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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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/17

Meeting Date

SB 448

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Ralph Wilson

Job Title researcher

Address 1747 pepper dr

Street

Tallahassee FL 32304

City

State

Zip

Phone 334 477 2749

Email ralph.wilson.ralph@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

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
APPEARANCE RECORD

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

3 / 13 / 2017

Meeting Date

Topic _____

Bill Number 448

(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

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
APPEARANCE RECORD

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

March 13, 2017

Meeting Date

448

Bill Number (if applicable)

Topic Prearrest Diversion Programs

Amendment Barcode (if applicable)

Name Honorable Bob Dillinger

Job Title Public Defender, 6th Circuit

Address 14250 49th Street, North

Phone 727-464-6516

Street

Clearwater

FL

33762

City

State

Zip

Email bdilling@wearethehope.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/17

Meeting Date

SB 448

Bill Number (if applicable)

Topic PRE-ARREST DIVERSION

Amendment Barcode (if applicable)

Name GREG FROST

Job Title PRESIDENT

Address 3333 W. PENSACOLA ST
Street

Phone 850-544-7350

TALLAHASSEE FL 32312
City State Zip

Email GREG@CIVILCITATIONNETWORK.COM

Speaking: ☒ For ☐ Against ☐ Information

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

Representing CIVIL CITATION 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 for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/2017

Meeting Date

448

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Sal Nuzzo

Job Title Vice President of Policy

Address 100 N Duval Street

Phone 850-322-9941

Street

Tallahassee

FL

32301

Email snuzzo@jamesmadison.org

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing The James Madison Institute

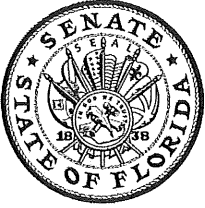
Appearing at request of Chair: ☐ Yes ☒ No

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

Committee Agenda Request

To: Senator Randolph Bracy,
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: February 10th, 2017

I respectfully request that **Senate Bill #458**, relating to **Florida Criminal Justice Reform Task Force**, be placed on the:

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

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

Senator Jeff Brandes
Florida Senate, District 24

ALEC's Pre-Arrest Diversion Bill, Jan 12, 2017

Summary

For the purpose of encouraging local communities and public or private educational institutions to implement prearrest diversion programs that afford certain adults who fulfill specified ~~behavioral health~~ intervention and community service obligations the opportunity to avoid an arrest record. This legislation does not mandate that a particular prearrest diversion program for adults be adopted, but finds that the adoption of the model provided in ~~the following sections~~ would allow certain adults to avoid an arrest record, while ensuring that those adults receive appropriate intervention and fulfill community service obligations. If a prearrest diversion program is implemented, the program is **required** to share information with other prearrest diversion programs.

Section 1.

Local communities and public or private educational institutions may adopt a **prearrest diversion** program in which:

- (a) Law enforcement officers, at their sole discretion, may issue civil citations to certain adults who commit a qualifying nonviolent misdemeanor offense ~~listed in Section 2~~. A civil citation may be issued only if the adult admits that he or she committed the offense and if the adult has not previously been arrested and has not received an adult civil citation. However, an adult may not be issued a civil citation if the nonviolent misdemeanor offense involves a victim and the victim objects to issuance of the civil citation.
- (b) An adult who receives a civil citation shall report for intake as required by the local prearrest diversion program and shall be provided appropriate assessment, intervention, education, and behavioral health care services. While in the local prearrest diversion program, the adult shall perform community service hours as specified by the ~~local prearrest diversion~~ program. The adult shall pay restitution due to the victim as a requirement ~~of the prearrest diversion program~~. If the adult does not successfully complete the prearrest diversion program, the law enforcement agency that issued the civil citation shall criminally charge the adult for the original offense and refer the case to the ~~appropriate prosecuting agency~~ to determine if prosecution is appropriate. If the adult successfully completes the program, an arrest record shall not be associated with the offense.

- (c) ~~A steering committee~~ shall be created for the prearrest diversion program to develop policies and procedures for the program, including, but not limited to, eligibility criteria, program implementation and operation, and the fee to be paid by adults participating in the program. ~~At a minimum, the steering committee must be composed of representatives of the law enforcement agencies participating in the program, a representative of the program services provider, a public defender or his or her designee, a prosecuting attorney or his or her designee, a clerk of the circuit court or his or her designee, and other interested stakeholders.~~

Section 2. Nonviolent misdemeanor offenses that qualify for a prearrest diversion program include, ~~but are not limited to:~~

- (a) ~~Disorderly conduct~~
 (b) ~~Petit theft of property valued at less than \$50~~
 (c) ~~Possession of alcohol by a person younger than 24 years of age~~
 (d) ~~Possession of 20 grams or less of cannabis in violation~~
 (e) ~~Selling or providing alcoholic beverages to a minor~~
 (f) ~~Trespass in a structure or conveyance in violation~~

Section 3.

This section does not preempt a county or municipality from enacting noncriminal sanctions for a violation of an ordinance or other violation, and does not preempt a county, a municipality, or a public or private educational institution from creating its own model for a pre-arrest diversion program for adults

Florida SB 448 sponsored by Sen. Brandes Jan 24, 2017
 INTENT.

The Legislature encourages local communities and public or private educational institutions to implement prearrest diversion programs that afford certain adults who fulfill specified intervention and community service obligations the opportunity to avoid an arrest record. The Legislature does not mandate that a particular prearrest diversion program for adults be adopted, but finds that the adoption of the model provided in this section would allow certain adults to avoid an arrest record, while ensuring that those adults receive appropriate intervention and fulfill community service obligations. If a prearrest diversion program is implemented, the program is encouraged to share information with other prearrest diversion programs.

(95% verbatim)

(2) MODEL ADULT CIVIL CITATION PROGRAM.—

Local communities and public or private educational institutions may adopt a program in which:

- (a) Law enforcement officers, at their sole discretion, may issue a civil citation to certain adults who commit a qualifying nonviolent misdemeanor offense selected by the program. A civil citation may be issued only if the adult admits that he or she committed the offense and if the adult has not previously been arrested and has not received an adult civil citation. However, an adult may not be issued a civil citation if the nonviolent misdemeanor offense involves a victim and the victim objects to issuance of the civil citation.
- (b) An adult who receives a civil citation shall report for intake as required by the local prearrest diversion program and shall be provided appropriate assessment, intervention, education, and behavioral health care services by the program. While in the local prearrest diversion program, the adult shall perform community service hours as specified by the program. The adult shall pay restitution due to the victim as a program requirement. If the adult does not successfully complete the prearrest diversion program, the law enforcement agency that issued the civil citation shall criminally charge the adult for the original offense and refer the case to the state attorney to determine if prosecution is appropriate. If the adult successfully completes the program, an arrest record may not be associated with the offense.

(97% verbatim)

(3) Program Development, Implementation, and Operation.—

Representatives of participating law enforcement agencies, a representative of the program services provider, the public defender, the state attorney, and the clerk of the circuit court shall create the prearrest diversion program and develop its policies and procedures, including, but not limited to, eligibility criteria, program implementation and operation, and the determination of the fee to be paid by adults participating in the program. In developing the policies and procedures for the program, the parties must solicit input from other interested stakeholders. The program may be operated by an entity such as a law enforcement agency, the county or municipality, or another entity selected by the county or municipality. (Sentence rearranged, slight rewording, 44% verbatim)

(4) QUALIFYING OFFENSES.—Nonviolent misdemeanor offenses that qualify the offender for a prearrest diversion program must be selected as part of the program development under subsection (3).

(48% verbatim)

(5) APPLICABILITY.

This section does not preempt a county or municipality from enacting noncriminal sanctions for a violation of an ordinance or other violation, and it does not preempt a county, a municipality, or a public or private educational institution from creating its own model for a prearrest diversion program for adults. (100% verbatim)

bit.ly/SB448

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 450

INTRODUCER: Criminal Justice Committee and Senator Brandes

SUBJECT: Public Records

DATE: March 14, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Hrdlicka	CJ	Fav/CS
2.			GO	
3.			AP	
4.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 450, which is linked to the passage of CS/SB 448, creates a public records exemption for personal identifying information of an adult who participates in a prearrest diversion program.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2022, unless reviewed and saved from repeal by the Legislature. The bill provides a statement of public necessity as required by the State Constitution.

The Florida Constitution requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage because it creates a new public records exemption.

The bill takes effect on the same date that CS/SB 448 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof, and becomes law.

II. Present Situation:

The Florida Constitution provides that every individual has a right of access to public records which are made or received in connection with official public business unless the records are exempt. This right applies to records of the legislative, executive, and judicial branches.¹

¹ Article I, s. 24(a), FLA. CONST.

The Public Records Act, codified in ch. 119, F.S., expressly guarantees every person's right to inspect and copy any state or local government public record² at any reasonable time, under reasonable conditions, and under the supervision of the public records custodian.³

Only the Legislature may create an exemption to public records requirements.⁴ Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption. Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law.

The Open Government Sunset Review Act (OGSR) requires a newly created or expanded public records exemption be repealed on October 2 of the fifth year after enactment, unless reviewed and reenacted by the Legislature.⁵ It further provides that a public records exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet the public purpose it serves.⁶

An exemption serves an identifiable purpose if it meets one of the following purposes and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption.
- The release of sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt.
- It protects trade or business secrets.⁷

In addition, the Legislature must find that the purpose of the exemption overrides Florida's public policy strongly favoring open government.

The OGSR also requires specified questions to be considered during the review process.⁸ In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of the exemption. These specified questions are:

² Section 119.011(12), F.S., defines "public record" as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

³ Section 119.07(1)(a), F.S.

⁴ Article I, s. 24(c), FLA. CONST. There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and* exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Bd. of Seminole*, 874 So.2d 48 (Fla. 5th DCA 1994), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, then such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in the statutory exemption. See Op. Att'y Gen, Fla. 85-62, August 1, 1985.

⁵ Section 119.15(3), F.S.

⁶ Section 119.15(6)(b), F.S.

⁷ Section 119.15(6)(b)1.-3., F.S.

⁸ Section 119.15(6)(a), F.S.

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?⁹

To enact an exemption, the bill may not contain other substantive provisions¹⁰ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹¹

Adult Criminal History Records

A criminal history record is any nonjudicial record maintained by a criminal justice agency containing criminal history information.¹² Criminal history information includes information on a person's arrests, detentions, indictments, informations (formal criminal charges), and the disposition of the charges.¹³

An adult's criminal history information is available free of charge to criminal justice agencies and to the public with payment of a fee.¹⁴ Adults seeking to prevent such disclosure may petition the court to seal¹⁵ or expunge the record.¹⁶

Sections 943.059 and 943.0585, F.S., provide the procedures for sealing and expunging criminal history records. When a record is sealed, it is not destroyed, but access is limited to:

- The subject of the record;
- His or her attorney;
- Criminal justice agencies for criminal justice purposes;
- Judges; and
- Certain agencies for licensing and employment purposes.¹⁷

When a criminal history record is expunged, criminal justice agencies other than the Florida Department of Law Enforcement (FDLE) must physically destroy the record. Criminal justice agencies are allowed to make a notation indicating compliance with an expunction order. FDLE is required to retain expunged records.¹⁸

⁹ Section 119.15(6)(a)1.-6., F.S.

¹⁰ The bill may, however, contain multiple exemptions that relate to one subject.

¹¹ Article I, s. 24(c), FLA. CONST.

¹² Section 943.045(6), F.S.

¹³ Section 943.045(5), F.S.

¹⁴ Section 943.053(3)(a), F.S.

¹⁵ Section 943.059, F.S.

¹⁶ Section 943.0585, F.S.

¹⁷ Section 943.059(4), F.S.

¹⁸ Section 943.0585(4), F.S.

Persons who have had their criminal history records sealed or expunged may lawfully deny or fail to acknowledge the arrests covered by their record, except when they are applying for certain types of employment,¹⁹ petitioning the court for a record sealing or expunction, or are a defendant in a criminal prosecution.²⁰

Sealed or expunged records are confidential and exempt from the public records law.²¹ It is a first degree misdemeanor²² to divulge their existence.²³

Model Prearrest Diversion Program

CS/SB 448, which is linked to CS/SB 450, creates s. 901.40, F.S., to encourage local communities and public or private educational institutions to implement a prearrest diversion program. CS/SB 448 provides a framework for a model adult civil citation program that may be adopted. The model program allows a law enforcement officer, at the officer's sole discretion, to issue a civil citation or similar prearrest diversion program notice to an adult who:

- Commits a misdemeanor offense (as determined by the program);
- Admits to committing the offense or does not contest the offense;
- Has not previously been arrested; and
- Has not previously received an adult civil citation or similar prearrest diversion program unless the terms of the local adult prearrest diversion program allows otherwise.

The model program requires an adult who receives a civil citation to complete the required community service hours and pay restitution. If the adult does not successfully complete the program, the officer must determine if there is good cause to arrest the adult for the original misdemeanor offense and refer the case to the state attorney to determine if prosecution is appropriate or allow the adult to continue in the program.

A civil citation or similar prearrest diversion program notice is issued in lieu of an arrest so no criminal history record is created. However, records of a civil citation or similar prearrest diversion program notice held by the issuing law enforcement agency and by a model program are subject to disclosure. Currently, Florida law does not provide a public records exemption for records associated with a civil citation.

III. Effect of Proposed Changes:

The bill creates a public records exemption for the personal identifying information of an adult who participates in a prearrest diversion program.

¹⁹ These include candidates for appointment as a guardian, admission to The Florida Bar, employment with a criminal justice agency, a license by the Division of Insurance Agent and Agent Services of the Department of Financial Services, or a position with an agency which is responsible for the protection of vulnerable persons, including children, disabled persons, and elderly persons.

²⁰ Sections 943.0585(4)(a) and 943.059(4)(a), F.S.

²¹ Sections 943.059(4)(c) and 943.0585(4)(c), F.S.

²² A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

²³ Sections 943.059 and 943.0585, F.S., require FDLE to disclose sealed and expunged criminal history records to specified entities for specified purposes.

The bill provides a statement of public necessity as required by the Florida Constitution.²⁴ The statement includes the following findings:

- The goal of the prearrest diversion program is to give a second chance to adults who commit misdemeanor offenses and allow them the opportunity to avoid having an arrest record.
- If the personal identifying information of such adults were not exempt from disclosure, it would defeat the goal of giving adults who commit misdemeanor offenses a means to avoid arrest and prosecution.
- If such information were able to be obtained by the public, that disclosure might negatively impact the effectiveness of the prearrest diversion program.

The bill repeals the exemption on October 2, 2022, unless reviewed and saved from repeal by the Legislature.

The bill takes effect on the same date that CS/SB 448 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof, and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

This bill creates a new public record exemption. Therefore, the following constitutional requirements apply.

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a new public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a new public record exemption and includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record exemption to be no broader than necessary to accomplish the stated purpose of the law. Based on the legislative findings in the statement of public necessity, a court could find that the exception is broader than necessary to accomplish its stated purpose.

²⁴ Article I, s. 24(c), FLA. CONST.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a minimal fiscal impact on agencies responsible for complying with public records requests and redacting confidential and exempt information prior to releasing a record. However, these costs should be able to be absorbed with existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill is linked to the passage of CS/SB 448.

VIII. Statutes Affected:

This bill creates section 901.40 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Criminal Justice on March 13, 2017:

The committee substitute:

- Creates a public records exemption for the personal identifying information of an adult who participates in a prearrest diversion program; and
- Makes technical and stylistic changes.

B. Amendments:

None.



576030

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (6) is added to section 901.40,
Florida Statutes, as created by SB 448, 2017 Regular Session, to
read:

901.40 Prearrest diversion programs.—

(6) PUBLIC RECORDS EXEMPTION.—The personal identifying
information of an adult who participates in a prearrest



576030

diversion program, as encouraged by this section, is exempt from
s. 119.07(1), and s. 24(a), Art. I of the State Constitution.
This subsection is subject to the Open Government Sunset Review
Act in accordance with s. 119.15 and shall stand repealed on
October 2, 2022, unless reviewed and saved from such repeal
through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public
necessity that the personal identifying information of an adult
who participates in a prearrest diversion program be exempt from
s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the
State Constitution. The goal of such programs is to give a
second chance to adults who commit misdemeanor offenses and
allow them the opportunity to avoid having an arrest record. If
the personal identifying information of such adults were not
exempt from disclosure, it would defeat the program's goal of
giving adults who commit misdemeanor offenses a means to avoid
the negative consequences of an arrest and prosecution. If such
information were able to be obtained by the public, the
disclosure might negatively impact the effectiveness of the
program. For these reasons, the Legislature finds that it is a
public necessity that the personal identifying information of an
adult who participates in a prearrest diversion program be
exempt from public records requirements.

Section 3. This act shall take effect on the same date
that SB 448 or similar legislation takes effect, if such
legislation is adopted in the same legislative session or an
extension thereof and becomes a law.

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



576030

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to public records; amending s. 901.40,
F.S.; providing that the personal identifying
information of an adult who participates in a
prearrest diversion program is exempt from public
record requirements; providing for future review and
repeal of the exemption; providing a statement of
public necessity; providing a contingent effective
date.

By Senator Brandes

24-00623-17

2017450__

A bill to be entitled

An act relating to public records; amending s. 901.40, F.S.; requiring that a civil citation, documentation of a prearrest diversion program, and any other reports or documents concerning a civil citation or a prearrest diversion program which are held by a law enforcement agency, a public or private educational institution, or a program service provider are exempt from public record requirements; providing for future review and repeal of the exemption; providing an exception; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (6) is added to section 901.40, Florida Statutes, as created by SB ____, 2017 Regular Session, to read:

901.40 Prearrest diversion programs.—

(6) PUBLIC RECORDS EXEMPTION.—A civil citation, documentation of a prearrest diversion program, and any other reports or documents concerning a civil citation or a prearrest diversion program, as encouraged by this section, which are held by a law enforcement agency, a public or private educational institution, or a program service provider are exempt from s. 119.07(1), and s. 24(a), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from such repeal through reenactment by the Legislature. Such exempt information may be disclosed to law enforcement agencies, public or private educational institutions, program service providers, authorized

Page 1 of 2

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

24-00623-17

2017450__

court personnel, state attorneys, and public defenders.

Section 2. The Legislature finds that it is a public necessity that a civil citation, documentation of a prearrest diversion program, and any other reports or documents concerning a civil citation or a prearrest diversion program held by a law enforcement agency be exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The goal of the prearrest diversion program is to give a second chance to adults who commit nonviolent misdemeanor offenses and allow them the opportunity to avoid having an arrest record. If the civil citation, documentation of the prearrest diversion program, and any other reports or documents concerning a civil citation or prearrest diversion program held by a law enforcement agency were not exempt from disclosure, it would defeat the goal of giving adults who commit nonviolent misdemeanor offenses a means to avoid arrest and prosecution. If such information were able to be obtained by the public, that disclosure might negatively impact the effectiveness of the prearrest diversion program. For these reasons, the Legislature finds that it is a public necessity that a civil citation, documentation of a prearrest diversion program, and any other reports or documents concerning a civil citation or a prearrest diversion program held by a law enforcement agency be exempt from public records requirements.

Section 3. This act shall take effect on the same date that SB ____ or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Page 2 of 2

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/2017

Meeting Date

450

Bill Number (if applicable)

Topic Prearrest Diversion Programs - Public Records

Amendment Barcode (if applicable)

Name Matt Dunagan

Job Title Deputy Director

Address 2617 Mahan Drive

Phone 850-877-2165

Street

Tallahassee

FL

32308

Email mdunagan@flsheriffs.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Sheriffs Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

March 13, 2017

Meeting Date

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

SB 450

Bill Number (if applicable)

Topic Prearrest Diversion Programs

Amendment Barcode (if applicable)

Name Scott McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788

Phone 850-521-3042

Street

Tallahassee

FL

32302

City

State

Zip

Email scott.mccoy@splcenter.org

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.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

March 13, 2017

Meeting Date

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

450

Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Honorable Bob Dillinger

Job Title Public Defender, 6th Circuit

Address 14250 49th Street, North

Phone 727-464-6516

Street

Clearwater

FL

33762

City

State

Zip

Email bdilling@wearethehope.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

13 Mch 17

Meeting Date

450

Bill Number (if applicable)

Topic Public Records Exemption

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title Pres & CEO

Address 204 S. Monroe St.

Phone 850.510.9922

Street

Tall

City

FL

State

32301

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Fla. 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
APPEARANCE RECORD

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

3 / 13 / 2017

Meeting Date

Topic _____

Bill Number 450

(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

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
APPEARANCE RECORD

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

3/13/17

Meeting Date

SB 450

Bill Number (if applicable)

Topic PRE-ARREST DIVERSION PUBLIC RECORDS EXEMP.

Amendment Barcode (if applicable)

Name GREG FROST

Job Title PRESIDENT

Address 3333 W. PENSACOLA ST.
Street

Phone 850-544-7350

TALLAHASSEE
City

FL
State

32312
Zip

Email GREG@CIVILCITATIONNETWORK.COM

Speaking: ☒ For ☐ Against ☐ Information

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

Representing CIVIL CITATION 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 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: SB 458

INTRODUCER: Senator Brandes

SUBJECT: Florida Criminal Justice Reform Task Force

DATE: March 10, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Hrdlicka	CJ	Favorable
2.			ACJ	
3.			AP	
4.			RC	

I. Summary:

SB 458 creates a 28-member joint legislative entity called Florida Criminal Justice Reform Task Force for conducting a comprehensive review of the state's criminal justice system, court system, and corrections system. The task force must submit a report of its findings, conclusions, and recommendations for proposed legislation to the President of the Senate and the Speaker of the House of Representatives by the date of convening of the 2018 Regular Legislative Session (January 9, 2018). The task force will be assigned legislative support staff under an appointed executive director. The task force expires January 31, 2018.

II. Present Situation:

The Florida Department of Corrections (DOC) is the third largest state prison system in the country. It incarcerates approximately 100,000 inmates in correctional facilities and supervises nearly 140,000. As of June 30, 2015, there were 11,000 correctional officers. The department's annual budget is \$2.4 billion for 2016.¹

According to an article in the February 2016 State Legislatures Magazine, at least 25 states have used what is commonly called justice reinvestment to develop and adopt prison reforms.² The process involves an analysis of the data on what drives prison populations and costs, enactment of policies that address those factors, investments that support carrying out the changes, and oversight and measurement to ensure the desired results are being achieved.

¹ Florida Department of Corrections. *Annual Report*, Fiscal Year 2014=2015
http://www.dc.state.fl.us/pub/annual/1415/FDC_AR2014-15.pdf.

²Allison Lawrence, *Justice Reinvestment: States Tackle Prison Reform*, *State Legislatures Magazine*, National Conference of State Legislatures, February 2016, available at <http://www.ncsl.org/bookstore/state-legislatures-magazine/prison-break.aspx> (last visited March 9, 2017).

The article indicates that half the states have reduced their prison populations since 2009. Five states, Alabama, Idaho, Mississippi, Nebraska, and Utah, adopted reforms in 2014 and 2015 that have a collective projected savings or avoided cost of more than \$1.7 billion over the next two decades.³

In June 2016, the Florida Government Efficiency Task Force recommended that the Legislature introduce a bill for consideration during the 2017 Legislative Session to establish an inter-branch, bipartisan criminal justice task force of stakeholders from both inside and outside of state government to conduct an operational review of the DOC.⁴

The task force cited the prison population, the number of correctional officers, and the cost of maintaining this system as significant factors behind the need for a task force. It states that the \$2.4 billion budget represents more than half of the total \$4.9 billion appropriated to criminal and civil justice.

The task force also cited the 2015 Office of Program Policy and Accountability (OPPAGA) study on the DOC's operations as further rationale for reform.⁵ In 2015, OPPAGA contracted with an independent consultant for a study of operations of the DOC. Specifically, the report reviewed correctional officer staffing, security operations, inmate programs, and a risk and needs assessment.

The study found that DOC's staffing is inexperienced due to high turnover and the number of staff is insufficient.⁶ The rate of turnover in Fiscal Year 2014-15 was 17.6 percent and there were more than 2,900 separations.⁷ In addition, half of the correctional officers had less than 3.1 years of work experience. The study also found that correctional officer staffing levels at times appeared to drop below the minimum acceptable levels.⁸ Many staff had not completed basic training; nearly 1,400 officers were on temporary employment authorization.

The study also found that certain policies or procedures led to inmate idleness, the mixing of populations, or the ability to move contraband articles, all of which could lead to violence or other problems arising within the facility and population.⁹ The perimeter security systems were found to be outdated, in poor operational condition, and fencing is in disrepair.¹⁰ "The study recommended the DOC review comprehensive staffing, perimeter security, emergency management plans, facility repairs, contraband and abuse policies, inmate safety and interaction policies, and inmate programs and their effectiveness."¹¹

³ *Id.*

⁴ Government Efficiency Task Force, *Final Report*, June 30, 2016.

⁵ OPPAGA, *Study of Operations of the Florida Department of Corrections*, Report No. 15-FDC, November 2015, available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=15-FDC> (last visited March 9, 2017).

⁶ *Id.* at p. 122.

⁷ *Id.* at p. 18.

⁸ *Id.* at pp. 28-30.

⁹ *Id.* at pp. 54, 72, 104, and 122.

¹⁰ *Id.* at p. 48.

¹¹ Government Efficiency Task Force, *Final Report*, June 30, 2016.

III. Effect of Proposed Changes:

The bill creates the Florida Criminal Justice Reform Task Force (task force) for conducting a comprehensive review of the state's criminal justice system, court system, and corrections system.

Membership

The task force is composed of 28 members.

The following members are appointed:

- Two members of the Senate, appointed by the President of the Senate;
- Two members of the House of Representatives, appointed by the Speaker of the House of Representatives;
- Two circuit judges, one of whom must have presided over a mental health court or drug court, appointed by the chair of the Conference of Circuit Judges of Florida;
- Two county court judges, appointed by the chair of the Conference of County Court Judges;
- A justice of the Supreme Court or judge of a district court of appeal, appointed by the Chief Justice of the Supreme Court;
- A representative of the Florida State University Project on Accountable Justice, appointed by the chair of the organization's executive board;
- Two county commissioners, appointed by the Florida Association of Counties;
- Appointed by the Governor from a list of three nominees recommended by the chairs of the committees in the Senate and the House of Representatives with jurisdiction over criminal justice matters, are:
 - A representative from a victim's advocacy group;
 - A formerly incarcerated individual who has demonstrated exceptional commitment to rehabilitation and community improvement; and
 - Two representatives of the faith community, either clergy or employees of faith-based policy organizations.

The rest of the membership consists of:

- The chairs of the committees of the Senate and House of Representatives with jurisdiction over criminal justice matters, or their designees;
- Two designees of the Executive Office of the Governor with demonstrated knowledge in the criminal justice field;
- The Attorney General or his or her designee;
- The Secretary of Corrections or his or her designee;
- The Secretary of Juvenile Justice or his or her designee;
- The president of the Florida Prosecuting Attorneys Association or his or her designee;
- The president of the Florida Public Defender Association or his or her designee;
- The president of the Florida Association of Criminal Defense Lawyers or his or her designee;
- The president of the Florida Sheriffs Association or his or her designee; and
- The president of the Florida Police Chiefs Association or his or her designee.

Terms of Membership

Task force appointments must be made within 30 days of the effective date of the bill. For those appointments that are selected from a list of nominees jointly recommended by the chairs of the Senate and House of Representatives committees with jurisdiction over criminal justice matters, the chairs must submit the names of nominees to the Governor within 15 days of the effective date of this act.

All members must serve the duration of the task force. The original appointing authority fills any vacancies. Membership must reflect the racial, gender, geographic, and economic diversity of the state, as well as the diversity and demographics of the state's prison population. Any member may be removed by the Governor for misfeasance, malfeasance, or willful neglect of duty.

Task force members serve without compensation but are entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061, F.S.

Duties

The task force is authorized and directed to study, evaluate, analyze, and undertake a comprehensive review of the state's adult criminal justice system, using a data-driven approach, to develop sentencing and corrections policy recommendations for proposed legislation. The policy recommendations must accomplish the following goals:

- Reduce correctional populations and associated correctional spending by focusing prison capacity on offenders who committed serious offenses or who are violent;
- Hold offenders accountable more efficiently by implementing or expanding research-based supervision and sentencing practices; and
- Reinvest savings into strategies shown to decrease recidivism, including reentry outcomes.

The task force is required to request technical assistance from nongovernmental research groups, including, but not limited to, the Justice Reinvestment Initiative.¹² The Department of Corrections, the Department of Law Enforcement, the Office of the State Courts Administrator, the Department of Juvenile Justice, the Office of Program Policy Analysis and Government Accountability, and any other state agency or department must provide assistance, data, and other information to the task force as requested.

Meetings

The task force must:

- Hold its first meeting within 60 days of the effective date of the bill, upon the call of the Senate President and the Speaker of the House of Representatives. At the first meeting, the task force elects a chair and any other offices the members deem necessary.

¹² The U.S. Department of Justice's Office of Justice Programs administers the Justice Reinvestment Initiative. Generally, a state that requests assistance is assigned a technical assistance provider to provide guidance to the state to review the state's criminal justice system and make recommendations for reform. However, as of January 2012, the program was not accepting new sites. Office of Justice Programs, Bureau of Justice Administration, Justice Reinvestment Initiative, *How Do I Participate? State Site Selection Process*, available at https://www.bja.gov/programs/justicereinvestment/how_do_i_participate.html (last visited March 9, 2017).

- Hold a minimum of four regular meetings.
- Meet upon the call of the chair or a request of a majority of the membership (a majority constitutes a quorum).

Written notice is required for all meetings at least 5 days before the date the meeting is scheduled. Emergency meetings may be scheduled at the request of the entire membership and without the 5-day written notice. All meetings must be open to the public.

Staffing

The President of the Senate and the Speaker of the House of Representatives jointly appoint an executive director and are authorized to assign legislative staff to provide support for the task force.

Task Force Records

The task force is subject to policies governing public records disclosure prescribed in the joint rules of the Senate and House of Representatives. The task force shall maintain records of its meetings.

Report

The task force must submit a report of its findings, conclusions, and recommendations for proposed legislation to the President of the Senate and the Speaker of the House of Representatives by the date of convening of the 2018 Regular Session of the Legislature (January 9, 2018). Upon submission of the report, the task force is dissolved and discharged of further duties.

Expiration

This section expires January 31, 2018.

The act takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not state which entity will reimburse the travel costs for members, particularly those who are not members of the Senate or House of Representatives. If the Office of Legislative Services (OLS) is assigned reimbursement of travel expenses, there would be a nominal impact to the OLS budget.¹³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

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

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

None.

B. Amendments:

None.

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

¹³ Office of Legislative Services, Bill Analysis for Senate Bill 458, January 27, 2017.

By Senator Brandes

24-00551-17

2017458__

A bill to be entitled

An act relating to the Florida Criminal Justice Reform Task Force; creating the task force within the legislative branch; specifying membership of the task force; establishing the manner of appointments and the terms of membership; prescribing duties of the task force; specifying requirements for meetings of the task force; requiring the task force to submit a report to the Legislature by a specified date; providing for staffing; specifying public records and public meetings requirements applicable to the task force; authorizing reimbursement for per diem and travel expenses; providing for expiration; providing an effective date.

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

Section 1. Florida Criminal Justice Reform Task Force.—The Florida Criminal Justice Reform Task Force is created within the legislative branch of state government for the purpose of conducting a comprehensive review of the state's criminal justice system, court system, and corrections system.

(1) MEMBERSHIP.—The task force is composed of 28 members, as follows:

(a) Two members of the Senate, appointed by the President of the Senate, not including any member designated pursuant to paragraph (k).

(b) Two members of the House of Representatives, appointed by the Speaker of the House of Representatives, not including any member designated pursuant to paragraph (k).

(c) Two circuit judges, one of whom must have presided over a mental health court or drug court, appointed by the chair of

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2017458__

the Conference of Circuit Judges of Florida.

(d) Two county court judges, appointed by the chair of the Conference of County Court Judges of Florida.

(e) A justice of the Supreme Court or judge of a district court of appeal, appointed by the Chief Justice of the Supreme Court.

(f) A representative of the Florida State University Project on Accountable Justice, appointed by the chair of the organization's executive board.

(g) A representative from a victim's advocacy group, appointed by the Governor from a list of three nominees recommended by the chairs of the committees in the Senate and the House of Representatives with jurisdiction over criminal justice matters.

(h) Two county commissioners, appointed by the Florida Association of Counties.

(i) A formerly incarcerated individual who has demonstrated exceptional commitment to rehabilitation and community improvement, appointed by the Governor from a list of three nominees jointly recommended by the chairs of the committees in the Senate and House of Representatives with jurisdiction over criminal justice matters.

(j) Two representatives of the faith community, either clergy or employees of faith-based policy organizations, appointed by the Governor from a list of three nominees jointly recommended by the chairs of the committees in the Senate and the House of Representatives with jurisdiction over criminal justice matters.

(k) The chairs of the committees of the Senate and House of

24-00551-17 2017458

Representatives with jurisdiction over criminal justice matters, or their designees.

(l) Two designees of the Executive Office of the Governor with demonstrated knowledge in the criminal justice field.

(m) The Attorney General or his or her designee.

(n) The Secretary of Corrections or his or her designee.

(o) The Secretary of Juvenile Justice or his or her designee.

(p) The president of the Florida Prosecuting Attorneys Association or his or her designee.

(q) The president of the Florida Public Defender Association or his or her designee.

(r) The president of the Florida Association of Criminal Defense Lawyers or his or her designee.

(s) The president of the Florida Sheriffs Association or his or her designee.

(t) The president of the Florida Police Chiefs Association or his or her designee.

(2) TERMS OF MEMBERSHIP.—Appointments to the task force shall be made within 30 days of the effective date of this act. For appointments that are selected from a list of nominees jointly recommended by the chairs of the committees of the Senate and the House of Representatives with jurisdiction over criminal justice matters, the respective chairs shall submit the names of nominees to the Governor within 15 days of the effective date of this act. All members shall serve for the duration of the task force. Any vacancy shall be filled by the original appointing authority for the remainder of the task force. The task force membership must reflect the racial,

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gender, geographic, and economic diversity of the state, as well as the diversity and demographics of the state's prison population. Any member may be removed by the Governor for misfeasance, malfeasance, or willful neglect of duty.

(3) DUTIES.—

(a) The task force is authorized and directed to study, evaluate, analyze, and undertake a comprehensive review of the state's adult criminal justice system, using a data-driven approach, to develop sentencing and corrections policy recommendations for proposed legislation that will accomplish the following goals:

1. Reduce correctional populations and associated correctional spending by focusing prison capacity on serious offenses and violent criminals.

2. Hold offenders accountable more efficiently by implementing or expanding research-based supervision and sentencing practices.

3. Reinvest savings into strategies shown to decrease recidivism, including reentry outcomes.

(b) The task force shall request technical assistance from nongovernmental research groups, including, but not limited to, the Justice Reinvestment Initiative. The Department of Corrections, the Department of Law Enforcement, the Office of the State Courts Administrator, the Department of Juvenile Justice, the Office of Program Policy Analysis and Government Accountability, and any other state agency or department shall provide assistance, data, and other information to the task force upon request.

(4) MEETINGS.—The task force shall hold its first meeting

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within 60 days of the effective date of this act, upon the call of the President of the Senate and the Speaker of the House of Representatives. At the first meeting, the task force shall elect a chair and any other offices as it deems necessary from among its membership. The task force shall hold a minimum of four regular meetings. The task force shall meet upon the call of the chair or a request of a majority of the membership. A majority of the membership of the task force constitutes a quorum. All members must be notified in writing of all meetings at least 5 days before the date on which a meeting of the task force is scheduled. However, an emergency meeting may be held without the 5 days' written notice if the meeting is scheduled at the request of the entire membership.

(5) REPORT.—The task force shall submit a report of its findings, conclusions, and recommendations for proposed legislation to the President of the Senate and the Speaker of the House of Representatives by the date of convening of the 2018 Regular Session of the Legislature. Upon submission of the report, the task force is dissolved and discharged of further duties.

(6) STAFFING.—The President of the Senate and the Speaker of the House of Representatives shall appoint an executive director and are authorized to assign legislative staff to provide support for the task force.

(7) PUBLIC RECORDS AND PUBLIC MEETINGS.—The task force is subject to policies governing public records disclosure prescribed in the joint rules of the Senate and the House of Representatives. All meetings of the task force must be open to the public, and regularly scheduled meetings must be publicly

24-00551-17 2017458

noticed at least 5 days before the date of the meeting. The task force shall maintain records of its meetings.

(8) PER DIEM AND TRAVEL EXPENSES.—Task force members shall serve without compensation but are entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061, Florida Statutes.

(9) EXPIRATION.—This section expires January 31, 2018.

Section 2. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/17

Meeting Date

SB 458

Bill Number (if applicable)

Topic CRIMINAL JUSTICE REFORM TASK FORCE

Name KARA GROSS

Amendment Barcode (if applicable)

Job Title LEGISLATIVE COUNSEL

Address 4500 BISCAYNE BLVD

Street

City MIAMI

State FL

Zip

Phone 786-363-4436

Email KGROSS@ACLUFL.ORG

Speaking: ☐ For ☐ Against ☐ Information

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

Representing ACLU OF FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

3/13/2017

Meeting Date

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458

Bill Number (if applicable)

Topic Florida Criminal Justice Reform Task Force

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Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Sheriffs Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/17
Meeting Date

458
Bill Number (if applicable)

Topic Crime, Justice Reform Task Force

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Amendment Barcode (if applicable)

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Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Assoc. of Counties

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)

3/8/17.

Meeting Date

458

Bill Number (if applicable)

Topic FL CJ Reform Task Force

Name Chelsea Murphy

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City

State

Zip

32303

Phone _____

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Right on Crime w/ TRPF

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)

3-13-17
Meeting Date

SB 458
Bill Number (if applicable)

Topic Task Force

Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing FAMM

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE
APPEARANCE RECORD

March 13, 2017

Meeting Date

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

458

Bill Number (if applicable)

Topic Florida Criminal Justice Reform Task Force

Amendment Barcode (if applicable)

Name Honorable Bob Dillinger

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/17

Meeting Date

458

Bill Number (if applicable)

Topic Criminal Justice Task Force

Amendment Barcode (if applicable)

Name Ingrid Delgado

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FL

State

32301

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Conference of Catholic Bishops

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)

March 13, 2017

Meeting Date

SB 458

Bill Number (if applicable)

Topic Criminal Justice Reform

Amendment Barcode (if applicable)

Name ~~Carol~~ Carla Laroche

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Speaking: ☒ For ☐ Against ☐ Information

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

Representing Campaign for Criminal Justice Reform

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/17
Meeting Date

458
Bill Number (if applicable)

Topic Criminal Justice Reform Task Force

Amendment Barcode (if applicable)

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Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Center for Fiscal & Economic Policy

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)

3/13/2017

Meeting Date

Topic _____

Name BRIAN PITTS

Job Title TRUSTEE

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City State Zip

Bill Number 458
(if applicable)

Amendment Barcode _____
(if applicable)

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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.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

March 13, 2017

Meeting Date

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

SB 458

Bill Number (if applicable)

Topic Criminal Justice Reform

Amendment Barcode (if applicable)

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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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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/2017
Meeting Date

SB 458
Bill Number (if applicable)

Topic FL Civil Justice Task Force

Amendment Barcode (if applicable)

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

Representing FSU Center for the Advancement of Human Rights

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. FSU

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/2017

Meeting Date

458

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

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Speaking: ☒ For ☐ Against ☐ Information

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

Representing The James Madison Institute

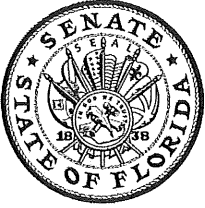
Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)



The Florida Senate

Committee Agenda Request

To: Senator Randolph Bracy,
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: February 10th, 2017

I respectfully request that **Senate Bill #458**, relating to **Florida Criminal Justice Reform Task Force**, be placed on the:

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

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

Senator Jeff Brandes
Florida Senate, District 24

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 790

INTRODUCER: Criminal Justice Committee and Senator Brandes

SUBJECT: Probation and Community Control

DATE: March 14, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Hrdlicka	CJ	Fav/CS
2.			AP	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 790 amends s. 948.06, F.S., to address the recent court decision in *Mobley v. State*, 197 So. 3d 572 (4th DCA 2016). The court in *Mobley* held that a warrant issued under s. 901.02, F.S., does not toll an offender's supervision unless the warrant was for a new crime, not just a violation of the conditions of supervision. A probation term is not currently tolled for a technical violation under s. 948.06(1)(f), F.S. This allows the term of probation to expire prior to resolution of any technical violation. The bill removes the reference to s. 901.02, F.S., in s. 948.06(1)(f), F.S., to clarify that a warrant tolling supervision may be issued for a violation of the terms and conditions of the supervision, and that a crime need not be committed for tolling to occur.

This bill revises various sections of ch. 948, F.S., to clarify and update provisions in order to conform to current law and current practices of the Department of Corrections (department).

II. Present Situation:

Probation

The Department of Corrections supervises more than 168,000 adult offenders. These offenders are monitored and supervised by probation officers located in 130 probation offices throughout Florida. This includes offenders released from prison on parole, conditional release, or conditional medical release and offenders placed on court ordered supervision including

probation, administrative probation, drug offender probation, sex offender probation, and community control.¹

Issuance of Arrest Warrants

Section 901.02(1), F.S., requires a judge to sign and issue an arrest warrant if the judge decides that probable cause exists to issue the arrest warrant for any crime committed within the judge's jurisdiction.

Section 901.02(2), F.S., provides that the court may issue a warrant for the defendant's arrest when all of the following circumstances apply:

- A complaint has been filed charging the commission of a misdemeanor only.
- The summons issued to the defendant has been returned unserved.
- The judge finds that probable cause exists to issue the arrest warrant.

A judge may electronically sign² an arrest warrant if the judge determines that the complaint:

- Bears the affiant's signature, or electronic signature if the complaint was submitted electronically.
- Is supported by an oath or affirmation administered by the judge or other person authorized by law to administer oaths.
- If submitted electronically, is submitted by reliable electronic means.

Arrest for Violation of Probation or Community Control

During probation or community control, under s. 948.06, F.S., if a person violates the terms of his or her probation or community, then any law enforcement officer or parole or probation officer can arrest the person. The arrest may be made with or without a warrant. A judge can also issue a warrant for the person's arrest, or the committing trial court judge can issue a notice to appear, depending on the type of violation.

Until the court enters a ruling, under s. 948.06(1)(f), F.S., the person's probation period is tolled upon the filing of an affidavit alleging a violation of probation or community control and following issuance of a warrant under s. 901.02, F.S., or a warrantless arrest or a notice to appear under s. 948.06, F.S.

Mobley v. State

In *Mobley v. State*, 197 So. 3d 572 (4th DCA 2016), the court held that a warrant purportedly issued under s. 901.02, F.S., does not toll an offender's supervision unless the warrant was for a new crime, not just a violation of the conditions of supervision.

¹ Florida Department of Corrections, *Introduction to Community Corrections*, available at <http://www.dc.state.fl.us/facilities/comcor/> (last visited March 7, 2017).

² Section 933.40(1)(d), F.S., defines "electronic signature" as any letters, characters, symbols, or process manifested by electronic or similar means and attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

Facts in the Case

In the case, Mr. Mobley had pled no contest to various charges stemming from two cases and was placed on eighteen months' probation on March 7, 2011. The probation was set to expire on September 7, 2012. On August 9, 2012, a probation officer filed affidavits in both cases alleging that Mr. Mobley violated his probation by failing to make both restitution payments and a drug testing fee payment. The same day, the trial court issued warrants to arrest him based on those affidavits.

Mr. Mobley's probation was extended by two years for the violations in the affidavits, but this occurred twenty days after his probation was scheduled to expire. After this extension, Mr. Mobley led police on a high speed motorcycle chase and was again charged with violation of probation for various reasons including the chase.

After a hearing on his violation of probation relating to the chase, the trial court found that he violated his probation and sentenced him to 332.95 months in prison based on his original offenses from March 2011.

Mr. Mobley argued that because his probation expired on September 7, 2012, that its subsequent extension and later revocation must be reversed because the trial court lacked subject matter jurisdiction.³

Analysis

The court stated that s. 948.06(1)(f), F.S., is clear that a warrant under s. 901.02, F.S., is required in order for the probationary period to be tolled (except when one of the other two alternatives are applicable). The court further stated that s. 901.02, F.S., requires that the warrant be for a "crime." In this case, the warrants were for violations of probation based on the failure to make restitution payments and a payment for drug testing which are not crimes. The court found that the warrants issued under s. 901.02, F.S., were never tolled.

The court reversed and remanded the case to the trial court. The state subsequently filed a Motion to Certify Question of Great Public Importance. The Fourth District Court of Appeal granted the motion and certified the following question to the Florida Supreme Court:

IN A SITUATION WHERE THERE IS NO WARRANTLESS ARREST OR NOTICE TO APPEAR, CAN A WARRANT THAT DOES NOT ALLEGE A PROBATIONER COMMITTED A NEW CRIME BE CONSIDERED A WARRANT ISSUED UNDER SECTION 901.02 OF THE FLORIDA STATUTES FOR THE PURPOSE OF TOLLING A PROBATIONARY PERIOD PURSUANT TO SECTION 948.06(1)(f)⁴

The Florida Supreme Court declined the certificate for question.⁵

³ This portion of the analysis is adapted from *Mobley v. State*, 197 So. 3d 572 at 573 (4th DCA 2016).

⁴ *Mobley v. State*, 192 So. 3d 622 (4th DCA 2016).

⁵ *State v. Mobley*, SC16-936, 2016 Fla. LEXIS 1174 (Fla. 2016).

III. Effect of Proposed Changes:

Issuance of Arrest Warrants

The bill amends s. 948.06(1)(f), F.S., (Section 9), to delete the reference to s. 901.02, F.S., related to the issuance of a warrant based on an affidavit alleging a violation of probation or community control. According to the department, this change will correct the statutory deficiency identified in *Mobley*. By removing the reference to s. 901.02, F.S., in s. 948.06(1)(f), F.S., it clarifies that a warrant issued for a violation of the terms and conditions of the supervision tolls the person's probation period and that a crime need not be committed for tolling to occur.

Under current law, the chief judge of a judicial circuit may direct the department to use a notification letter of a technical violation in lieu of a violation report, affidavit, and warrant when the alleged violation is not a new felony or misdemeanor offense. The bill also amends s. 948.06(1)(g), F.S., to allow the court to direct the department to use a notification letter in lieu of a notice to appear.

Administrative Probation

Administrative probation is “a form of non-contact supervision in which an offender who represents a low risk of harm to the community may be placed on non-reporting status until expiration of the term of supervision.”⁶

The bill amends the definition of “administrative probation” in s. 948.001, F.S., (Section 1), to update terms and provide a cross-reference to s. 948.013, F.S., which provides the requirements to administrative probation.

The bill also amends s. 948.013, F.S., (Section 4), making a person ineligible for administrative probation if he or she was convicted of any sexual felony offense listed in ss. 775.21 and 943.0435, F.S., committed on or after July 1, 2017, eliminating the need to update the list when new offenses are added. This change would exclude all sexual predators and offenders from being eligible for administrative probation.⁷

Uniform Order of Supervision

The department, in consultation with the Office of State Courts Administrator, developed and disseminated to the courts uniform order of supervision forms in 2009.⁸ The bill clarifies that the uniform order of supervision forms are *revised* each year and *made available* to the courts in s. 948.01(1)(b), F.S., (Section 2).

⁶ Department of Corrections, *Community Supervision Definitions*, available at <http://www.dc.state.fl.us/facilities/comcorinfo/definitions.html> (last visited March 8, 2017).

⁷ Department of Corrections, *2017 Agency Legislative Bill Analysis: SB 790*, February 12, 2017.

⁸ Chapter 2009-63, F.S. At the time, there was no statewide format for the order of supervision; the department had developed a uniform order that a majority of circuits were using. Florida Senate, *Bill Analysis SB 1722*, April 6, 2009.

Addiction Recovery Supervision

Addiction recovery supervision is “mandatory post-prison supervision for offenders released from a state correctional facility who have a history of substance abuse or addiction or have participated in any drug treatment, and have not been convicted of a disqualifying offense.”⁹ The bill amends s. 948.012, F.S., (Section 3), to include a reference to s. 944.4731(2)(b), F.S.,¹⁰ clarifying that inmates released to addiction recovery supervision who also have probation or community control to follow release, must serve the addiction recovery supervision period first.

Conditions of Probation or Community Control

Community Service

The bill amends s. 948.031, F.S., (Section 6), changing the term “public service” to “community service.” The department states that the purpose of the change is to emphasize that the work is done as a service to the community.¹¹

Residential Treatment Programs

The bill updates s. 948.035(3), F.S., (Section 7), to reflect the current process for offenders to be referred and evaluated for residential treatment programs. Under the bill, before admission to a treatment facility or center, a qualified practitioner must provide an individual assessment and recommendation on appropriate treatment.

Education and Learning

The bill amends s. 947.037, F.S., (Section 8), to give a court discretion to order an offender without a high school diploma or equivalent, or who is illiterate, to make a good faith effort toward completion of an adult education program as a condition of probation. Currently, the law requires the court to make such an order.

Payment for Supervision and Other Obligations

The bill amends s. 948.09, F.S., (Section 10), to do several things:

- Revises the catch line to accurately reflect the statute’s purpose.
- Removes references to specific types of supervision that are under ch. 948, F.S., to instead refer generally to supervision under ch. 948, F.S., in subsection (1).
- Simplifies references to supervision in subsection (3) and updates references to the Secretary of the department to accurately reflect the responsible person or action.
- Repeals subsection (4) related to misdemeanor supervision payments. The department stated that this is outdated and obsolete.¹²

⁹ Florida Commission on Offender Review, *Release Types*, available at <https://www.fcor.state.fl.us/postrelease.shtml> (last visited March 8, 2017).

¹⁰ “If an offender has received a term of probation or community control to be served after release from incarceration, the period of probation or community control may not be substituted for addiction-recovery supervision and shall follow the term of addiction-recovery supervision.” Section 944.4731(2)(b), F.S.

¹¹ Department of Corrections, *2017 Agency Legislative Bill Analysis: SB 790*, February 12, 2017.

¹² *Id.*

Home Confinement

The bill revises s. 948.10, F.S., (Section 11), to clarify that community control is the department's "home confinement" program.

Currently, a court or the Florida Commission on Offender Review can order an offender to community control instead of incarceration. This is limited to certain individuals:

- Probation violators charged with technical violations or misdemeanors;
- Parole violators charged with technical violations or misdemeanors; and
- Individuals convicted of felonies who, due to their backgrounds or the seriousness of the offenses, would not be placed on regular probation.

The bill authorizes the use of community control for *any* new law violations, not just misdemeanors. The department states that this would give the courts an alternative to jail or prison for offenders charged with new law violations.¹³

The bill also increases the community control case size ratio from an officer supervising 25 cases to an officer supervising 30 cases. The department states that this increase is due to the amount of time an officer currently requires with these types of cases in supervising the offender.¹⁴

The bill repeals a requirement of the department to commit at least ten percent of field staff and supporting resources on the community control program. The department states that "the deletion of the listed percentage of resources is proposed because sentencing practices are not universal in all areas of the state and some courts sentence offenders to community control at different rates in each circuit." Additionally, the statutory case size ratio limits caseloads for staff and in areas with staffing shortages, these functions are completed by multiple staffing levels, not just field staff.¹⁵

The bill repeals an obsolete annual report about the community control program and "the department's specific efforts to protect the public from offenders placed on community control." The department states that this is an obsolete report required by the "Howard E. Futch Community Safety Act," the provision of which was repealed in 2008.¹⁶ It is likely that this annual report should also have been repealed at that time. The department discontinued this section of its annual report in 2008, but has put practices in place to ensure future compliance.¹⁷

Electronic Monitoring

Currently, s. 948.11(1), F.S., states that the department *may* electronically monitor an offender sentenced to community control when the court has imposed electronic monitoring as a condition of community control. The bill corrects this to state that the department *shall* electronically monitor an offender as ordered by the court (Section 13).

¹³ *Id.*

¹⁴ E-mail exchange between Department of Corrections Staff and Staff of the Criminal Justice Committee, January 4, 2017.

¹⁵ *Id.*

¹⁶ See ch. 2008-250, L.O.F.

¹⁷ E-mail exchange between Department of Corrections Staff and Staff of the Criminal Justice Committee, January 4, 2017.

Additionally, the bill:¹⁸

- Clarifies in subsection (2) that electronic monitoring may be used for offenders placed under *supervision*, not just community control. The department states that it is used as a tool to enhance field supervision and surveillance.
- Allows a court to order electronic monitoring for violations of probation, as an alternative sanction, in subsection (2).
- Clarifies in subsection (3) that any probation officer investigates electronic monitoring alerts for offenders monitored by the department, not just community control officers.

Obsolete References

The bill updates references to “parole” officers in ss. 948.001, 948.03, 948.06, and 948.10, F.S. (Sections 1, 5, 9, and 11). The department states that the term is obsolete.¹⁹

The bill makes reference to probation officers consistent throughout the chapter by using the uniform term “probation officer” rather than “correctional probation officer” or “supervisor” in ss. 948.03 and 948.06, F.S., (Sections 1 and 9).

Community residential drug punishment centers were repealed in 2010.²⁰ The staff analysis stated that no person was ever sentenced to a center; the centers were never funded; and no centers existed.²¹ The bill repeals the definition for “community residential drug treatment center” in s. 948.001, F.S., (Section 1), and similar provisions in ss. 948.03(2), 948.035(1)(b) and (3), and 948.101(2), F.S., (Sections 5, 7, and 12).

The bill repeals an obsolete reference to American Correctional Association standards established in 1991 for staff qualifications and criminal background checks for staff of certain private providers in s. 948.15, F.S., (Section 14).

The bill repeals s. 948.50, F.S., (Section 15), enacted in 1991, which states that “this act may be cited as the ‘Community Corrections Partnership Act.’”

Reenactments

Sections 921.187(1)(n), 947.1405(7)(b), 947.1747, and 948.01(3), F.S., (Sections 16, 17, 18, and 19), are reenacted to incorporate changes made by the bill.

The bill is effective July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁸ Department of Corrections, *2017 Agency Legislative Bill Analysis: SB 790*, February 12, 2017.

¹⁹ Department of Corrections, *2017 Agency Legislative Bill Analysis: SB 790*, February 12, 2017.

²⁰ Chapter 2010-113, L.O.F.

²¹ Florida Senate, *Bill Analysis CS/SB 2350*, April 9, 2010, page 2.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Corrections does not anticipate a fiscal impact. Any potential impact on courts is unknown at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 948.001, 948.01, 948.012, 948.013, 948.03, 948.031, 948.035, 948.037, 948.06, 948.09, 948.10, 948.101, 948.11, 948.15, 948.50, 921.187, 947.1405, 947.1747.

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

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

CS by Criminal Justice on March 13, 2017:

The CS:

- No longer amends language of s. 948.01(1)(a) and (5), F.S., that prohibits private entities from providing probationary or supervision services to misdemeanor offenders.
- Amends s. 948.013, F.S., making a person ineligible for administrative probation if he or she was convicted of any sexual felony offense listed in ss. 775.21 and 943.0435,

F.S., committed on or after July 1, 2017, eliminating the need to update the list when new offenses are added. This change would exclude all sexual predators and offenders from being eligible for administrative probation.

B. Amendments:

None.

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



431552

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 120 - 153

and insert:

Section 2. Paragraph (b) of subsection (1) of section 948.01, Florida Statutes, is amended to read:

948.01 When court may place defendant on probation or into community control.—

(1) Any state court having original jurisdiction of criminal actions may at a time to be determined by the court,



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with or without an adjudication of the guilt of the defendant,
hear and determine the question of the probation of a defendant
in a criminal case, except for an offense punishable by death,
who has been found guilty by the verdict of a jury, has entered
a plea of guilty or a plea of nolo contendere, or has been found
guilty by the court trying the case without a jury.

(b) The department, in consultation with the Office of the
State Courts Administrator, shall revise and make available
~~develop and disseminate~~ to the courts uniform order of
supervision forms by July 1 of each year or as necessary. The
courts shall use the uniform order of supervision forms provided
by the department for all persons placed on community
supervision.

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

And the title is amended as follows:

Delete lines 5 - 7.



660892

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 211 - 225
and insert:

Section 4. Subsection (2) of section 948.013, Florida
Statutes, is amended to read:

948.013 Administrative probation.—

(2) (a) Effective for an offense committed on or after July
1, 1998, and before October 1, 2017, a person is ineligible for
placement on administrative probation if the person is sentenced



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to or is serving a term of probation or community control, regardless of the conviction or adjudication, for committing, or attempting, conspiring, or soliciting to commit, any of the felony offenses described in s. 787.01 or s. 787.02, where the victim is a minor and the defendant is not the victim's parent; s. 787.025; s. 787.06(3)(g); chapter 794; former s. 796.03; s. 800.04; s. 825.1025(2)(b); s. 827.071; s. 847.0133; s. 847.0135; or s. 847.0145.

(b) Effective for an offense committed on or after July 1, 2017, a person is ineligible for placement on administrative probation if the person is sentenced to or is serving a term of probation or community control, regardless of the conviction or adjudication, for committing, or attempting, conspiring, or soliciting to commit, any of the felony offenses described in s. 775.21(4)(a)1.a. or (4)(a)1.b. or s. 943.0435(1)(h)1.a.

By Senator Brandes

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1 A bill to be entitled
 2 An act relating to probation and community control;
 3 amending s. 948.001, F.S.; redefining terms and
 4 deleting a definition; amending s. 948.01, F.S.;
 5 deleting a provision prohibiting a private entity from
 6 providing probationary or supervision services to
 7 misdemeanor offenders under certain circumstances;
 8 requiring the Department of Corrections to revise and
 9 make available to the courts, rather than develop and
 10 disseminate to the courts, uniform order of
 11 supervision forms; amending s. 948.012, F.S.; adding
 12 the addiction-recovery supervision program as an
 13 exception to the immediate commencement of the period
 14 of probation upon the release of the defendant;
 15 amending s. 948.013, F.S.; revising the list of
 16 offenses that make an offender ineligible for
 17 placement on administrative probation; amending s.
 18 948.03, F.S.; authorizing the court to require a
 19 probationer or offender to report to, to permit visits
 20 by, to submit to random testing as directed by,
 21 probation officers, rather than probation and parole
 22 supervisors or correctional probation officers;
 23 removing the option of incarceration in specified
 24 locations if a court withholds adjudication of guilt
 25 or imposes incarceration as a condition of probation;
 26 amending s. 948.031, F.S.; replacing the term "public
 27 service" with the term "community service"; amending
 28 s. 948.035, F.S.; removing a probation program drug
 29 punishment treatment community facility from the list
 30 of residential treatment or incarceration facilities
 31 that an offender must be restricted to under certain
 32 circumstances; requiring a qualified practitioner to

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33 provide, rather than a court to obtain, an assessment
 34 and recommendation on the treatment needs of an
 35 offender entering a treatment facility; amending s.
 36 948.037, F.S.; authorizing, rather than requiring, a
 37 court to require an offender to make a good faith
 38 effort toward completion of certain skills or a
 39 specific diploma as a condition of community control,
 40 probation, or probation following incarceration;
 41 amending s. 948.06, F.S.; replacing the term "parole
 42 or probation supervisor" with the term "probation
 43 officer"; specifying that the probationary period is
 44 tolled after the issuance of a violation of probation
 45 or community control warrant, rather than an arrest
 46 warrant; authorizing a chief judge to direct the
 47 department to use a notice to appear for technical
 48 violations; amending s. 948.09, F.S.; expanding the
 49 types of supervision under which an offender must pay
 50 for the cost of supervision; conforming provisions to
 51 changes made by the act; revising the factors under
 52 which the department may exempt an offender from
 53 payments; requiring the certification of student
 54 status to be supplied to the offender's probation
 55 officer, rather than to the Secretary of Corrections;
 56 deleting duties of the secretary; deleting provisions
 57 authorizing the department to provide monthly payments
 58 to court-approved entities that provide supervision or
 59 rehabilitation for offenders under certain
 60 circumstances; deleting provisions relating to
 61 contract terms with, and a monthly report from,

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62 certain entities; amending s. 948.10, F.S.; requiring
 63 a community control program to focus on the provision
 64 of home confinement with limitations, rather than
 65 sanctions and consequences, commensurate with the
 66 crime committed; specifying and revising who the
 67 target population is for the community control
 68 program; revising departmental requirements for the
 69 operation of the program and caseloads; making
 70 technical changes; specifying the types of facilities
 71 used for the community control program; deleting an
 72 annual reporting requirement of the department to the
 73 Governor and the Legislature which includes certain
 74 information; amending s. 948.101, F.S.; conforming
 75 provisions to changes made by the act; amending s.
 76 948.11, F.S.; requiring, rather than authorizing, the
 77 department to electronically monitor offenders
 78 sentenced to community control under certain
 79 circumstances; conforming terminology to changes made
 80 by the act; amending s. 948.15, F.S.; revising the
 81 required terms of the contract for a private entity
 82 providing services for the supervision of misdemeanor
 83 probationers; repealing s. 948.50, F.S., relating to a
 84 short title; reenacting s. 921.187(1)(n), F.S.,
 85 relating to disposition and sentencing, alternatives,
 86 and restitution, to incorporate the amendment made to
 87 s. 948.013, F.S., in a reference thereto; reenacting
 88 s. 947.1405(7)(b), F.S., relating to the conditional
 89 release program, to incorporate the amendment made to
 90 s. 948.09, F.S., in a reference thereto; reenacting

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91 ss. 947.1747 and 948.01(3), F.S., relating to
 92 community control as a special condition of parole and
 93 when a court may place a defendant on probation or
 94 into community control, respectively, to incorporate
 95 the amendment made to s. 948.10, F.S., in references
 96 thereto; providing an effective date.
 97

98 Be It Enacted by the Legislature of the State of Florida:
 99

100 Section 1. Subsection (1) and present subsections (4) and
 101 (9) of section 948.001, Florida Statutes, are amended, and
 102 present subsections (5) through (14) of that section are
 103 redesignated as subsections (4) through (13), respectively, to
 104 read:

105 948.001 Definitions.—As used in this chapter, the term:

106 (1) "Administrative probation" means a form of no contact,
 107 nonreporting ~~noncontact~~ supervision in which an offender who
 108 presents a low risk of harm to the community may, upon
 109 satisfactory completion of half the term of probation, be
 110 transferred by the Department of Corrections to this type of
 111 reduced level of supervision, as provided in s. 948.013
 112 ~~nonreporting status until expiration of the term of supervision.~~

113 ~~(4) "Community residential drug punishment center" means a~~
 114 ~~residential drug punishment center designated by the Department~~
 115 ~~of Corrections. The Department of Corrections shall adopt rules~~
 116 ~~as necessary to define and operate such a center.~~

117 (8)(9) "Probation" means a form of community supervision
 118 requiring specified contacts with ~~parole and~~ probation officers
 119 and other terms and conditions as provided in s. 948.03.

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Section 2. Subsections (1) and (5) of section 948.01, Florida Statutes, are amended to read:

948.01 When court may place defendant on probation or into community control.—

(1) Any state court having original jurisdiction of criminal actions may at a time to be determined by the court, with or without an adjudication of the guilt of the defendant, hear and determine the question of the probation of a defendant in a criminal case, except for an offense punishable by death, who has been found guilty by the verdict of a jury, has entered a plea of guilty or a plea of nolo contendere, or has been found guilty by the court trying the case without a jury.

(a) If the court places the defendant on probation or into community control for a felony, the department shall provide immediate supervision by an officer employed in compliance with the minimum qualifications for officers as provided in s. 943.13. A private entity may not provide probationary or supervision services to felony ~~or misdemeanor~~ offenders sentenced or placed on probation or other supervision by the circuit court.

(b) The department, in consultation with the Office of the State Courts Administrator, shall revise and make available ~~develop and disseminate~~ to the courts uniform order of supervision forms by July 1 of each year or as necessary. The courts shall use the uniform order of supervision forms provided by the department for all persons placed on community supervision.

(5) The imposition of sentence may not be suspended and the defendant thereupon placed on probation or into community

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control unless the defendant is placed under the custody of the department or another public or private entity. A private entity may not provide probationary or supervision services to felony ~~or misdemeanor~~ offenders sentenced or placed on probation or other supervision by the circuit court.

Section 3. Subsection (1) of section 948.012, Florida Statutes, is amended, and subsections (4), (5), and (6) of that section are republished, to read:

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

(1) If punishment by imprisonment for a misdemeanor or a felony, except for a capital felony, is prescribed, the court may, at the time of sentencing, impose a split sentence whereby the defendant is to be placed on probation or, with respect to any such felony, into community control upon completion of any specified period of such sentence which may include a term of years or less. In such case, the court shall stay and withhold the imposition of the remainder of sentence imposed upon the defendant and direct that the defendant be placed upon probation or into community control after serving such period as may be imposed by the court. Except as provided in s. 944.4731(2)(b) ~~and~~ subsection (6), the period of probation or community control shall commence immediately upon the release of the defendant from incarceration, whether by parole or gain-time allowances.

(4) Effective for offenses committed on or after September 1, 2005, the court must impose a split sentence pursuant to subsection (1) for any person who is convicted of a life felony for lewd and lascivious molestation pursuant to s. 800.04(5)(b) if the court imposes a term of years in accordance with s.

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178 775.082(3)(a)4.a.(II) rather than life imprisonment. The
 179 probation or community control portion of the split sentence
 180 imposed by the court for a defendant must extend for the
 181 duration of the defendant's natural life and include a condition
 182 that he or she be electronically monitored.

183 (5)(a) Effective for offenses committed on or after October
 184 1, 2014, if the court imposes a term of years in accordance with
 185 s. 775.082 which is less than the maximum sentence for the
 186 offense, the court must impose a split sentence pursuant to
 187 subsection (1) for any person who is convicted of a violation
 188 of:

- 189 1. Section 782.04(1)(a)2.c.;
- 190 2. Section 787.01(3)(a)2. or 3.;
- 191 3. Section 787.02(3)(a)2. or 3.;
- 192 4. Section 794.011, excluding s. 794.011(10);
- 193 5. Section 800.04;
- 194 6. Section 825.1025; or
- 195 7. Section 847.0135(5).

196 (b) The probation or community control portion of the split
 197 sentence imposed by the court must extend for at least 2 years.
 198 However, if the term of years imposed by the court extends to
 199 within 2 years of the maximum sentence for the offense, the
 200 probation or community control portion of the split sentence
 201 must extend for the remainder of the maximum sentence.

202 (6) If a defendant who has been sentenced to a split
 203 sentence pursuant to subsection (1) is transferred to the
 204 custody of the Department of Children and Families pursuant to
 205 part V of chapter 394, the period of probation or community
 206 control is tolled until such person is no longer in the custody

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207 of the Department of Children and Families. This subsection
 208 applies to all sentences of probation or community control which
 209 begin on or after October 1, 2014, regardless of the date of the
 210 underlying offense.

211 Section 4. Subsection (2) of section 948.013, Florida
 212 Statutes, is amended to read:

213 948.013 Administrative probation.—

214 (2) Effective for an offense committed on or after July 1,
 215 1998, a person is ineligible for placement on administrative
 216 probation if the person is sentenced to or is serving a term of
 217 probation or community control, regardless of the conviction or
 218 adjudication, for committing, or attempting, conspiring, or
 219 soliciting to commit, any of the felony offenses described in s.
 220 775.21(4)(a)1.a. or (4)(a)1.b. or s. 943.0435(1)(h)1.a. or
 221 787.01 or s. 787.02, where the victim is a minor and the
 222 defendant is not the victim's parent; s. 787.025; s.
 223 787.06(3)(g); chapter 794; former s. 796.03; s. 800.04; s.
 224 825.1025(2)(b); s. 827.071; s. 847.0133; s. 847.0135; or s.
 225 847.0145.

226 Section 5. Paragraphs (a), (b), (l), and (m) of subsection
 227 (1) and subsection (2) of section 948.03, Florida Statutes, are
 228 amended to read:

229 948.03 Terms and conditions of probation.—

230 (1) The court shall determine the terms and conditions of
 231 probation. Conditions specified in this section do not require
 232 oral pronouncement at the time of sentencing and may be
 233 considered standard conditions of probation. These conditions
 234 may include among them the following, that the probationer or
 235 offender in community control shall:

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236 (a) Report to the probation officer and ~~parole supervisors~~
 237 as directed.

238 (b) Permit the probation officer ~~such supervisors~~ to visit
 239 him or her at his or her home or elsewhere.

240 (1)1. Submit to random testing as directed by the
 241 ~~correctional~~ probation officer or the professional staff of the
 242 treatment center where he or she is receiving treatment to
 243 determine the presence or use of alcohol or controlled
 244 substances.

245 2. If the offense was a controlled substance violation and
 246 the period of probation immediately follows a period of
 247 incarceration in the state correction system, the conditions
 248 must ~~shall~~ include a requirement that the offender submit to
 249 random substance abuse testing intermittently throughout the
 250 term of supervision, upon the direction of the ~~correctional~~
 251 probation officer ~~as defined in s. 943.10(3).~~

252 (m) Be prohibited from possessing, carrying, or owning any:

253 1. Firearm.

254 2. Weapon without first procuring the consent of the
 255 ~~correctional~~ probation officer.

256 (2) The enumeration of specific kinds of terms and
 257 conditions does ~~shall~~ not prevent the court from adding thereto
 258 such other or others as it considers proper. However, the
 259 sentencing court may only impose a condition of supervision
 260 allowing an offender convicted of s. 794.011, s. 800.04, s.
 261 827.071, s. 847.0135(5), or s. 847.0145, to reside in another
 262 state, if the order stipulates that it is contingent upon the
 263 approval of the receiving state interstate compact authority.
 264 The court may rescind or modify at any time the terms and

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265 conditions theretofore imposed by it upon the probationer.

266 However, if the court withholds adjudication of guilt or imposes
 267 a period of incarceration as a condition of probation, the
 268 period may ~~shall~~ not exceed 364 days, and incarceration shall be
 269 restricted to either a county facility, or a probation and
 270 restitution center under the jurisdiction of the Department of
 271 Corrections, ~~a probation program drug punishment phase I secure~~
 272 ~~residential treatment institution, or a community residential~~
 273 ~~facility owned or operated by any entity providing such~~
 274 ~~services.~~

275 Section 6. Section 948.031, Florida Statutes, is amended to
 276 read:

277 948.031 Condition of probation or community control;
 278 community ~~public~~ service.—

279 (1) Any person who is convicted of a felony or misdemeanor
 280 and who is placed on probation or into community control may be
 281 required as a condition of supervision to perform some type of
 282 community ~~public~~ service for a tax-supported or tax-exempt
 283 entity, with the consent of such entity. Such community ~~public~~
 284 service shall be performed at a time other than during such
 285 person's regular hours of employment.

286 (2) Upon the request of the chief judge of the circuit, the
 287 Department of Corrections shall establish a community ~~public~~
 288 service program for a county, which program may include, but is
 289 ~~shall not be~~ limited to, any of the following types of community
 290 ~~public~~ service:

291 (a) Maintenance work on any property or building owned or
 292 leased by any state, county, or municipality or any nonprofit
 293 organization or agency.

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294 (b) Maintenance work on any state-owned, county-owned, or
 295 municipally owned road or highway.

296 (c) Landscaping or maintenance work in any state, county,
 297 or municipal park or recreation area.

298 (d) Work in any state, county, or municipal hospital or any
 299 developmental services institution or other nonprofit
 300 organization or agency.

301 Section 7. Subsections (1) and (3) of section 948.035,
 302 Florida Statutes, are amended to read:

303 948.035 Residential treatment as a condition of probation
 304 or community control.—

305 (1) If the court imposes a period of residential treatment
 306 or incarceration as a condition of probation or community
 307 control, the residential treatment or incarceration shall be
 308 restricted to the following facilities:

309 (a) A Department of Corrections probation and restitution
 310 center;

311 ~~(b) A probation program drug punishment treatment~~
 312 ~~community.~~

313 (b)(c) A community residential facility that ~~which~~ is owned
 314 and operated by a ~~any~~ public or private entity, excluding a
 315 community correctional center as defined in s. 944.026; or

316 (c)(d) A county-owned facility.

317 (3) ~~Before~~ Prior to admission to such a facility or center
 318 ~~treatment community~~, a qualified practitioner must provide the
 319 ~~court shall obtain~~ an individual assessment and recommendation
 320 on the appropriate treatment needs ~~pursuant to the Community~~
 321 ~~Control Implementation Manual which shall be considered by the~~
 322 ~~court in ordering such placements.~~ Placement in such a facility

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323 or center may, ~~or in the phase I secure residential phase of a~~
 324 ~~probation program drug punishment treatment community~~, shall not
 325 exceed 364 days. Early completion of an offender's placement
 326 shall be recommended to the court, when appropriate, by the
 327 facility or center supervisor, by the supervising probation
 328 officer, or by the program manager. The Department of
 329 Corrections is authorized to contract with appropriate agencies
 330 for provision of services.

331 Section 8. Subsection (1) of section 948.037, Florida
 332 Statutes, is amended to read:

333 948.037 Education and learning as a condition of probation
 334 or community control.—

335 (1) As a condition of community control, probation, or
 336 probation following incarceration, the court may ~~shall~~ require
 337 an offender who has not obtained a high school diploma or high
 338 school equivalency diploma or who lacks basic or functional
 339 literacy skills, upon acceptance by an adult education program,
 340 to make a good faith effort toward completion of such basic or
 341 functional literacy skills or high school equivalency diploma,
 342 as defined in s. 1003.435, in accordance with the assessed adult
 343 general education needs of the individual offender. The court
 344 may ~~shall~~ not revoke community control, probation, or probation
 345 following incarceration because of the offender's inability to
 346 achieve such skills or diploma but may revoke community control,
 347 probation, or probation following incarceration if the offender
 348 fails to make a good faith effort to achieve such skills or
 349 diploma. The court may grant early termination of community
 350 control, probation, or probation following incarceration upon
 351 the offender's successful completion of the approved program. As

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used in this subsection, "good faith effort" means the offender is enrolled in a program of instruction and is attending and making satisfactory progress toward completion of the requirements.

Section 9. Paragraphs (a), (e), (f), and (g) of subsection (1) of section 948.06, Florida Statutes, are amended to read:

948.06 Violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.—

(1)(a) Whenever within the period of probation or community control there are reasonable grounds to believe that a probationer or offender in community control has violated his or her probation or community control in a material respect, any law enforcement officer who is aware of the probationary or community control status of the probationer or offender in community control or any ~~parole or~~ probation officer supervisor may arrest or request any county or municipal law enforcement officer to arrest such probationer or offender without warrant wherever found and return him or her to the court granting such probation or community control.

(e) Any ~~parole or~~ probation officer supervisor, any officer authorized to serve criminal process, or any peace officer of this state is authorized to serve and execute such warrant. Any ~~parole or~~ probation officer supervisor is authorized to serve such notice to appear.

(f) Upon the filing of an affidavit alleging a violation of probation or community control and following issuance of a warrant for such violation under s. 901.02, a warrantless arrest under this section, or a notice to appear under this section,

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the probationary period is tolled until the court enters a ruling on the violation. Notwithstanding the tolling of probation, the court shall retain jurisdiction over the offender for any violation of the conditions of probation or community control that is alleged to have occurred during the tolling period. The probation officer is permitted to continue to supervise any offender who remains available to the officer for supervision until the supervision expires pursuant to the order of probation or community control or until the court revokes or terminates the probation or community control, whichever comes first.

(g) The chief judge of each judicial circuit may direct the department to use a notification letter of a technical violation in appropriate cases in lieu of a violation report, affidavit, and warrant or a notice to appear when the alleged violation is not a new felony or misdemeanor offense. Such direction must be in writing and must specify the types of specific technical violations which are to be reported by a notification letter of a technical violation, any exceptions to those violations, and the required process for submission. At the direction of the chief judge, the department shall send the notification letter of a technical violation to the court.

Section 10. Section 948.09, Florida Statutes, is amended to read:

948.09 Payment for cost of supervision and other monetary obligations ~~rehabilitation~~.—

(1)(a)1. Any person ordered by the court, the Department of Corrections, or the Florida Commission on Offender Review to be placed under ~~on probation, drug offender probation, community~~

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410 ~~control, parole, control release, provisional release~~
 411 ~~supervision, addiction-recovery supervision, or conditional~~
 412 ~~release supervision~~ under this chapter, chapter 944, chapter
 413 945, chapter 947, or chapter 958, or in a pretrial intervention
 414 program, must, as a condition of any placement, pay the
 415 department a total sum of money equal to the total month or
 416 portion of a month of supervision times the court-ordered
 417 amount, but not to exceed the actual per diem cost of the
 418 supervision. The department shall adopt rules by which an
 419 offender who pays in full and in advance of regular termination
 420 of supervision may receive a reduction in the amount due. The
 421 rules shall incorporate provisions by which the offender's
 422 ability to pay is linked to an established written payment plan.
 423 Funds collected from felony offenders may be used to offset
 424 costs of the Department of Corrections associated with community
 425 supervision programs, subject to appropriation by the
 426 Legislature.

427 2. In addition to any other contribution or surcharge
 428 imposed by this section, each felony offender assessed under
 429 this paragraph shall pay a \$2-per-month surcharge to the
 430 department. The surcharge shall be deemed to be paid only after
 431 the full amount of any monthly payment required by the
 432 established written payment plan has been collected by the
 433 department. These funds shall be used by the department to pay
 434 for correctional probation officers' training and equipment,
 435 including radios, and firearms training, firearms, and attendant
 436 equipment necessary to train and equip officers who choose to
 437 carry a concealed firearm while on duty. This subparagraph does
 438 not limit the department's authority to determine who shall be

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439 authorized to carry a concealed firearm while on duty, or limit
 440 the right of a correctional probation officer to carry a
 441 personal firearm approved by the department.

442 (b) Any person placed on misdemeanor probation by a county
 443 court must contribute not less than \$40 per month, as decided by
 444 the sentencing court, to the court-approved public or private
 445 entity providing misdemeanor supervision.

446 (2) Any person being electronically monitored by the
 447 department as a result of being placed on supervision shall pay
 448 the department for electronic monitoring services at a rate that
 449 may not exceed the full cost of the monitoring service in
 450 addition to the cost of supervision as directed by the
 451 sentencing court. The funds collected under this subsection
 452 shall be deposited in the General Revenue Fund. The department
 453 may exempt a person from paying all or any part of the costs of
 454 the electronic monitoring service if it finds that any of the
 455 factors listed in subsection (3) exist.

456 (3) Any failure to pay contribution as required under this
 457 section may constitute a ground for the revocation of
 458 supervision ~~probation~~ by the court or, ~~the revocation of parole~~
 459 ~~or conditional release~~ by the Florida Commission on Offender
 460 Review, the revocation of control release by the Control Release
 461 Authority, or the removal from the pretrial intervention program
 462 by the state attorney. The Department of Corrections may exempt
 463 a person from the payment of all or any part of the contribution
 464 if it finds any of the following factors ~~to exist~~:

465 (a) The offender has diligently attempted, but has been
 466 unable, to obtain or maintain employment that ~~which~~ provides him
 467 or her sufficient income to make such payments.

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(b) The offender is a student in a school, college, university, or course of career training designed to fit the student for gainful employment. Certification of such student status shall be supplied to the offender's probation officer ~~Secretary of Corrections~~ by the educational institution in which the offender is enrolled.

(c) The offender has an employment handicap, as determined by a physical, psychological, or psychiatric examination ~~acceptable to, or ordered by, the secretary.~~

(d) The offender's age prevents him or her from obtaining employment.

(e) The offender is responsible for the support of dependents, and the payment of such contribution constitutes an undue hardship on the offender.

(f) The offender has been transferred outside the state under an interstate compact adopted pursuant to chapter 949.

~~(g) There are other extenuating circumstances, as determined by the secretary.~~

~~(4) In addition to the contribution required under subsection (1), the department may provide a maximum payment of \$10 per month for each misdemeanor probationer who is contributing \$10 per month to the court-approved public or private entity which is providing him or her with misdemeanor supervision or rehabilitation. The \$10 payment set forth herein shall only be for first degree misdemeanors, petty theft, and worthless checks. The department shall make such payment to the court-approved public or private entity which is providing supervision to the offender under this section. Such payment shall be implemented through a contract to be entered into by~~

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~~the Secretary of Corrections and the entity. Terms of the contract shall state, but are not limited to, the extent of the services to be rendered by the entity providing supervision or rehabilitation. In addition, the entity shall supply the department with a monthly report documenting the acceptance of each offender placed under its supervision by the court, documenting the payment of the required contribution by each offender under supervision or rehabilitation, and notifying the department of all offenders for whom supervision or rehabilitation will be terminated. Supervisory records of the entity shall be open to inspection upon the request of the department or its agents.~~

(4) ~~(5)~~ As a condition of an interstate compact adopted pursuant to chapter 949, the department shall require each out-of-state probationer or parolee transferred to this state to contribute not less than \$30 or more than the cost of supervision, certified by the Department of Corrections, per month to defray the cost incurred by this state as a result of providing supervision and rehabilitation during the period of supervision.

(5) ~~(6)~~ In addition to any other required contributions, the department, at its discretion, may require offenders under any form of supervision to submit to and pay for urinalysis testing to identify drug usage as part of the rehabilitation program. Any failure to make such payment, or participate, may be considered a ground for revocation by the court, the Florida Commission on Offender Review, or the Control Release Authority, or for removal from the pretrial intervention program by the state attorney. The department may exempt a person from such

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payment if it determines that any of the factors specified in subsection (3) exist.

~~(6)(7)~~ The department shall establish a payment plan for all costs ordered by the courts for collection by the department and a priority order for payments, except that victim restitution payments authorized under s. 948.03(1)(f) take precedence over all other court-ordered payments. The department is not required to disburse cumulative amounts of less than \$10 to individual payees established on this payment plan.

Section 11. Section 948.10, Florida Statutes, is amended to read:

948.10 Community control programs; home confinement.—

(1) The Department of Corrections shall develop and administer a community control program. This ~~complementary~~ program shall be rigidly structured and designed to accommodate offenders who, in the absence of such a program, would have been incarcerated in a jail or prison. The program shall focus on the provision of home confinement subject to an authorized level of limited freedom and special conditions ~~sanctions and consequences which~~ that are commensurate with the seriousness of the crime. The program shall offer the courts and the Florida Commission on Offender Review an alternative, community-based method to punish an offender in lieu of incarceration and shall provide intensive supervision to closely monitor compliance with restrictions and special conditions, including, but not limited to, treatment or rehabilitative programs. The targeted population for this community control program includes if the offender is a member of one of the following target groups:

(a) Probation violators charged with technical violations

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or new misdemeanor violations of law.

(b) Parole or conditional release violators charged with technical violations or ~~new misdemeanor violations of law~~.

(c) Individuals found guilty of felonies, who, due to their criminal backgrounds or the seriousness of the offenses, would not be placed on regular probation.

~~(2) The department shall commit not less than 10 percent of the parole and probation field staff and supporting resources to the operation of the community control program.~~ Caseloads should be restricted to a maximum of 30 ~~25~~ cases per officer in order to ensure an adequate level of staffing. Community control is an individualized program in which the offender is restricted to a residential treatment facility or a nursing facility ~~noninstitutional quarters~~ or restricted to his or her approved ~~own~~ residence subject to an authorized level of limited freedom.

(3) Procedures governing violations of community control are ~~shall be~~ the same as those described in s. 948.06 with respect to probation.

(4) Upon completion of the sanctions imposed and in the community control plan before the expiration of the community control term ordered by the court, the department may petition the court to terminate early the supervision of ~~discharge~~ the offender from community control supervision or to return the offender to a program of regular probation supervision for the remainder of the term. In considering the petition, the court should recognize the limited staff resources committed to the community control program, the purpose of the program, and the offender's successful compliance with the conditions set forth in the order of the court.

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584 ~~(5) In its annual report to the Governor, the President of~~
 585 ~~the Senate, and the Speaker of the House of Representatives~~
 586 ~~under s. 20.315(5), the department shall include a detailed~~
 587 ~~analysis of the community control program and the department's~~
 588 ~~specific efforts to protect the public from offenders placed on~~
 589 ~~community control. The analysis must include, but need not be~~
 590 ~~limited to, specific information on the department's ability to~~
 591 ~~meet minimum officer-to-offender contact standards, the number~~
 592 ~~of crimes committed by offenders on community control, and the~~
 593 ~~level of community supervision provided.~~

594 Section 12. Subsection (2) of section 948.101, Florida
 595 Statutes, is amended to read:

596 948.101 Terms and conditions of community control.—

597 (2) The enumeration of specific kinds of terms and
 598 conditions does not prevent the court from adding any other
 599 terms or conditions that the court considers proper. However,
 600 the sentencing court may only impose a condition of supervision
 601 allowing an offender convicted of s. 794.011, s. 800.04, s.
 602 827.071, s. 847.0135(5), or s. 847.0145 to reside in another
 603 state if the order stipulates that it is contingent upon the
 604 approval of the receiving state interstate compact authority.
 605 The court may rescind or modify at any time the terms and
 606 conditions theretofore imposed by it upon the offender in
 607 community control. However, if the court withholds adjudication
 608 of guilt or imposes a period of incarceration as a condition of
 609 community control, the period may not exceed 364 days, and
 610 incarceration shall be restricted to a county facility, a
 611 probation and restitution center under the jurisdiction of the
 612 Department of Corrections, or a probation program drug

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613 ~~punishment phase I secure residential treatment institution, or~~
 614 ~~a community residential facility owned or operated by any entity~~
 615 ~~providing such services.~~

616 Section 13. Subsections (1), (2), and (3) of section
 617 948.11, Florida Statutes, are amended, and subsection (5) of
 618 that section is republished, to read:

619 948.11 Electronic monitoring devices.—

620 (1) The Department of Corrections shall ~~may~~ electronically
 621 monitor an offender sentenced to community control when the
 622 court has imposed electronic monitoring as a condition of
 623 community control.

624 (2) Any offender placed under supervision ~~on community~~
 625 ~~control~~ who violates the terms and conditions of supervision
 626 ~~community control~~ and is restored to supervision ~~community~~
 627 ~~control~~ may be supervised by means of an electronic monitoring
 628 device or system if ordered by the court.

629 (3) For those offenders being electronically monitored, the
 630 Department of Corrections shall develop procedures to determine,
 631 investigate, and report the offender's noncompliance with the
 632 terms and conditions of sentence 24 hours per day. All reports
 633 of noncompliance shall be immediately investigated by a
 634 probation ~~community control~~ officer.

635 (5) Any person being electronically monitored by the
 636 department as a result of being placed on supervision shall pay
 637 the department for the electronic monitoring services as
 638 provided in s. 948.09(2).

639 Section 14. Paragraph (b) of subsection (3) of section
 640 948.15, Florida Statutes, is amended to read:

641 948.15 Misdemeanor probation services.—

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642 (3) Any private entity, including a licensed substance
 643 abuse education and intervention program, providing services for
 644 the supervision of misdemeanor probationers must contract with
 645 the county in which the services are to be rendered. In a county
 646 having a population of fewer than 70,000, the county court
 647 judge, or the administrative judge of the county court in a
 648 county that has more than one county court judge, must approve
 649 the contract. Terms of the contract must state, but are not
 650 limited to:

651 (b) Staff qualifications and criminal record checks of
 652 staff ~~in accordance with essential standards established by the~~
 653 ~~American Correctional Association as of January 1, 1991.~~
 654

655 In addition, the entity shall supply the chief judge's office
 656 with a quarterly report summarizing the number of offenders
 657 supervised by the private entity, payment of the required
 658 contribution under supervision or rehabilitation, and the number
 659 of offenders for whom supervision or rehabilitation will be
 660 terminated. All records of the entity must be open to inspection
 661 upon the request of the county, the court, the Auditor General,
 662 the Office of Program Policy Analysis and Government
 663 Accountability, or agents thereof.

664 Section 15. Section 948.50, Florida Statutes, is repealed.

665 Section 16. For the purpose of incorporating the amendment
 666 made by this act to section 948.013, Florida Statutes, in a
 667 reference thereto, paragraph (n) of subsection (1) of section
 668 921.187, Florida Statutes, is reenacted to read:

669 921.187 Disposition and sentencing; alternatives;
 670 restitution.—

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671 (1) The alternatives provided in this section for the
 672 disposition of criminal cases shall be used in a manner that
 673 will best serve the needs of society, punish criminal offenders,
 674 and provide the opportunity for rehabilitation. If the offender
 675 does not receive a state prison sentence, the court may:

676 (n) Impose split probation whereby upon satisfactory
 677 completion of half the term of probation, the Department of
 678 Corrections may place the offender on administrative probation
 679 pursuant to s. 948.013 for the remainder of the term of
 680 supervision.

681 Section 17. For the purpose of incorporating the amendment
 682 made by this act to section 948.09, Florida Statutes, in a
 683 reference thereto, paragraph (b) of subsection (7) of section
 684 947.1405, Florida Statutes, is reenacted to read:

685 947.1405 Conditional release program.—

686 (7)

687 (b) For a releasee whose crime was committed on or after
 688 October 1, 1997, in violation of chapter 794, s. 800.04, s.
 689 827.071, s. 847.0135(5), or s. 847.0145, and who is subject to
 690 conditional release supervision, in addition to any other
 691 provision of this subsection, the commission shall impose the
 692 following additional conditions of conditional release
 693 supervision:

694 1. As part of a treatment program, participation in a
 695 minimum of one annual polygraph examination to obtain
 696 information necessary for risk management and treatment and to
 697 reduce the sex offender's denial mechanisms. The polygraph
 698 examination must be conducted by a polygrapher who is a member
 699 of a national or state polygraph association and who is

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certified as a postconviction sex offender polygrapher, where available, and at the expense of the releasee. The results of the examination shall be provided to the releasee's probation officer and qualified practitioner and may not be used as evidence in a hearing to prove that a violation of supervision has occurred.

2. Maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer.

3. A prohibition against obtaining or using a post office box without the prior approval of the supervising officer.

4. If there was sexual contact, a submission to, at the releasee's expense, an HIV test with the results to be released to the victim or the victim's parent or guardian.

5. Electronic monitoring of any form when ordered by the commission. Any person who has been placed under supervision and is electronically monitored by the department must pay the department for the cost of the electronic monitoring service at a rate that may not exceed the full cost of the monitoring service. Funds collected under this subparagraph shall be deposited into the General Revenue Fund. The department may exempt a person from the payment of all or any part of the electronic monitoring service cost if the department finds that any of the factors listed in s. 948.09(3) exist.

Section 18. For the purpose of incorporating the amendment made by this act to section 948.10, Florida Statutes, in a reference thereto, section 947.1747, Florida Statutes, is reenacted to read:

947.1747 Community control as a special condition of

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parole.—Upon the establishment of an effective parole release date as provided for in ss. 947.1745 and 947.1746, the commission may, as a special condition of parole, require an inmate to be placed in the community control program of the Department of Corrections as described in s. 948.10 for a period not exceeding 6 months. In every case in which the commission decides to place an inmate on community control as a special condition of parole, the commission shall provide a written explanation of the reasons for its decision.

Section 19. For the purpose of incorporating the amendment made by this act to section 948.10, Florida Statutes, in a reference thereto, subsection (3) of section 948.01, Florida Statutes, is reenacted to read:

948.01 When court may place defendant on probation or into community control.—

(3) If, after considering the provisions of subsection (2) and the offender's prior record or the seriousness of the offense, it appears to the court in the case of a felony disposition that probation is an unsuitable dispositional alternative to imprisonment, the court may place the offender in a community control program as provided in s. 948.10. Or, in a case of prior disposition of a felony commitment, upon motion of the offender or the department or upon its own motion, the court may, within the period of its retained jurisdiction following commitment, suspend the further execution of the disposition and place the offender in a community control program upon such terms as the court may require. The court may consult with a local offender advisory council pursuant to s. 948.90 with respect to the placement of an offender into community control.

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Not later than 3 working days before the hearing on the motion, the department shall forward to the court all relevant material on the offender's progress while in custody. If this sentencing alternative to incarceration is utilized, the court shall:

(a) Determine what community-based sanctions will be imposed in the community control plan. Community-based sanctions may include, but are not limited to, rehabilitative restitution in money or in kind, curfew, revocation or suspension of the driver license, community service, deprivation of nonessential activities or privileges, or other appropriate restraints on the offender's liberty.

(b) After appropriate sanctions for the offense are determined, develop, approve, and order a plan of community control which contains rules, requirements, conditions, and programs that are designed to encourage noncriminal functional behavior and promote the rehabilitation of the offender and the protection of the community. If the offense was a controlled substance violation, the conditions shall include a requirement that the offender submit to random substance abuse testing intermittently throughout the term of supervision, upon the direction of the correctional probation officer as defined in s. 943.10(3).

Section 20. This act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

March 13, 2017

Meeting Date

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

SB 790

Bill Number (if applicable)

Topic SB 790 Probation and Community Control

Amendment Barcode (if applicable)

Name Jared Torres

Job Title Legislative Affairs Director

Address 501 South Calhoun Street

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Tallahassee

City

FL

State

32311

Zip

Phone (850) 717-3045

Email Jared.Torres@fdc.myflorida.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Department of Corrections

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

APPEARANCE RECORD

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

3 / 13 / 2017

Meeting Date

Topic _____

Name BRIAN PITTS

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Street

SAINT PETERSBURG

City

FLORIDA

State

33705

Zip

Bill Number 790

(if applicable)

Amendment Barcode _____

(if applicable)

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

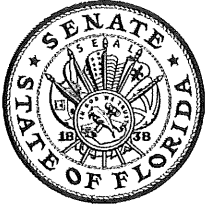
Appearing at request of Chair: ☐ Yes ☒ No

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

Committee Agenda Request

To: Senator Randolph Bracy,
Committee on Criminal Justice



Subject: Committee Agenda Request

Date: February 24th, 2017

I respectfully request that **Senate Bill #790**, relating to **Probation and Community Control**, be placed on the:

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

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

Senator Jeff Brandes
Florida Senate, District 24

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 844

INTRODUCER: Criminal Justice Committee and Senators Simmons and Baxley

SUBJECT: Criminal Offenses Involving Tombs and Memorials

DATE: March 15, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Hrdlicka	CJ	Fav/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 844 provides an exception for cemeteries exempt under ch. 497, F.S., from the criminal penalties in s. 872.02, F.S.

Currently, under s. 872.02, F.S., it is a third degree felony to willfully and knowingly damage or remove a tomb, monument, or other specified structure and a second degree felony to willfully and knowingly disturb the contents of a grave or tomb. The penalties do not apply to certain persons, like cemeteries operating under ch. 497, F.S., (the Florida Funeral, Cemetery, and Consumer Services Act). However, there are cemeteries that are exempt from the regulation and licensing requirements of ch. 497, F.S., and these cemeteries are not exempt from the criminal penalties of s. 872.02, F.S. If a person at such a cemetery were to disinter a dead human body at the request of a legally authorized person, he or she could be criminally charged under s. 872.02, F.S.

The bill provides an exception for cemeteries exempt under ch. 497, F.S., from the criminal penalties in s. 872.02, F.S. The bill also specifies the criteria that an exempt cemetery must meet to relocate the contents of a grave or tomb. If a legally authorized person objects to the relocation, a public hearing must be held before the applicable city council or county commission.

The bill also clarifies elements of the offense of disturbing the contents of a grave or tomb.

The Criminal Justice Impact Conference met on March 2, 2017, and determined that the bill, as originally filed, will have a positive (increase) insignificant impact on prison beds. The bill may have a negative fiscal impact on both privately owned exempt cemeteries and county and city owned exempt cemeteries. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2017.

II. Present Situation:

Cemeteries

A cemetery is a place dedicated to, used, or intended to be used for the permanent interment of human remains or cremated remains. A cemetery can be any combination of one or more of the following structures or places:

- Land or earth interment;
- Mausoleum, vault, or crypt interment; or
- Columbarium, ossuary, scattering garden, or other structure or place used or intended to be used for the interment or disposition of cremated remains.¹

Chapter 497, F.S., the Florida Funeral, Cemetery, and Consumer Services Act, specifies that the Board of Funeral, Cemetery and Consumer Services (board) oversee the regulation and licensing of cemeteries. Section 497.260, F.S., exempts numerous types of cemeteries from these regulation and licensing requirements. Currently, there are 171 licensed cemeteries² and anywhere from 3500-5000 cemeteries exempt from licensing and regulation in Florida.³

Exempt cemeteries include:

- Religious institution cemeteries of less than 5 acres, which provide only single-level ground burial;
- County and municipal cemeteries;
- Community and nonprofit association cemeteries, which provide only single-level ground burial and do not sell burial spaces or burial merchandise;
- Cemeteries owned and operated or dedicated by a religious institution prior to June 23, 1976;
- Cemeteries beneficially owned and operated since July 1, 1915, by a fraternal organization or its corporate agent;
- A columbarium consisting of less than one-half acre, which is owned by and immediately contiguous to an existing religious institution facility and is subject to local government zoning;⁴

¹ Section 497.005(13), F.S.

² Division of Funeral, Cemetery and Consumer Services, *Who We Regulate, Regulated Categories and Number of Licensees*, August 19, 2016, available at <http://www.myfloridacfo.com/Division/FuneralCemetery/About/Whoweregulate.htm> (last visited March 7, 2017).

³ Department of Financial Services, *Bill Analysis for House Bill 107*, January 3, 2017, (on file with the Senate Criminal Justice Committee).

⁴ The religious institution establishing such a columbarium must ensure that the columbarium is perpetually kept and maintained in a manner consistent with ch. 497, F.S. If the religious institution relocates, the religious institution must relocate all of the urns and remains placed in the columbarium which were placed therein during its use by the religious institution. Section 497.260(1)(f), F.S.

- Family cemeteries of less than 2 acres, which do not sell burial spaces or burial merchandise;
- A mausoleum consisting of 2 acres or less, which is owned by and immediately contiguous to an existing religious institution facility and is subject to local government zoning;⁵ and
- A columbarium consisting of 5 acres or less which is located on the main campus of a state university.⁶

Disinterment

Disinterment is the removal of a dead human body from earth interment or aboveground interment.⁷ The board regulates the disinterment or transportation of human remains.⁸ Funeral directors are also required to obtain written consent from a legally authorized person⁹ or a court prior to the disinterment or reinterment of a dead human body.¹⁰ A legally authorized person is defined as one of the following, listed in order of priority:

- The decedent, when written inter vivos authorizations and directions are provided by the decedent;
- The person designated by the decedent as authorized to direct disposition as listed on the decedent's United States Department of Defense Record of Emergency Data;
- The surviving spouse, unless the spouse has been arrested for committing an act of domestic violence against the deceased that resulted in or contributed to the death of the deceased;
- A son or daughter who is 18 years of age or older;
- A parent;
- A brother or sister who is 18 years of age or older;
- A grandchild who is 18 years of age or older;
- A grandparent; or
- Any person in the next degree of kinship.

The regulations for disinterment or reinterment or the requirement to obtain written consent prior do not apply to exempt cemeteries.

⁵ The religious institution establishing such a mausoleum must ensure that the mausoleum is kept and maintained in a manner consistent with ch. 497, F.S., and limit its availability to members of the religious institution. The religious institution establishing such a mausoleum must have been incorporated for at least 25 years and have sufficient funds in an endowment fund to cover the costs of construction of the mausoleum. Section 497.260(1)(h), F.S.

⁶ Section 497.260(1), F.S. The university or university direct-support organization, which establishes the columbarium shall ensure that the columbarium is constructed and perpetually kept and maintained in a manner consistent with subsection (2) and ch. 497, F.S. Section 1000.21, F.S., defines a "state university" to include any branch campuses, centers, or other affiliates of the following institutions: The University of Florida, The Florida State University, The Florida Agricultural and Mechanical University, The University of South Florida, The Florida Atlantic University, The University of West Florida, The University of Central Florida, The University of North Florida, The Florida International University, The Florida Gulf Coast University, New College of Florida, The Florida Polytechnic University.

⁷ Section 497.005(31), F.S.

⁸ Section 497.384(2), F.S.

⁹ Section 497.005(43), F.S.

¹⁰ Section 497.384(3), F.S.

Offenses concerning graves

Section 872.02, F.S., provides criminal penalties for injuring or removing a tomb or monument or disturbing the contents of a grave or tomb. It is a third degree felony¹¹ for a person to willfully and knowingly destroy, mutilate, deface, injure, or remove any:

- Tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure or thing placed or designed for a memorial of the dead;
- Fence, railing, curb, or other thing intended for the protection or ornamentation of any tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure before mentioned; or
- Enclosure for the burial of the dead, or willfully destroy, mutilate, remove, cut, break, or injure any tree, shrub, or plant placed or being within any such enclosure.¹²

It is a second degree felony¹³ if a person willfully and knowing disturbs the contents of a grave or tomb.

The above criminal penalties do not apply to:

- Any person acting under the direction or authority of the Division of Historical Resources of the Department of State;
- Cemeteries operating under ch. 497, F.S.; or
- Any person authorized by law to remove or disturb a tomb.

Cemeteries exempt under ch. 497, F.S., are not exempt from the criminal penalties of s. 872.02, F.S. If a person at an exempt cemetery were to disinter a dead human body at the request of a legally authorized person, he or she could be criminally charged.

III. Effect of Proposed Changes:

The bill amends s. 872.02, F.S., to provide an exception for cemeteries exempt under ch. 497, F.S., from the provided criminal penalties.

The bill specifies that it a third degree felony if a person willfully and knowingly destroys, mutilates, defaces, injures, or removes any tomb monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other ***approved*** structure or ***approved*** thing placed or designed for a memorial of the dead.

The bill also provides that anyone performing routine maintenance and upkeep is exempt from the penalties associated with willfully destroying, mutilating, removing, cutting, breaking, or injuring any tree, shrub, or plant placed or being within any enclosure for the burial of the dead.

¹¹ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082, 775.083, and 775.084, F.S.

¹² Section 872.02(1), F.S.

¹³ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

The bill specifies that the second degree felony offense of disturbing the contents of a grave or tomb includes the conduct of excavation, exposure, movement, and removal of the contents of a grave or tomb.

The bill specifies that all cemeteries can remove or relocate the contents of a grave or tomb in response to a natural disaster.

An owner, officer, employee or agent of an exempt cemetery are exempt from the above stated criminal penalties and may relocate the contents of a grave or tomb after receiving a written and signed contract between the owner and a legally authorized person.

If a legally authorized person cannot be located after a reasonable search or if 75 years or more have elapsed since the date of entombment, interment, or inurnment, then public notice must be posted. A public notice must be published once a week for four consecutive weeks in a newspaper of general circulation within the county in which the cemetery is located.

The public notice must contain the:

- Name of the cemetery;
- Name, address, and telephone number of the representative of the cemetery with whom written objections may be filed;
- Reason for the relocation of the contents of the grave or tomb;
- Names of the human remains to be relocated;
- Approximate date of the initial entombment, interment or inurnment;
- Proposed site of relocation; and
- Proposed date of relocation, which may not be less than 30 days after the last publication.

If a legally authorized person does not object within 30 days from the last date of publication of the public notice, the cemetery may proceed with the relocation.

If a legally authorized person objects, a public hearing must be held before the city council if the cemetery is in a municipality. If the cemetery is not in a municipality the hearing must be held before the appropriate county commission. The city council or county commission has sole authority to grant a request for relocation for the contents of such graves or tombs.

The bill is effective October 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

To the extent that the cities or counties have to hold and participate in hearings or post a public notice this will likely cost the cities and counties money. If the cost is less than \$1.8 million, then the bill is exempt from the mandates provision of the Florida Constitution due to its insignificant fiscal impact.

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 may have a negative fiscal impact on privately owned exempt cemeteries. The bill requires exempt cemeteries to publicly notice the plan to relocate the contents of a grave or tomb. If the relocation is objected to, a hearing is required. The notice and hearing process could cause privately owned exempt cemeteries to incur costs.

C. Government Sector Impact:

The Criminal Justice Impact Conference met on March 2, 2017, and determined that the bill, as originally filed, will have a positive (increase) insignificant impact on prison beds (an increase of 10 or fewer prison beds).

The bill may have a negative fiscal impact on county or city owned exempt cemeteries. The bill requires exempt cemeteries to publicly notice the plan to relocate the contents of a grave or tomb. If the relocation is objected to, a hearing is required. The notice and hearing process and holding the hearings could cause exempt cemeteries owned by cities or counties to incur costs.

VI. Technical Deficiencies:

It is unclear if an exempt cemetery can have a public hearing, as provided in subsection (6), if a legally authorized person refuses to sign a contract with the owner exempt cemetery, as provided in subsection (5)(a). Additionally, subsection (6) needs to reference subsection (5) to clarify when a public hearing is authorized.

VII. Related Issues:

The bill does not include any criteria for the city councils or county commissions to use in the relocation disputes or any recourse for the councils or commissions to provide if they deny a relocation.

VIII. Statutes Affected:

This bill substantially amends section 872.02 of the Florida Statutes.

IX. Additional Information:

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

CS by Criminal Justice on March 13, 2017:

The committee substitute:

- Deletes proposed changes to the terms “tomb” and “memorial”;
- Deletes proposed changes to the penalties for injuring or removing a tomb or monument;
- Clarifies that any cemetery may remove or relocate the contents of a grave or tomb as a response to a natural disaster;
- Allows an exempt cemetery to relocate the contents of a grave or tomb if there is a signed contract between the cemetery owner and a legally authorized person;
- Allows an exempt cemetery to publicly notice a relocation if a legally authorized person cannot be found after a reasonable search;
- Revises hearing requirements; and
- Changes the effective date.

- B. **Amendments:**

None.



129514

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/13/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 872.02, Florida Statutes, is amended to
read:

872.02 Injuring or removing tomb or monument; disturbing
contents of grave or tomb; penalties.—

(1) A person who willfully and knowingly destroys,
mutilates, defaces, injures, or removes any tomb, monument,



129514

11 gravestone, burial mound, earthen or shell monument containing
12 human skeletal remains or associated burial artifacts, or other
13 structure or thing placed or designed for a memorial of the
14 dead, or any fence, railing, curb, or other thing intended for
15 the protection or ornamentation of any tomb, monument,

16 gravestone, burial mound, earthen or shell monument containing
17 human skeletal remains or associated burial artifacts, or other
18 structure before mentioned, or for any enclosure for the burial
19 of the dead, or willfully destroys, mutilates, removes, cuts,
20 breaks, or injures any tree, shrub, or plant placed or being
21 within any such enclosure, commits a felony of the third degree,
22 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

23 (2) A person who willfully and knowingly excavates,
24 exposes, moves, removes, or otherwise disturbs the contents of a
25 tomb or grave commits a felony of the second degree, punishable
26 as provided in s. 775.082, s. 775.083, or s. 775.084.

27 (3) This section does ~~shall~~ not apply to any person acting
28 under the direction or authority of the Division of Historical
29 Resources of the Department of State, to cemeteries operating
30 under chapter 497, any cemeteries removing or relocating the
31 contents of a grave or tomb as a response to a natural disaster,
32 or to any person otherwise authorized by law to remove or
33 disturb a tomb, monument, gravestone, burial mound, or similar
34 structure, or its contents, as described in subsection (1).

35 (4) For purposes of this section, the term "tomb" includes
36 any mausoleum, columbarium, or belowground crypt.

37 (5) Notwithstanding subsections (1) and (2), an owner,
38 officer, employee, or agent of a cemetery exempt from regulation
39 pursuant to s. 497.260 may relocate the contents of a grave or



129514

tomb:

(a) After receiving a written and signed contract between the operator and a legally authorized person as defined in s. 497.005(43).

(b) If a legally authorized person cannot be located after a reasonable search or after 75 years or more have elapsed since the date of entombment, interment, or inurnment, then public notice must be posted. The public notice must be published once a week for 4 consecutive weeks in a newspaper of general circulation in the county where the cemetery is located. The public notice must contain the name of the cemetery; the name, address, and telephone number of the cemetery representative with whom objections may be filed; the reason for relocation of the contents of the graves or tombs; the names of the human remains to be relocated; the approximate date of the initial entombment, interment, or inurnment; the proposed site of relocation; and the proposed date of relocation. The proposed date of relocation may not be less than 30 days from last date of publication.

1. If no objection from a legally authorized person is received within 30 days from the last date of publication of the public notice, the cemetery may proceed with relocation.

2. If objections are received from a legally authorized person, a public hearing shall be held before the county commission of the county where the cemetery is located, or the city council, if the cemetery is located in a municipality, and the county commission or the city council shall have sole authority to grant a request for relocation of the contents of such graves or tombs.



129514

Section 2. This act shall take effect October 1, 2017.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to criminal offenses involving tombs
and memorials; amending s. 872.02, F.S.; providing
that a person who willfully and knowingly excavates,
exposes, moves, or removes the contents of a tomb or
grave commits a crime; revising applicability;
authorizing an owner, officer, employee, or agent of
specified cemeteries to relocate the contents of a
grave or tomb, subject to certain conditions;
providing an effective date.



156066

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/13/2017	.	
	.	
	.	
	.	

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

Senate Substitute for Amendment (129514) (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 872.02, Florida Statutes, is amended to
read

872.02 Injuring or removing tomb or monument; disturbing
contents of grave or tomb; penalties.—

(1) A person commits a felony of the third degree,



156066

punishable as provided in s. 775.082, s. 775.083, or s. 775.084
if he or she:

(a) ~~who~~ Willfully and knowingly destroys, mutilates, defaces, injures, or removes any tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other approved structure or approved thing placed or designed for a memorial of the dead, or any fence, railing, curb, or other thing intended for the protection or ornamentation of any tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure before mentioned, or for any enclosure for the burial of the dead; ~~or~~

(b) Willfully destroys, mutilates, removes, cuts, breaks, or injures any tree, shrub, or plant placed or being within any such enclosure, ~~commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

This subsection does not apply to anyone performing routine maintenance and upkeep.

(2) A person who willfully and knowingly excavates, exposes, moves, removes, or otherwise disturbs the contents of a tomb or grave commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does ~~shall~~ not apply to any person acting under the direction or authority of the Division of Historical Resources of the Department of State, to cemeteries operating under chapter 497, any cemeteries removing or relocating the contents of a grave or tomb as a response to a natural disaster,



156066

or to any person otherwise authorized by law to remove or disturb a tomb, monument, gravestone, burial mound, or similar structure, or its contents, as described in subsection (1).

(4) For purposes of this section, the term "tomb" includes any mausoleum, columbarium, or belowground crypt.

(5) Notwithstanding subsections (1) and (2), an owner, officer, employee, or agent of a cemetery exempt from regulation pursuant to s. 497.260 may relocate the contents of a grave or tomb:

(a) After receiving a written and signed contract between the owner and a legally authorized person as defined in s. 497.005(43).

(b) If a legally authorized person cannot be located after a reasonable search or if 75 years or more have elapsed since the date of entombment, interment, or inurnment, then public notice must be posted. The public notice must be published once a week for 4 consecutive weeks in a newspaper of general circulation in the county where the cemetery is located. The public notice must contain the name of the cemetery; the name, address, and telephone number of the cemetery representative with whom objections may be filed; the reason for relocation of the contents of the graves or tombs; the names of the human remains to be relocated; the approximate date of the initial entombment, interment, or inurnment; the proposed site of relocation; and the proposed date of relocation. The proposed date of relocation may not be less than 30 days from last date of publication.

1. If no objection from a legally authorized person is received within 30 days from the last date of publication of the



156066

public notice, the cemetery may proceed with relocation.

2. If an objection is received from a legally authorized person, a public hearing shall be held before the county commission of the county where the cemetery is located, or the city council, if the cemetery is located in a municipality, and the county commission or the city council shall have sole authority to grant a request for relocation of the contents of such graves or tombs.

Section 2. This act shall take effect October 1, 2017.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to criminal offenses involving tombs and memorials; amending s. 872.02, F.S.; providing that a person who willfully and knowingly excavates, exposes, moves, or removes the contents of a tomb or grave commits a felony; revising applicability; authorizing an owner, officer, employee, or agent of specified cemeteries to relocate the contents of a grave or tomb, subject to certain conditions; providing an effective date.



717080

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2017	.	
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	.	
	.	

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

Senate Substitute for Amendment (129514) (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 872.02, Florida Statutes, is amended to
read

872.02 Injuring or removing tomb or monument; disturbing
contents of grave or tomb; penalties.—

(1) A person commits a felony of the third degree,



717080

punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if he or she:

(a) ~~who~~ Willfully and knowingly destroys, mutilates, defaces, injures, or removes any tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other approved structure or approved thing placed or designed for a memorial of the dead, or any fence, railing, curb, or other thing intended for the protection or ornamentation of any tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure before mentioned, or for any enclosure for the burial of the dead; or

(b) Willfully destroys, mutilates, removes, cuts, breaks, or injures any tree, shrub, or plant placed or being within any such enclosure, except for anyone performing routine maintenance and upkeep ~~commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(2) A person who willfully and knowingly excavates, exposes, moves, removes, or otherwise disturbs the contents of a tomb or grave commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does ~~shall~~ not apply to any person acting under the direction or authority of the Division of Historical Resources of the Department of State, to cemeteries operating under chapter 497, any cemeteries removing or relocating the contents of a grave or tomb as a response to a natural disaster, or to any person otherwise authorized by law to remove or disturb a tomb, monument, gravestone, burial mound, or similar



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structure, or its contents, as described in subsection (1).

(4) For purposes of this section, the term "tomb" includes any mausoleum, columbarium, or belowground crypt.

(5) Notwithstanding subsections (1) and (2), an owner, officer, employee, or agent of a cemetery exempt from regulation pursuant to s. 497.260 may relocate the contents of a grave or tomb:

(a) After receiving a written and signed contract between the owner and a legally authorized person as defined in s. 497.005(43).

(b) If a legally authorized person cannot be located after a reasonable search or if 75 years or more have elapsed since the date of entombment, interment, or inurnment, then public notice must be posted. The public notice must be published once a week for 4 consecutive weeks in a newspaper of general circulation in the county where the cemetery is located. The public notice must contain the name of the cemetery; the name, address, and telephone number of the cemetery representative with whom objections may be filed; the reason for relocation of the contents of the graves or tombs; the names of the human remains to be relocated; the approximate date of the initial entombment, interment, or inurnment; the proposed site of relocation; and the proposed date of relocation. The proposed date of relocation may not be less than 30 days from last date of publication. If no objection from a legally authorized person is received within 30 days from the last date of publication of the public notice, the cemetery may proceed with relocation.

(6) If a legally authorized person objects, a public hearing shall be held before the county commission of the county



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where the cemetery is located, or the city council, if the
cemetery is located in a municipality, and the county commission
or the city council shall have sole authority to grant a request
for relocation of the contents of such graves or tombs.

Section 2. This act shall take effect October 1, 2017.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to criminal offenses involving tombs
and memorials; amending s. 872.02, F.S.; providing
that a person who willfully and knowingly excavates,
exposes, moves, or removes the contents of a tomb or
grave commits a felony; revising applicability;
authorizing an owner, officer, employee, or agent of
specified cemeteries to relocate the contents of a
grave or tomb, subject to certain conditions;
providing an effective date.

By Senator Simmons

9-00574A-17

2017844__

A bill to be entitled

An act relating to criminal offenses involving tombs and memorials; amending s. 872.02, F.S.; defining and redefining terms; making technical changes; prohibiting the excavation, exposing, movement, removal, or other disturbance of the contents of a tomb or memorial; providing criminal penalties; providing exceptions to the prohibition against disturbance of the contents of a tomb or memorial for cemeteries that are exempt from certain regulation; providing an effective date.

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

Section 1. Section 872.02, Florida Statutes, is amended to read:

872.02 Injuring or removing tomb or memorial monument; disturbing contents of ~~grave or~~ tomb; penalties; exceptions.—

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

(a) “Exempt cemetery” means a cemetery that is exempt from regulation pursuant to s. 497.260(1).

(b) “Legally authorized person” has the same meaning provided in s. 497.005.

(c) “Memorial” means a structure or thing placed or designed for a memorial of the dead. The term includes a monument or gravestone.

(d) “Operator” means an owner, officer, employee, or agent.

(e) “Tomb” includes a grave space, mausoleum, columbarium, or belowground crypt, as those terms are defined in s. 497.005, and also includes a burial mound, an earthen or shell monument containing human skeletal remains or associated burial artifacts, or any other enclosure for the burial of the dead.

9-00574A-17

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(2) A person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the person ~~who~~ willfully and knowingly:

(a) Destroys, mutilates, defaces, injures, or removes a any tomb or memorial, ~~monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure or thing placed or designed for a memorial of the dead, or a any fence, railing, curb, or other thing intended for the protection or ornamentation of a any tomb or memorial; ~~or, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure before mentioned, or for any enclosure for the burial of the dead, or willfully~~~~

(b) Destroys, mutilates, removes, cuts, breaks, or injures a any tree, shrub, or plant placed or ~~being~~ within an any such enclosure for the burial of the dead, ~~commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(3) ~~(2)~~ A person who willfully and knowingly excavates, exposes, moves, removes, or otherwise disturbs the contents of a tomb ~~or grave~~ commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

~~(4)~~ ~~(3)~~ This section does ~~shall~~ not apply to:

(a) A any person acting under the direction or authority of the Division of Historical Resources of the Department of State, to cemeteries operating under chapter 497, or to a any person otherwise authorized by law to commit an act ~~remove or disturb a~~ tomb, ~~monument, gravestone, burial mound, or similar structure,~~

9-00574A-17

2017844__

62 ~~or its contents, as described in subsection (2) (4).~~

63 (b) An operator of an exempt cemetery who is conducting
 64 ordinary maintenance, if such maintenance does not relocate a
 65 memorial, tomb, or contents of a tomb to another plot or site.

66 (c) An operator of an exempt cemetery who relocates a
 67 memorial, a tomb, or the contents of a tomb to another plot or
 68 site if:

69 1. Before the relocation, the operator obtains written
 70 authorization for the relocation from a legally authorized
 71 person or a court order authorizing the relocation;

72 2. A natural disaster causes damage to the exempt cemetery
 73 which necessitates the relocation; or

74 3. More than 75 years have elapsed since the interment,
 75 entombment, or inurnment at the exempt cemetery and the operator
 76 of the exempt cemetery publishes a public notice, once a week
 77 for 4 consecutive weeks, in a newspaper of general circulation
 78 within the county in which the exempt cemetery is located.

79 a. The public notice must contain the name of the exempt
 80 cemetery; the name, address, and telephone number of the
 81 representative of the exempt cemetery with whom written
 82 objections may be filed; the reason and necessity for the
 83 relocation; the name of the deceased person entombed, interred,
 84 or inurned; the date of initial entombment, interment, or
 85 inurnment; the proposed site of relocation; and the proposed
 86 date of relocation. The proposed date of relocation may not be
 87 less than 30 days after the last date of publication.

88 b. If a written objection to the relocation:

89 (I) Is not received within 30 days after the last date of
 90 publication of the public notice, the exempt cemetery may

9-00574A-17

2017844__

91 proceed with the relocation.

92 (II) Is received from a legally authorized person, a public
 93 hearing shall be held before the city council if the exempt
 94 cemetery is located in a municipality or before the applicable
 95 county commission if the exempt cemetery is not located within a
 96 municipality. Interested parties shall have the opportunity to
 97 be heard at the hearing in person or by counsel and to introduce
 98 testimony. The council or commission shall determine whether to
 99 grant or deny the request for the relocation. If granted, the
 100 exempt cemetery may proceed with the relocation.

101 ~~(4) For purposes of this section, the term "tomb" includes~~
 102 ~~any mausoleum, columbarium, or belowground crypt.~~

103 Section 2. This act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

3-13-17

Meeting Date

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

717080

844

Bill Number (if applicable)

156066

Amendment Barcode (if applicable)

Topic TOMBS + MEMORIALS

Name BOB BOYD

Job Title ATTORNEY

Address 660 E. JEFFERSON ST.
Street

Phone 850-412-0306

TALL FL 32301
City State Zip

Email bboyd@ssc-lawfirm.com

Speaking: ☒ For ☐ Against ☐ Information

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

SUBSTITUTE STRIKE-ALL AMENDMENT + BILL

Representing CATHOLIC CEMETERIES OF ARCHDIOCESE OF MIAMI

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/13/17

Meeting Date

844

Bill Number (if applicable)

Topic Cemeteries, Tombs, etc.

Name Corinne Mixon

Job Title Lobbyist

Address 119 51 Monroe
Street

Phone 766-5795

Tallahassee FL 32301
City State Zip

Email corinne.mixon@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Independent Funeral Directors of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3 / 13 / 2017

Meeting Date

Topic _____

Bill Number 844
(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

Committee Agenda Request

To: Senator Randolph Bracy, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: February 27, 2017

I respectfully request that **Senate Bill 844**, relating to Criminal Offenses Involving Tombs and Memorials, be placed on the:

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

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

Senator David Simmons
Florida Senate, District 9

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 852

INTRODUCER: Criminal Justice Committee and Senator Garcia and others

SUBJECT: Human Trafficking

DATE: March 14, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Hrdlicka	CJ	Fav/CS
2.			JU	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 852 amends numerous statutes to include the term commercial sexual exploitation because it emphasizes the fact that sex is exchanged for money, goods, or services and better defines the victims served by the Department of Children and Families (DCF), sheriff's offices conducting child abuse investigations, and community-based care agencies.

The bill:

- Defines the term “commercial sexual exploitation” to mean the use of any person under the age of 18 for sexual purposes in exchange for, or promise of money, goods, or services;
- Changes the date of the annual report by the DCF on commercial sex trafficking of minors from December 1st of each year to October 1st;
- Requires the DCF to maintain data specifying certain services available for verified victims of commercial sexual exploitation;
- Adds the crime of human trafficking involving commercial sexual activity, s. 787.06(3), F.S., to the list of crimes where the defendant’s confession is admissible during specified situations in trial;
- Amends s. 409.1678, F.S., to remove the outdated definition of “sexually exploited child” and replace it with “commercial sexual exploitation”;
- Clarifies procedures for conducting a multidisciplinary staffing for alleged or verified victims of commercial sexual exploitation, who are not eligible for relief or benefits under the federal Trafficking Victims Protection Act;

- Requires that the multidisciplinary staffing develop a service plan for any child victims suspected or verified as a victim of commercial sexual exploitation that identifies the victim's needs and local services;
- Specifies that services provided in the service plan be in the least restrictive environment and identifies types of services that may be included in the service plan;
- Requires the DCF or the sheriff's office to follow up with the verified victims of commercial sexual exploitation within six months; and
- Reenacts s. 790.065, F.S., relating to the sale of firearms in order to incorporate the amendments made to s. 907.041, F.S.

The bill will likely have a fiscal impact on the DCF and the six sheriff's offices that conduct child protective services through a contract with the DCF; however, the impact is not expected to be significant. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2017.

II. Present Situation:

Human trafficking is a form of modern-day slavery. Victims of human trafficking are young children, men, and women, who are often subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor. There is an estimated 20.9 million adults and children in the world who are in some sort of forced labor or sexual exploitation. Of that number, an estimated 26 percent of them are children, and in 2010, it was estimated that as many as 300,000 children in the United States were at risk for exploitation each year.¹

Section 787.06, F.S., is Florida's human trafficking statute and defines "human trafficking" as the "transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining of another person for the purpose of exploitation of that person." The statute contains a variety of provisions prohibiting persons from knowingly engaging in human trafficking by using labor or services or through commercial sexual activity.²

Children can be victims of human trafficking in two forms: commercial sexual exploitation and labor exploitation. In Florida, human trafficking is reported to the Child Abuse Hotline. Toll free national numbers to report human trafficking of children in Florida are relayed to the abuse hotline. Sex trafficking is defined as a commercial sex act induced by force, fraud, or coercion in which the person induced to perform such act is under 18.³

¹ U.S. Department of Justice, Office of Justice Programs, *OJP Fact Sheet, Fast Facts*, (December 2011) available at http://ojp.gov/newsroom/factsheets/ojpfs_humantrafficking.html (last visited March 10, 2017). Polaris, *Human Trafficking: The Facts*, 2016, available at <https://polarisproject.org/facts> (last visited March 10, 2017).

² See ss. 787.06(3) and (4), F.S.

³ Department of Children and Families, *What is Human Trafficking*, available at <http://www.myflfamilies.com/service-programs/human-trafficking/what-is-human-trafficking> (last visited March 10, 2017). 22 U.S.C. 7102(9)(A).

Commercial sex acts include, but are not limited to, prostitution and/or pornography as a means for the perpetrator to make money.⁴ Calls to the abuse hotline are investigated by the Department of Children and Families (DCF) or in certain counties, by the sheriff's office.⁵

Once a call is made to the hotline, an investigation is opened by the DCF or certain sheriff's office in counties where the sheriff conducts child abuse investigations. If commercial sexual trafficking is suspected or verified, the DCF, community-based care agencies, or sheriff's office, conducts a multidisciplinary staffing on each case.⁶ The staffing includes local experts in child protection, child welfare, medical professionals, and law enforcement to assess the needs of the child and determine if the victim needs placement in a residential home, or "safe house" pursuant to s. 39.524, F.S. Multidisciplinary staffing teams are also charged with assessing the local services available to victims of commercial sexual exploitation.⁷

Section 409.16791, F.S., requires the Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an annual study on commercial sexual exploitation of children. The most recent report found that in 2015, there were 1,279 reports of human trafficking to the Child Abuse Hotline in Florida.⁸ Of those, 264 were verified. Of the verified cases, 123 were dependent children in foster care while 141 were not dependent. The OPPAGA reported that there is no data on the status or outcomes for the 141 victims not in foster care.

III. Effect of Proposed Changes:

Section 1 amends s. 39.524, F.S., to update terminology. Current law uses the term "sexual exploitation" defined in s. 39.01(70)(g), F.S., relating to sexual abuse. The term "commercial sexual exploitation" is more appropriate because it emphasizes the fact that sex is exchanged for money, goods, or services.

The bill adds the term to the definition section of ch. 409, F.S., because the state's program to serve child victims of commercial sexual exploitation is not limited to dependent children under ch. 39, F.S., (**Section 3**). The bill clarifies that a sheriff's office that provides child protection services must assess children for services and safe-harbor placement.⁹

⁴ The federal Trafficking Victims Protection Act defines "commercial sex act" as any sex act on account of which anything of value is given to or received by *any person*. 22 USC 7102 (4).

⁵ Section 39.3065, F.S., and specific appropriation 331 of the 2016-2017 General Appropriations Act (ch. 2016-66, L.O.F.) assigns state responsibility for conducting child abuse investigations to the Sheriff Offices in Broward, Hillsborough, Manatee, Pasco, Pinellas, and Seminole counties.

⁶ Section 409.1754(2), F.S.

⁷ *Id.*

⁸ Office of Program Policy Analysis and Government Accountability, *Placement Challenges Persist for Child Victims of Commercial Sexual Exploitation; Questions Regarding Effective Interventions and Outcomes Remain*, Report No. 16-04, available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=16-04> (last visited March 10, 2017). Chapter 2014-161, L.O.F.

⁹ Section 39.3065, F.S., and specific appropriation 331 of the 2016-2017 General Appropriations Act (2016-66, L.O.F.) assigns state responsibility for conducting child abuse investigations to the Sheriff Offices in Broward, Hillsborough, Manatee, Pasco, Pinellas, and Seminole counties.

The bill changes the date of the annual report by the DCF on commercial sex trafficking of minors from December 1st of each year to October 1st. Most of the state's child welfare reports are due October 1st of each year to allow the Legislature to consider the reports prior to the Legislative Session. The bill requires the DCF, with information from sheriff's offices conducting child abuse investigations and community-based care agencies, to report on the prevalence of exploitation in Florida, specialized services, local services, and the DCF's response to the recommendations from the annual report by the OPPAGA on commercial sexual exploitation of children.¹⁰

The DCF is required to maintain data specifying the number of children who were:

- Verified victims of commercial sexual exploitation.
- Referred to nonresidential services in the community.
- Placed in a safe house or safe foster home.
- Referred to a safe house or safe foster home for whom placement was unavailable.

The DCF must also identify which counties did not have the available placement in a safe house or safe foster home.

Section 2 amends s. 92.565, F.S., to add the crime of human trafficking involving commercial sexual activity, s. 787.06(3), F.S., to the list crimes where the defendant's confession is admissible during specified situations in trial, without the state proving a *corpus delicti*¹¹ of the crime. This could improve prosecution of persons committing commercial sexual exploitation of children.

Section 3 amends s. 409.016, F.S., to define "commercial sexual exploitation" to mean the use of any person under the age of 18 for sexual purposes in exchange for, or promise of money, goods, or services. This new term better defines the victims served by the DCF, sheriff's offices conducting child abuse investigations, and community-based care agencies.¹²

Section 4 amends s. 409.1678, F.S., to remove the outdated definition of "sexually exploited child" and replace it with "commercial sexual exploitation." Section 409.1678, F.S., addresses the specialized residential options for children who are victims of commercial sexual exploitation. These homes specialize in the care of victims of commercial sexual exploitation. There are currently four safe houses licensed by the DCF statewide. These four homes have a total capacity of 24 beds.¹³ The bill allows the DCF to serve those victims not covered by the federal Trafficking Victims Protection Act, which serves victims who are illegal aliens.¹⁴

¹⁰ The report by the Office of Program Policy Analysis and Government Accountability is required each year pursuant to s. 409.16791, F.S.

¹¹ *Corpus delicti* means the fact of a crime having been actually committed. BLACK'S LAW DICTIONARY, 6th ed.

¹² See Department of Children and Families Operating Procedure No. 170-14, *Response to the Human Trafficking of Children*, July 1, 2016, available at http://centerforchildwelfare.fmhi.usf.edu/kb/DCF_Pol/CFOP_170/CFOP170-14.pdf (last visited on March 10, 2017).

¹³ Office of Program Policy Analysis and Government Accountability, *Placement Challenges Persist for Child Victims of Commercial Sexual Exploitation; Questions Regarding Effective Interventions and Outcomes Remain*, Report No. 16-04, available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=16-04> (last visited March 10, 2017).

¹⁴ Federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

Section 5 amends s. 409.1754, F.S., to clarify procedures for conducting a multidisciplinary staffing for alleged or verified victims of commercial sexual exploitation, who are not eligible for relief or benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. The bill requires that the multidisciplinary staffing develop a service plan for any child victims suspected or verified as a victim of commercial sexual exploitation. This service plan identifies the victim's needs and local services. The bill directs the DCF to update the case plan required under ch 39, F.S., for dependent children who are alleged or verified victims of commercial sexual exploitation.

The bill clarifies that in those counties where the sheriff's office conducts child abuse investigations, that the sheriff's office must provide the service plan. The service plan is voluntary and is provided to the victim's family or legal guardian.

The bill specifies that services provided in the service plan be in the least restrictive environment and identifies types of services that may be included in the service plan:

- Emergency shelter and runaway center services;
- Outpatient individual or group counseling for the victim and the victim's family or legal guardian;
- Substance use disorder treatment services;
- Drop-in centers or mentoring programs;
- Commercial sexual exploitation treatment programs;
- Child advocacy center services pursuant to s. 39.3035;
- Prevention services such as those provided by the Florida Network of Youth and Family Services and the PACE Center for Girls;
- Family foster care;
- Therapeutic foster care;
- Safe houses or safe foster homes;
- Residential treatment programs; and
- Employment or workforce training.

The DCF or sheriff's office must follow up with all verified victims of commercial sexual exploitation, not just victims who are dependent (foster care), within six months to determine if the child received services, if these services assisted the child and his or her family, and if the child has been victimized again.

Section 6 amends s. 907.041, F.S., relating to pretrial detention to add human trafficking to the list of crimes considered dangerous and for which the court may not grant nonmonetary pretrial release at first appearance.

Section 7 reenacts s. 790.065, F.S., relating to the sale of firearms, in order to incorporate the amendments made to s. 907.041, F.S.

Section 8 provides the bill is effective October 1, 2017.

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

The bill clarifies that the six sheriff's offices that have the responsibility for conducting child abuse investigations must provide a service plan and follow up with all verified victims. This requirement may cause the six sheriff's offices to incur costs. If these costs are less than \$1.8 million the bill is exempt from the mandates provision of the Florida Constitution due to its insignificant fiscal impact.

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 additional requirement of developing a service plan for each child who is not dependent would fall to the community-based care lead agencies. Based on current trends, the DCF estimates that 405 children will have a verified report of commercial child sexual exploitation in FY 2016-2017. The community-based care lead agencies currently provide a case manager and develop a case plan for community children who are placed in residential placements based on their commercial sexual exploitation victimization, and this has been minimal throughout the regions. The DCF believes that the workload increase will be minimal and can be absorbed within existing resources.¹⁵

C. Government Sector Impact:

Currently, regional DCF staff and community-based care agency staff conduct multidisciplinary staffings for alleged and confirmed victims of commercial sex trafficking. The bill requires the staff to develop a service plan at the multidisciplinary staffings for verified victims of commercial sex trafficking. Identifying local services available to victims is currently a duty of the multidisciplinary staffings.¹⁶ The bill requires the staffings to document the local services that would be needed by each victim

¹⁵ 2017 Department of Children and Families Legislative Bill Analysis, *SB 852 Human Trafficking*, February 15, 2017, (on file with the Senate Criminal Justice Committee).

¹⁶ Section 409.1754 (2), F.S.

based on the information the staffing is required by law to collect and maintain. This is a new requirement and can be absorbed within existing resources.¹⁷

The bill requires the DCF to follow up with victims of commercial sex trafficking within six months of a confirmed case. The DCF's Florida Safe Families Network currently holds information on the care and status of victims who are dependent. Information on victims who are not dependent will have to be collected. The bill authorizes the DCF to collect basic status information from the victim, family, or legal guardian. In 2015, there were 141 such victims statewide.¹⁸ This is a new requirement and can be absorbed within existing resources.

Sheriff's offices in six counties conduct child protective services by law and through a contract with the DCF.¹⁹ These sheriff's offices are currently required to conduct multidisciplinary staffings along with the local community-based care agency. Sheriff's offices could see an increase in costs to prepare a service plan for victims and for following up with victims who are not dependent. The cost is not expected to be significant.²⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.524, 92.565, 409.016, 409.1678, 409.1754, and 907.041.

This bill reenacts section 790.065 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Criminal Justice on March 13, 2017:

The committee substitute made a technical change to update a reference to chapter law to the enacted statute, s. 409.16791, F.S.

¹⁷ 2017 Department of Children and Families Legislative Bill Analysis, *SB 852 Human Trafficking*, February 15, 2017, (on file with the Senate Criminal Justice Committee).

¹⁸ *Id.*

¹⁹ Section 39.3065, F.S.

²⁰ 2017 Department of Children and Families Legislative Bill Analysis, *SB 852 Human Trafficking*, February 15, 2017, (on file with the Senate Criminal Justice Committee).

B. Amendments:

None.

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



284874

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/13/2017	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 85
and insert:
by s. 409.16791.

By Senator Garcia

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1 A bill to be entitled
 2 An act relating to human trafficking; amending s.
 3 39.524, F.S.; requiring the Department of Children and
 4 Families or a sheriff's office to conduct a
 5 multidisciplinary staffing on child victims of
 6 commercial sexual exploitation to determine the
 7 child's service and placement needs; revising the date
 8 by which the department or sheriff's office must
 9 submit a report to the Legislature on child commercial
 10 sexual exploitation and safe-harbor placements;
 11 revising the contents of the report, including
 12 recommendations by the Office of Program Policy
 13 Analysis and Government Accountability study on
 14 commercial sexual exploitation of children; requiring
 15 the department to maintain certain data on the child
 16 victims; amending s. 92.565, F.S.; adding commercial
 17 sexual activity as a crime in which the defendant's
 18 admission is admissible during trial; amending s.
 19 409.016, F.S.; defining the term "commercial sexual
 20 exploitation"; amending s. 409.1678, F.S.; deleting
 21 the term "sexually exploited child"; removing an
 22 obsolete date; conforming provisions to changes made
 23 by the act; amending s. 409.1754, F.S.; requiring the
 24 department or sheriff's office to conduct
 25 multidisciplinary staffings for child victims;
 26 requiring a service plan for all victims of child
 27 commercial sexual exploitation; requiring the
 28 department or sheriff's office to follow up on all
 29 victims of child commercial sexual exploitation within
 30 a specified timeframe; amending s. 907.041, F.S.;
 31 adding human trafficking to the list of crimes
 32 requiring pretrial detention of the defendant;

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33 reenacting s. 790.065(2)(c), F.S., relating to the
 34 sale and delivery of firearms to incorporate the
 35 amendment made to s. 907.041, F.S., in a reference
 36 thereto; providing an effective date.

37
 38 Be It Enacted by the Legislature of the State of Florida:

39
 40 Section 1. Section 39.524, Florida Statutes, is amended to
 41 read:

42 39.524 Safe-harbor placement.—

43 (1) Except as provided in s. 39.407 or s. 985.801, a
 44 dependent child 6 years of age or older who is suspected of
 45 being or has been found to be a victim of commercial sexual
 46 exploitation as defined in s. 409.016 ~~s. 39.01(70)(g)~~ must be
 47 assessed, and the department or a sheriff's office acting under
 48 s. 39.3065 must conduct a multidisciplinary staffing pursuant to
 49 s. 409.1754(2), to determine the child's need for services and
 50 his or her need for placement in a safe house or safe foster
 51 home as provided in s. 409.1678 using the initial screening and
 52 assessment instruments provided in s. 409.1754(1). If such
 53 placement is determined to be appropriate for the child as a
 54 result of this assessment, the child may be placed in a safe
 55 house or safe foster home, if one is available. However, the
 56 child may be placed in another setting, if the other setting is
 57 more appropriate to the child's needs or if a safe house or safe
 58 foster home is unavailable, as long as the child's behaviors are
 59 managed so as not to endanger other children served in that
 60 setting.

61 (2) The results of the assessment described in s.

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409.1754(1), the multidisciplinary staffing described in s.
 409.1754(2), and the actions taken as a result of the assessment
 must be included in the disposition hearing or next judicial
 review of the child. At each subsequent judicial review, the
 court must be advised in writing of the status of the child's
 placement, with special reference regarding the stability of the
 placement, any specialized services, and the permanency planning
 for the child.

(3) (a) By October ~~December~~ 1 of each year, the department,
 with information from community-based care agencies and certain
 sheriff's offices acting under s. 39.3065, shall report to the
 Legislature on the prevalence of child commercial sexual
exploitation; the specialized services provided and placement of
such children; the local service capacity assessed pursuant to
s. 409.1754; the placement of children in safe houses and safe
foster homes during the year, including the criteria used to
determine the placement of children; the number of children who
 were evaluated for placement; the number of children who were
 placed based upon the evaluation; ~~and~~ the number of children
 who were not placed; and the department's response to the
findings and recommendations made by the Office of Program
Policy Analysis and Government Accountability in its annual
study on commercial sexual exploitation of children, as required
by s. 8 of chapter 2014-161, Laws of Florida.

(b) The department shall maintain data specifying the
 number of children who were verified as victims of commercial
sexual exploitation, who were referred to nonresidential
services in the community, who were placed in a safe house or
safe foster home, and who were referred to a safe house or safe

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foster home for whom placement was unavailable, and shall
identify the counties in which such placement was unavailable.
 The department shall include this data in its report under this
 subsection so that the Legislature may consider this information
 in developing the General Appropriations Act.

Section 2. Subsection (2) of section 92.565, Florida
 Statutes, is amended to read:

92.565 Admissibility of confession in sexual abuse cases.—

(2) In any criminal action in which the defendant is
 charged with a crime against a victim under s. 787.06(3),
involving commercial sexual activity; s. 794.011; s. 794.05; s.
800.04; s. 826.04; s. 827.03, involving sexual abuse; s. 827.04,
involving sexual abuse; s. 827.071; or s. 847.0135(5), or any
other crime involving sexual abuse of another, or with any
attempt, solicitation, or conspiracy to commit any of these
crimes, the defendant's memorialized confession or admission is
admissible during trial without the state having to prove a
corpus delicti of the crime if the court finds in a hearing
conducted outside the presence of the jury that the state is
unable to show the existence of each element of the crime, and
having so found, further finds that the defendant's confession
or admission is trustworthy. Factors which may be relevant in
determining whether the state is unable to show the existence of
each element of the crime include, but are not limited to, the
fact that, at the time the crime was committed, the victim was:

(a) Physically helpless, mentally incapacitated, or

mentally defective, as those terms are defined in s. 794.011;

(b) Physically incapacitated due to age, infirmity, or any

other cause; or

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(c) Less than 12 years of age.

Section 3. Present subsections (1), (2), and (3) of section 409.016, Florida Statutes, are redesignated as subsections (2), (3), and (4), respectively, and a new subsection (1) is added to that section, to read:

409.016 Definitions.—As used in this chapter:

(1) "Commercial sexual exploitation" means the use of any person under the age of 18 years for sexual purposes in exchange for money, goods, or services or the promise of money, goods, or services.

Section 4. Section 409.1678, Florida Statutes, is amended to read:

409.1678 Specialized residential options for children who are victims of commercial sexual exploitation.—

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

(a) "Safe foster home" means a foster home certified by the department under this section to care for sexually exploited children.

(b) "Safe house" means a group residential placement certified by the department under this section to care for sexually exploited children.

~~(c) "Sexually exploited child" means a child who has suffered sexual exploitation as defined in s. 39.01(70)(g) and is ineligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.~~

(2) CERTIFICATION OF SAFE HOUSES AND SAFE FOSTER HOMES.—

(a) A safe house and a safe foster home shall provide a safe, separate, and therapeutic environment tailored to the needs of commercially sexually exploited children who have

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endured significant trauma and are not eligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq. Safe houses and safe foster homes shall use a model of treatment that includes strength-based and trauma-informed approaches.

(b) A safe house or a safe foster home must be certified by the department. A residential facility accepting state funds appropriated to provide services to ~~sexually exploited children~~ or child victims of commercial sexual exploitation ~~sex trafficking~~ must be certified by the department as a safe house or a safe foster home. An entity may not use the designation "safe house" or "safe foster home" and hold itself out as serving child victims of commercial sexual exploitation ~~sexually exploited children~~ unless the entity is certified under this section.

(c) To be certified, a safe house must hold a license as a residential child-caring agency, as defined in s. 409.175, and a safe foster home must hold a license as a family foster home, as defined in s. 409.175. A safe house or safe foster home must also:

1. Use strength-based and trauma-informed approaches to care, to the extent possible and appropriate.

2. Serve exclusively one sex.

3. Group child victims of commercial sexual exploitation ~~sexually exploited children~~ by age or maturity level.

4. Care for child victims of commercial sexual exploitation ~~sexually exploited children~~ in a manner that separates those children from children with other needs. Safe houses and safe foster homes may care for other populations if the children who

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have not experienced commercial sexual exploitation do not interact with children who have experienced commercial sexual exploitation.

5. Have awake staff members on duty 24 hours a day, if a safe house.

6. Provide appropriate security through facility design, hardware, technology, staffing, and siting, including, but not limited to, external video monitoring or door exit alarms, a high staff-to-client ratio, or being situated in a remote location that is isolated from major transportation centers and common trafficking areas.

7. Meet other criteria established by department rule, which may include, but are not limited to, personnel qualifications, staffing ratios, and types of services offered.

(d) Safe houses and safe foster homes shall provide services tailored to the needs of child victims of commercial sexual exploitation ~~sexually exploited children~~ and shall conduct a comprehensive assessment of the service needs of each resident. In addition to the services required to be provided by residential child caring agencies and family foster homes, safe houses and safe foster homes must provide, arrange for, or coordinate, at a minimum, the following services:

1. Victim-witness counseling.
2. Family counseling.
3. Behavioral health care.
4. Treatment and intervention for sexual assault.
5. Education tailored to the child's individual needs, including remedial education if necessary.
6. Life skills and workforce training.

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7. Mentoring by a survivor of commercial sexual exploitation, if available and appropriate for the child.

8. Substance abuse screening and, when necessary, access to treatment.

9. Planning services for the successful transition of each child back to the community.

10. Activities structured in a manner that provides child victims of commercial sexual exploitation ~~sexually exploited children~~ with a full schedule.

(e) The community-based care lead agencies shall ensure that foster parents of safe foster homes and staff of safe houses complete intensive training regarding, at a minimum, the needs of child victims of commercial sexual exploitation ~~sexually exploited children~~, the effects of trauma and sexual exploitation, and how to address those needs using strength-based and trauma-informed approaches. The department shall specify the contents of this training by rule and may develop or contract for a standard curriculum. The department may establish by rule additional criteria for the certification of safe houses and safe foster homes that shall address the security, therapeutic, social, health, and educational needs of child victims of commercial sexual exploitation ~~sexually exploited children~~.

(f) The department shall inspect safe houses and safe foster homes before certification and annually thereafter to ensure compliance with the requirements of this section. The department may place a moratorium on referrals and may revoke the certification of a safe house or safe foster home that fails at any time to meet the requirements of, or rules adopted under,

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236 this section.

237 (g) The certification period for safe houses and safe
238 foster homes shall run concurrently with the terms of their
239 licenses.

240 (3) SERVICES WITHIN A RESIDENTIAL TREATMENT CENTER OR
241 HOSPITAL. ~~No later than July 1, 2015,~~ Residential treatment
242 centers licensed under s. 394.875, and hospitals licensed under
243 chapter 395 that provide residential mental health treatment,
244 shall provide specialized treatment for commercially sexually
245 exploited children in the custody of the department who are
246 placed in these facilities pursuant to s. 39.407(6), s.
247 394.4625, or s. 394.467. The specialized treatment must meet the
248 requirements of subparagraphs (2)(c)1. and 3.-7., paragraph
249 (2)(d), and the department's treatment standards adopted
250 pursuant to this section. The facilities shall ensure that
251 children are served in single-sex groups and that staff working
252 with such children are adequately trained in the effects of
253 trauma and sexual exploitation, the needs of child victims of
254 commercial sexual exploitation ~~sexually exploited children~~, and
255 how to address those needs using strength-based and trauma-
256 informed approaches.

257 (4) FUNDING FOR SERVICES; CASE MANAGEMENT.—

258 (a) This section does not prohibit any provider of services
259 for child victims of commercial sexual exploitation ~~sexually~~
260 ~~exploited children~~ from appropriately billing Medicaid for
261 services rendered, from contracting with a local school district
262 for educational services, or from obtaining federal or local
263 funding for services provided, as long as two or more funding
264 sources do not pay for the same specific service that has been

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265 provided to a child.

266 (b) The community-based care lead agency shall ensure that
267 all child victims of commercial sexual exploitation ~~sexually~~
268 ~~exploited children~~ residing in safe houses or safe foster homes
269 or served in residential treatment centers or hospitals pursuant
270 to subsection (3) have a case manager and a case plan, whether
271 or not the child is a dependent child.

272 (5) SCOPE OF AVAILABILITY OF SERVICES.—To the extent
273 possible provided by law and with authorized funding, the
274 services specified in this section may be available to all child
275 victims of commercial sexual exploitation who are not eligible
276 for relief and benefits under the federal Trafficking Victims
277 Protection Act, 22 U.S.C. ss. 7101 et seq., ~~sexually exploited~~
278 ~~children~~ whether such services are accessed voluntarily, as a
279 condition of probation, through a diversion program, through a
280 proceeding under chapter 39, or through a referral from a local
281 community-based care or social service agency.

282 (6) LOCATION INFORMATION.—

283 (a) Information about the location of a safe house, safe
284 foster home, or other residential facility serving child victims
285 of commercial sexual exploitation ~~victims of sexual~~
286 ~~exploitation~~, as defined in s. 409.016 ~~s. 39.01(70)(g)~~, which is
287 held by an agency, as defined in s. 119.011, is confidential and
288 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
289 Constitution. This exemption applies to such confidential and
290 exempt information held by an agency before, on, or after the
291 effective date of the exemption.

292 (b) Information about the location of a safe house, safe
293 foster home, or other residential facility serving child victims

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294 ~~of commercial sexual exploitation victims of sexual~~
 295 ~~exploitation~~, as defined in s. 409.016 ~~s. 39.01(70)(g)~~, may be
 296 provided to an agency, as defined in s. 119.011, as necessary to
 297 maintain health and safety standards and to address emergency
 298 situations in the safe house, safe foster home, or other
 299 residential facility.

300 (c) The exemptions from s. 119.07(1) and s. 24(a), Art. I
 301 of the State Constitution provided in this subsection do not
 302 apply to facilities licensed by the Agency for Health Care
 303 Administration.

304 (d) This subsection is subject to the Open Government
 305 Sunset Review Act in accordance with s. 119.15 and shall stand
 306 repealed on October 2, 2020, unless reviewed and saved from
 307 repeal through reenactment by the Legislature.

308 Section 5. Section 409.1754, Florida Statutes, is amended
 309 to read:

310 409.1754 Commercial sexual exploitation of children
 311 ~~Sexually exploited children~~; screening and assessment; training;
 312 multidisciplinary staffings; service plans ~~case management; task~~
 313 ~~forces.~~

314 (1) SCREENING AND ASSESSMENT.—

315 (a) The department shall develop or adopt one or more
 316 initial screening and assessment instruments to identify,
 317 determine the needs of, plan services for, and determine the
 318 appropriate placement for child victims of commercial sexual
 319 exploitation who are not eligible for relief and benefits under
 320 the federal Trafficking Victims Protection Act, 22 U.S.C. ss.
 321 7101 et seq ~~sexually exploited children~~. The department shall
 322 consult state and local agencies, organizations, and individuals

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323 involved in the identification and care of such sexually
 324 ~~exploited~~ children when developing or adopting initial screening
 325 and assessment instruments. Initial screening and assessment
 326 instruments shall assess the appropriate placement of child
 327 victims of commercial sexual exploitation ~~a sexually exploited~~
 328 ~~child~~, including whether placement in a safe house or safe
 329 foster home as provided in s. 409.1678 is appropriate, and shall
 330 consider, at a minimum, the following factors:

- 331 1. Risk of the child running away.
- 332 2. Risk of the child recruiting other children into the
- 333 commercial sex trade.
- 334 3. Level of the child's attachment to his or her exploiter.
- 335 4. Level and type of trauma that the child has endured.
- 336 5. Nature of the child's interactions with law enforcement.
- 337 6. Length of time that the child was a victim of commercial
 338 sexual exploitation ~~sexually exploited~~.
- 339 7. Extent of any substance abuse by the child.

340 (b) The initial screening and assessment instruments shall
 341 be validated, if possible, and must be used by the department,
 342 juvenile assessment centers as provided in s. 985.135, and
 343 community-based care lead agencies.

344 (c) The department shall adopt rules that specify the
 345 initial screening and assessment instruments to be used and
 346 provide requirements for their use and for the reporting of data
 347 collected through their use.

348 (d) The department, or a sheriff's office acting under s.
 349 39.3065, the Department of Juvenile Justice, and community-based
 350 care lead agencies may use additional assessment instruments in
 351 the course of serving sexually exploited children.

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(2) MULTIDISCIPLINARY STAFFINGS AND SERVICE PLANS.-

(a) The department, or a sheriff's office acting under s. 39.3065, shall conduct a multidisciplinary staffing for each child that is a suspected or verified victim of commercial sexual exploitation. The department or sheriff's office shall coordinate the staffing and invite individuals involved in the child's care, including, but not limited to, the child, if appropriate; the child's family or legal guardian; the child's guardian ad litem; Department of Juvenile Justice staff; school district staff; local health and human services providers; victim advocates; and any other persons who may be able to assist the child.

(b) The staffing must use the assessment, local services, and local protocols required by this section to develop a service plan. The service plan must identify the needs of the child and his or her family, the local services available to meet those needs, and whether placement in a safe house or safe foster home is needed. If the child is dependent, the case plan required by s. 39.6011 may meet the requirement for a service plan, but must be amended to incorporate the results of the multidisciplinary staffing. If the child is not dependent, the service plan is voluntary and the department or sheriff's office shall provide the plan to the victim and his or her family or legal guardian and offer to make any needed referrals to local service providers.

(c) The services identified in the service plan should be provided in the least restrictive environment and may include, but need not be limited to, the following:

1. Emergency shelter and runaway center services;

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2. Outpatient individual or group counseling for the victim and the victim's family or legal guardian;

3. Substance use disorder treatment services;

4. Drop-in centers or mentoring programs;

5. Commercial sexual exploitation treatment programs;

6. Child advocacy center services pursuant to s. 39.3035;

7. Prevention services such as those provided by the Florida Network of Youth and Family Services and the PACE Center for Girls;

8. Family foster care;

9. Therapeutic foster care;

10. Safe houses or safe foster homes;

11. Residential treatment programs; and

12. Employment or workforce training.

(d) The department, or a sheriff's office acting under s. 39.3065, shall follow up with all verified victims of commercial sexual exploitation who are dependent within 6 months of the completion of the child abuse investigation, and such information must be included in the report required under s. 39.524. The followup must determine the following:

1. Whether a referral was made for the services recommended in the service plan;

2. Whether the services were received and, if not, the reasons why;

3. Whether the services or treatments were completed and, if not, the reasons why;

4. Whether the victim has experienced commercial sexual exploitation since the verified report;

5. Whether the victim has run away since the verified

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report;

6. The type and number of placements, if applicable;

7. The educational status of the child;

8. The employment status of the child; and

9. Whether the child has been involved in the juvenile or criminal justice system.

(e) The department, or a sheriff's office acting under s. 39.3065, shall follow up with all verified victims of commercial sexual exploitation who are not dependent within 6 months after the child abuse investigation is completed and the information must be used in the report required under s. 39.524. The followup for nondependent victims and their families is voluntary, and the victim, family, or legal guardian is not required to respond. The followup must attempt to determine the following:

1. Whether a referral was made for the services recommended in the service plan;

2. Whether the services were received and, if not, the reasons why;

3. Whether the services or treatments were completed and, if not, the reasons why;

4. Whether the victim has experienced commercial sexual exploitation since the verified report;

5. Whether the victim has run away since the verified report;

6. The educational status of the child;

7. The employment status of the child; and

8. Whether the child has been involved in the juvenile or criminal justice system.

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~~(3)(2) TRAINING; LOCAL PROTOCOLS CASE MANAGEMENT, TASK FORCES.-~~

~~(a)1-~~ The department, or a sheriff's office acting under s. 39.3065, and community-based care lead agencies shall ensure that cases in which a child is alleged, suspected, or known to be a victim of commercial sexual exploitation ~~have been sexually exploited~~ are assigned to child protective investigators and case managers who have specialized intensive training in handling cases involving a sexually exploited child. The department, sheriff's office, and lead agencies shall ensure that child protective investigators and case managers receive this training before accepting a case involving a commercially sexually exploited child.

~~(b)2-~~ The Department of Juvenile Justice shall ensure that juvenile probation staff or contractors administering the detention risk assessment instrument pursuant to s. 985.14 receive specialized intensive training in identifying and serving commercially sexually exploited children.

~~(b) The department and community-based care lead agencies shall conduct regular multidisciplinary staffings relating to services provided for sexually exploited children to ensure that all parties possess relevant information and services are coordinated across systems. The department or community-based care lead agency, as appropriate, shall coordinate these staffings and invite individuals involved in the child's care, including, but not limited to, the child's guardian ad litem, juvenile justice system staff, school district staff, service providers, and victim advocates.~~

~~(c)1-~~ Each region of the department and each community-

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based care lead agency shall jointly assess local service capacity to meet the specialized service needs of commercially sexually exploited children and establish a plan to develop the necessary capacity. Each plan shall be developed in consultation with community-based care lead agencies, local law enforcement officials, local school officials, runaway and homeless youth program providers, local probation departments, children's advocacy centers, guardians ad litem, public defenders, state attorneys' offices, safe houses, and child advocates and service providers who work directly with commercially sexually exploited children.

(d) ~~2-~~ Each region of the department and each community-based care lead agency shall establish local protocols and procedures for working with commercially sexually exploited children which are responsive to the individual circumstances of each child. The protocols and procedures shall take into account the varying types and levels of trauma endured; whether the commercial sexual exploitation is actively occurring, occurred in the past, or is inactive but likely to recur; and the differing community resources and degrees of familial support that are available. Child protective investigators and case managers must use these protocols and procedures when working with a victim of commercial sexual exploitation ~~sexually exploited child~~.

(4) ~~(3)~~ LOCAL RESPONSE TO HUMAN TRAFFICKING; TRAINING; TASK FORCE.-

(a) To the extent that funds are available, the local regional director may provide training to local law enforcement officials who are likely to encounter child victims of

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commercial sexual exploitation ~~sexually exploited children~~ in the course of their law enforcement duties. Training ~~must~~ shall address ~~the provisions of~~ this section and how to identify and obtain appropriate services for such ~~sexually exploited~~ children. The local circuit administrator may contract with a not-for-profit agency with experience working with commercially sexually exploited children to provide the training. Circuits may work cooperatively to provide training, which may be provided on a regional basis. The department shall assist circuits to obtain available funds for the purpose of conducting law enforcement training from the Office of Juvenile Justice and Delinquency Prevention of the United States Department of Justice.

(b) Circuit administrators or their designees, chief probation officers of the Department of Juvenile Justice or their designees, and the chief operating officers of community-based care lead agencies or their designees shall participate in any task force, committee, council, advisory group, coalition, or other entity in their service area that is involved in coordinating responses to address human trafficking or commercial sexual exploitation of children. If such entity does not exist, the circuit administrator for the department shall initiate one.

Section 6. Subsection (4) of section 907.041, Florida Statutes, is amended to read:

907.041 Pretrial detention and release.-

(4) PRETRIAL DETENTION.-

(a) As used in this subsection, "dangerous crime" means any of the following:

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- 526 1. Arson;
 527 2. Aggravated assault;
 528 3. Aggravated battery;
 529 4. Illegal use of explosives;
 530 5. Child abuse or aggravated child abuse;
 531 6. Abuse of an elderly person or disabled adult, or
 532 aggravated abuse of an elderly person or disabled adult;
 533 7. Aircraft piracy;
 534 8. Kidnapping;
 535 9. Homicide;
 536 10. Manslaughter;
 537 11. Sexual battery;
 538 12. Robbery;
 539 13. Carjacking;
 540 14. Lewd, lascivious, or indecent assault or act upon or in
 541 presence of a child under the age of 16 years;
 542 15. Sexual activity with a child, who is 12 years of age or
 543 older but less than 18 years of age, by or at solicitation of
 544 person in familial or custodial authority;
 545 16. Burglary of a dwelling;
 546 17. Stalking and aggravated stalking;
 547 18. Act of domestic violence as defined in s. 741.28;
 548 19. Home invasion robbery;
 549 20. Act of terrorism as defined in s. 775.30;
 550 21. Manufacturing any substances in violation of chapter
 551 893; ~~and~~
 552 22. Attempting or conspiring to commit any such crime; and
 553 23. Human trafficking.
 554 (b) No person charged with a dangerous crime shall be

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555 granted nonmonetary pretrial release at a first appearance
 556 hearing; however, the court shall retain the discretion to
 557 release an accused on electronic monitoring or on recognizance
 558 bond if the findings on the record of facts and circumstances
 559 warrant such a release.

560 (c) The court may order pretrial detention if it finds a
 561 substantial probability, based on a defendant's past and present
 562 patterns of behavior, the criteria in s. 903.046, and any other
 563 relevant facts, that any of the following circumstances exist:

564 1. The defendant has previously violated conditions of
 565 release and that no further conditions of release are reasonably
 566 likely to assure the defendant's appearance at subsequent
 567 proceedings;

568 2. The defendant, with the intent to obstruct the judicial
 569 process, has threatened, intimidated, or injured any victim,
 570 potential witness, juror, or judicial officer, or has attempted
 571 or conspired to do so, and that no condition of release will
 572 reasonably prevent the obstruction of the judicial process;

573 3. The defendant is charged with trafficking in controlled
 574 substances as defined by s. 893.135, that there is a substantial
 575 probability that the defendant has committed the offense, and
 576 that no conditions of release will reasonably assure the
 577 defendant's appearance at subsequent criminal proceedings;

578 4. The defendant is charged with DUI manslaughter, as
 579 defined by s. 316.193, and that there is a substantial
 580 probability that the defendant committed the crime and that the
 581 defendant poses a threat of harm to the community; conditions
 582 that would support a finding by the court pursuant to this
 583 subparagraph that the defendant poses a threat of harm to the

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community include, but are not limited to, any of the following:

a. The defendant has previously been convicted of any crime under s. 316.193, or of any crime in any other state or territory of the United States that is substantially similar to any crime under s. 316.193;

b. The defendant was driving with a suspended driver license when the charged crime was committed; or

c. The defendant has previously been found guilty of, or has had adjudication of guilt withheld for, driving while the defendant's driver license was suspended or revoked in violation of s. 322.34;

5. The defendant poses the threat of harm to the community. The court may so conclude, if it finds that the defendant is presently charged with a dangerous crime, that there is a substantial probability that the defendant committed such crime, that the factual circumstances of the crime indicate a disregard for the safety of the community, and that there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons;

6. The defendant was on probation, parole, or other release pending completion of sentence or on pretrial release for a dangerous crime at the time the current offense was committed;

7. The defendant has violated one or more conditions of pretrial release or bond for the offense currently before the court and the violation, in the discretion of the court, supports a finding that no conditions of release can reasonably protect the community from risk of physical harm to persons or assure the presence of the accused at trial; or

8.a. The defendant has ever been sentenced pursuant to s.

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775.082(9) or s. 775.084 as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal, or the state attorney files a notice seeking that the defendant be sentenced pursuant to s. 775.082(9) or s. 775.084, as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal;

b. There is a substantial probability that the defendant committed the offense; and

c. There are no conditions of release that can reasonably protect the community from risk of physical harm or ensure the presence of the accused at trial.

(d) When a person charged with a crime for which pretrial detention could be ordered is arrested, the arresting agency shall promptly notify the state attorney of the arrest and shall provide the state attorney with such information as the arresting agency has obtained relative to:

1. The nature and circumstances of the offense charged;

2. The nature of any physical evidence seized and the contents of any statements obtained from the defendant or any witness;

3. The defendant's family ties, residence, employment, financial condition, and mental condition; and

4. The defendant's past conduct and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at court proceedings.

(e) When a person charged with a crime for which pretrial detention could be ordered is arrested, the arresting agency may detain such defendant, prior to the filing by the state attorney

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of a motion seeking pretrial detention, for a period not to exceed 24 hours.

(f) The pretrial detention hearing shall be held within 5 days of the filing by the state attorney of a complaint to seek pretrial detention. The defendant may request a continuance. No continuance shall be for longer than 5 days unless there are extenuating circumstances. The defendant may be detained pending the hearing. The state attorney shall be entitled to one continuance for good cause.

(g) The state attorney has the burden of showing the need for pretrial detention.

(h) The defendant is entitled to be represented by counsel, to present witnesses and evidence, and to cross-examine witnesses. The court may admit relevant evidence without complying with the rules of evidence, but evidence secured in violation of the United States Constitution or the Constitution of the State of Florida shall not be admissible. No testimony by the defendant shall be admissible to prove guilt at any other judicial proceeding, but such testimony may be admitted in an action for perjury, based upon the defendant's statements made at the pretrial detention hearing, or for impeachment.

(i) The pretrial detention order of the court shall be based solely upon evidence produced at the hearing and shall contain findings of fact and conclusions of law to support it. The order shall be made either in writing or orally on the record. The court shall render its findings within 24 hours of the pretrial detention hearing.

(j) A defendant convicted at trial following the issuance of a pretrial detention order shall have credited to his or her

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sentence, if imprisonment is imposed, the time the defendant was held under the order, pursuant to s. 921.161.

(k) The defendant shall be entitled to dissolution of the pretrial detention order whenever the court finds that a subsequent event has eliminated the basis for detention.

(l) The Legislature finds that a person who manufactures any substances in violation of chapter 893 poses a threat of harm to the community and that the factual circumstances of such a crime indicate a disregard for the safety of the community. The court shall order pretrial detention if the court finds that there is a substantial probability that a defendant charged with manufacturing any substances in violation of chapter 893 committed such a crime and if the court finds that there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons.

Section 7. For the purpose of incorporating the amendment made by this act to section 907.041(4)(a), Florida Statutes, in a reference thereto, paragraph (c) of subsection (2) of section 790.065, Florida Statutes, is reenacted to read:

790.065 Sale and delivery of firearms.—

(2) Upon receipt of a request for a criminal history record check, the Department of Law Enforcement shall, during the licensee's call or by return call, forthwith:

(c)1. Review any records available to it to determine whether the potential buyer or transferee has been indicted or has had an information filed against her or him for an offense that is a felony under either state or federal law, or, as mandated by federal law, has had an injunction for protection against domestic violence entered against the potential buyer or

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transferee under s. 741.30, has had an injunction for protection against repeat violence entered against the potential buyer or transferee under s. 784.046, or has been arrested for a dangerous crime as specified in s. 907.041(4)(a) or for any of the following enumerated offenses:

- a. Criminal anarchy under ss. 876.01 and 876.02.
- b. Extortion under s. 836.05.
- c. Explosives violations under s. 552.22(1) and (2).
- d. Controlled substances violations under chapter 893.
- e. Resisting an officer with violence under s. 843.01.
- f. Weapons and firearms violations under this chapter.
- g. Treason under s. 876.32.
- h. Assisting self-murder under s. 782.08.
- i. Sabotage under s. 876.38.
- j. Stalking or aggravated stalking under s. 784.048.

If the review indicates any such indictment, information, or arrest, the department shall provide to the licensee a conditional nonapproval number.

2. Within 24 working hours, the department shall determine the disposition of the indictment, information, or arrest and inform the licensee as to whether the potential buyer is prohibited from receiving or possessing a firearm. For purposes of this paragraph, "working hours" means the hours from 8 a.m. to 5 p.m. Monday through Friday, excluding legal holidays.

3. The office of the clerk of court, at no charge to the department, shall respond to any department request for data on the disposition of the indictment, information, or arrest as soon as possible, but in no event later than 8 working hours.

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4. The department shall determine as quickly as possible within the allotted time period whether the potential buyer is prohibited from receiving or possessing a firearm.

5. If the potential buyer is not so prohibited, or if the department cannot determine the disposition information within the allotted time period, the department shall provide the licensee with a conditional approval number.

6. If the buyer is so prohibited, the conditional nonapproval number shall become a nonapproval number.

7. The department shall continue its attempts to obtain the disposition information and may retain a record of all approval numbers granted without sufficient disposition information. If the department later obtains disposition information which indicates:

a. That the potential buyer is not prohibited from owning a firearm, it shall treat the record of the transaction in accordance with this section; or

b. That the potential buyer is prohibited from owning a firearm, it shall immediately revoke the conditional approval number and notify local law enforcement.

8. During the time that disposition of the indictment, information, or arrest is pending and until the department is notified by the potential buyer that there has been a final disposition of the indictment, information, or arrest, the conditional nonapproval number shall remain in effect.

Section 8. This act shall take effect October 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/13/17
Meeting Date

852
Bill Number (if applicable)

Topic HUMAN TRAFFICKING

Name THEODORE MANNELLI

Job Title EXEC DIR

Address 1350 N.W. 12 AVE
Street

MIAMI, FL 33136
City State Zip

Phone 305-547-0100

Email tedmannelli@miamisao.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing STATE ATTORNEY, 11th JUDICIAL CIRCUIT

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 Mch 17

Meeting Date

852

Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title Pres & CEO

Address 204 S. Monroe St.

Phone 850.510.9922

Street

Tall

City

FL

State

32301

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Fla. 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
APPEARANCE RECORD

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

3/13/17

Meeting Date

SB 852

Bill Number (if applicable)

Topic SB 852

Amendment Barcode (if applicable)

Name Emily Fritz

Job Title volunteer

Address 1433 Vieux Carre Drive

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Tallahassee

City

FL

State

32308

Zip

Phone 850-321-8774

Email emilyfritz@msn.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Federation of Republican Women

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
State Senator René García
36th District

Please reply to:

District Office:

1490 West 68 Street
Suite # 201
Hialeah, FL 33014
Phone# (305) 364-3100

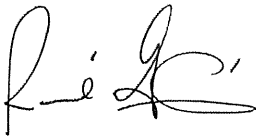
February 24, 2017

The Honorable Randolph Bracy
Chair, Committee on Criminal Justice
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Bracy,

Please have this letter serve as my formal request to have **SB 852: Human Trafficking** heard during the next scheduled Criminal Justice Committee Meeting. Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,



State Senator René García
District 36

CC: Jennifer Hrdlicka
Sue Arnold

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 892

INTRODUCER: Senator Simmons

SUBJECT: Youthful Offenders

DATE: March 10, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Hrdlicka	CJ	Favorable
2.			ACJ	
3.			AP	

I. Summary:

SB 892 allows the court to impose a sentence as a youthful offender if a person committed a felony *before they turned 21 years of age*. Current law requires the person be under 21 at the time of sentencing.

The Criminal Justice Impact Conference has not determined the impact of the bill. However, it will likely have a negative (decrease) impact on prison beds.

The bill is effective July 1, 2017.

II. Present Situation:

Florida provides an alternative sentencing scheme for certain youthful offenders convicted of a felony. A court may impose a sentence as a youthful offender in circuit court if the person:

- Was found guilty of, or plead nolo contendere or guilty to a felony that is not a capital or life felony;
- Is younger than 21 years of age at the time the sentence is imposed; and
- Has not previously been sentenced as a youthful offender.¹

If a court chooses to sentence a person as a youthful offender, it must sentence the youthful offender to any combination of the following penalties:

- Place the youthful offender on probation or in a community control program for no more than 6 years. Under this sentencing option, the court can choose to withhold adjudication of guilt or impose adjudication of guilt.²

¹ Section 958.04(1), F.S.

² Section 958.04(2)(a), F.S.

- Incarcerate the youthful offender for no more than a year. The incarceration must take place in a specified facility and is a condition of probation or community control.
- Incarcerate the youthful offender for a specified period followed by a term of probation or community control. If the incarceration is in specified DOC facilities it cannot be for less than 1 year or longer than 4 years. The period of incarceration and probation or community control cannot exceed 6 years.
- Incarcerate the youthful offender for no more than 6 years.³

III. Effect of Proposed Changes:

The bill allows the court to impose a sentence as a youthful offender if a person committed a felony *before they turned 21 years of age*. Current law requires the person be under 21 at the time of sentencing.

A larger group of people will now be eligible for a youthful offender sentence.

The bill reenacts ss. 950.04(5), 958.045(8)(a), and 985.565, F.S., to incorporate changes made by the bill.

The bill is effective July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

³ Any of these sentencing combinations cannot exceed the maximum sentence for the offence for which the youthful offender was found guilty. If a youthful offender is sentenced to a period of incarceration, the court must adjudicate the youthful offender guilty. Section 958.04(2), F.S.

C. Government Sector Impact:

The Criminal Justice Impact Conference has not determined the impact of the bill. However, it will likely have a negative (decrease) impact on prison beds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 958.04 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 958.03, 958.045, and 985.565.

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 Simmons

9-00516-17

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1 A bill to be entitled
 2 An act relating to youthful offenders; amending s.
 3 958.04, F.S.; revising the criteria allowing a court
 4 to sentence as a youthful offender a person who is
 5 found guilty of, or who pled nolo contendere or guilty
 6 to, committing a felony before the person turned 21
 7 years of age; reenacting ss. 958.03(5), 958.045(8)(a),
 8 and 985.565(4)(c), F.S., relating to the definition of
 9 "youthful offender," the youthful offender basic
 10 training program, and classification as a youth
 11 offender, respectively, to incorporate the amendment
 12 made to s. 958.04, F.S., in references thereto;
 13 providing an effective date.
 14
 15 Be It Enacted by the Legislature of the State of Florida:
 16
 17 Section 1. Subsection (1) of section 958.04, Florida
 18 Statutes, is amended to read:
 19 958.04 Judicial disposition of youthful offenders.—
 20 (1) The court may sentence as a youthful offender any
 21 person:
 22 (a) Who is at least 18 years of age or who has been
 23 transferred for prosecution to the criminal division of the
 24 circuit court pursuant to chapter 985;
 25 (b) Who is found guilty of or who has tendered, and the
 26 court has accepted, a plea of nolo contendere or guilty to a
 27 crime that is, under the laws of this state, a felony if such
 28 crime was committed before the defendant turned 21 years of age
 29 ~~the offender is younger than 21 years of age at the time~~

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

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30 ~~sentence is imposed; and~~
 31 (c) Who has not previously been classified as a youthful
 32 offender under the provisions of this act; however, a person who
 33 has been found guilty of a capital or life felony may not be
 34 sentenced as a youthful offender under this act.
 35 Section 2. For the purpose of incorporating the amendment
 36 made by this act to section 958.04, Florida Statutes, in a
 37 reference thereto, subsection (5) of section 958.03, Florida
 38 Statutes, is reenacted to read:
 39 958.03 Definitions.—As used in this act:
 40 (5) "Youthful offender" means any person who is sentenced
 41 as such by the court or is classified as such by the department
 42 pursuant to s. 958.04.
 43 Section 3. For the purpose of incorporating the amendment
 44 made by this act to section 958.04, Florida Statutes, in a
 45 reference thereto, paragraph (a) of subsection (8) of section
 46 958.045, Florida Statutes, is reenacted to read:
 47 958.045 Youthful offender basic training program.—
 48 (8)(a) The Assistant Secretary for Youthful Offenders shall
 49 continuously screen all institutions, facilities, and programs
 50 for any inmate who meets the eligibility requirements for
 51 youthful offender designation specified in s. 958.04, whose age
 52 does not exceed 24 years. The department may classify and assign
 53 as a youthful offender any inmate who meets the criteria of s.
 54 958.04.
 55 Section 4. For the purpose of incorporating the amendment
 56 made by this act to section 958.04, Florida Statutes, in a
 57 reference thereto, paragraph (c) of subsection (4) of section
 58 985.565, Florida Statutes, is reenacted to read:

Page 2 of 3

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

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985.565 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.—

(4) SENTENCING ALTERNATIVES.—

(c) *Adult sanctions upon failure of juvenile sanctions.*—If a child proves not to be suitable to a commitment program, juvenile probation program, or treatment program under paragraph (b), the department shall provide the sentencing court with a written report outlining the basis for its objections to the juvenile sanction and shall simultaneously provide a copy of the report to the state attorney and the defense counsel. The department shall schedule a hearing within 30 days. Upon hearing, the court may revoke the previous adjudication, impose an adjudication of guilt, and impose any sentence which it may lawfully impose, giving credit for all time spent by the child in the department. The court may also classify the child as a youthful offender under s. 958.04, if appropriate. For purposes of this paragraph, a child may be found not suitable to a commitment program, community control program, or treatment program under paragraph (b) if the child commits a new violation of law while under juvenile sanctions, if the child commits any other violation of the conditions of juvenile sanctions, or if the child's actions are otherwise determined by the court to demonstrate a failure of juvenile sanctions.

It is the intent of the Legislature that the criteria and guidelines in this subsection are mandatory and that a determination of disposition under this subsection is subject to the right of the child to appellate review under s. 985.534.

Section 5. This act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

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

13 Mch 17

Meeting Date

892

Bill Number (if applicable)

Topic Youthful Offenders

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title Pres & CEO

Address 204 S. Monroe St.
Street

Phone 850.510.9922

Tall 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 Fla. 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.

THE FLORIDA SENATE
APPEARANCE RECORD

3-13-17

Meeting Date

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

SB 892

Bill Number (if applicable)

Topic Youthful Offenders

Amendment Barcode (if applicable)

Name Greg Newburn

Job Title State Policy Director

Address Po Box 142933

Street

Gainesville

City

FL

State

32614

Zip

Phone 352.682.2542

Email gnewburn@famnm.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FAMM

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 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3 / 13 / 2017

Meeting Date

Topic _____

Bill Number 892
(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
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
APPEARANCE RECORD

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

March 13, 2017

Meeting Date

892

Bill Number (if applicable)

Topic Youthful Offenders

Amendment Barcode (if applicable)

Name Honorable Bob Dillinger

Job Title Public Defender, 6th Circuit

Address 14250 49th Street, North

Phone 727-464-6516

Street

Clearwater

FL

33762

Email bdilling@wearethehope.org

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

_____ of the public record for this meeting

S-001 (10/14/14)



The Florida Senate

Committee Agenda Request

To: Senator Randolph Bracy, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: February 27, 2017

I respectfully request that **Senate Bill 892**, relating to Youthful Offenders, be placed on the:

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

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

Senator David Simmons
Florida Senate, District 9

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 894

INTRODUCER: Senator Simmons

SUBJECT: Arrest Warrants for State Prisoners

DATE: March 10, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Hrdlicka	CJ	Favorable
2.			JU	
3.			AP	

I. Summary:

The bill creates a law to address unserved arrest warrants for state prisoners. Any prisoner in state prison with an unserved violation of probation or an unserved violation of community control warrant for his or her arrest may file a state prisoner's notice of unserved warrant in the circuit court.

The prisoner must serve notice on the state attorney and the state attorney must schedule the notice for a status hearing 90 days after receipt of the notice. The state attorney must inform the court of the unserved violation of probation or violation of community control. If there are outstanding warrants, the court must order the state attorney to submit an order within 30 days after the status hearing to transport the prisoner to the county jail where the warrant was issued. The court must send the order to the county sheriff for execution.

II. Present Situation:

Violations of Probation

During probation or community control, under s. 948.06, F.S., if a person violates the terms of his or her probation or community control, then any law enforcement officer or parole or probation officer can arrest the person. The arrest may be made with or without a warrant. A judge can also issue a warrant for the person's arrest, or the committing trial court judge can issue a notice to appear, depending on the type of violation.

Currently there is no provision in statute for a prisoner to deal with unserved warrants while in prison.

III. Effect of Proposed Changes:

The bill creates s. 948.33, F.S., to address unserved arrest warrants for state prisoners. The bill allows a prisoner in a state prison who has an unserved violation of probation or an unserved violation of community control warrant for his or her arrest to file a state prisoner's notice of unserved warrant in the circuit court of the judicial circuit where the unserved warrant was issued.

The prisoner must serve notice on the state attorney of that circuit and the state attorney must schedule the notice for a status hearing before the circuit court within 90 days after receipt of the notice. The state prisoner may not be transported to the status hearing.

At the status hearing the state attorney must inform the court whether there is an unserved violation of probation or an unserved violation of community control warrant for the arrest of the state prisoner. If there are outstanding warrants, the court must order the state attorney to submit an order within 30 days after the status hearing to transport the state prisoner to the county jail of the county that issued the warrant. The court must send the order to the county sheriff for execution.

The bill has an effective date of July 1, 2017.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Justice Administration Commission states that the bill will have no fiscal impacts to its agency.¹

Impacts, if any, to the state courts system are unknown at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 948.33 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.

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

¹ Memorandum No. 021-17, EXEC from the Justice Administration Commission, February 17, 2017.

By Senator Simmons

9-00517-17

2017894__

A bill to be entitled

An act relating to arrest warrants for state prisoners; creating s. 948.33, F.S.; authorizing a prisoner in a state prison who has an unserved violation of probation or an unserved violation of community control warrant to file a notice of unserved warrant in the circuit court where the warrant was issued; requiring the prisoner to serve notice on the state attorney; requiring the state attorney to schedule a status hearing within a certain time after receiving notice; specifying procedures and requirements for the status hearing; providing for prosecution of the violation; requiring the court to send the order to the county sheriff; providing an effective date.

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

Section 1. Section 948.33, Florida Statutes, is created to read:

948.33 Prosecution for violation of probation and community control arrest warrants of state prisoners.—A prisoner in a state prison in this state who has an unserved violation of probation or an unserved violation of community control warrant for his or her arrest may file a state prisoner's notice of unserved warrant in the circuit court of the judicial circuit in which the unserved warrant was issued. The prisoner must serve notice on the state attorney of that circuit and the state attorney must schedule the notice for a status hearing before

Page 1 of 2

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

9-00517-17

2017894__

the circuit court within 90 days after receipt of the notice. The state prisoner may not be transported to the status hearing. At the status hearing the state attorney shall inform the court whether there is an unserved violation of probation or an unserved violation of community control warrant for the arrest of the state prisoner. If a warrant for either violation exists, the court must order the state attorney to submit to the court within 30 days after the status hearing an order to transport the state prisoner to the county jail of the county that issued the warrant for prosecution of the violation and the court shall send the order to the county sheriff for execution.

Section 2. This act shall take effect July 1, 2017.

Page 2 of 2

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)

13 Mch 17
Meeting Date

894
Bill Number (if applicable)

Topic Arrest Warrants State Prisoners

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title Pres & CEO

Address 204 S. Monroe St.
Street

Phone 850.510.9922

Tall 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 Fla. 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.

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THE FLORIDA SENATE
APPEARANCE RECORD

March 13, 2017

Meeting Date

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

894

Bill Number (if applicable)

Topic Arrest Warrants for State Prisoners

Amendment Barcode (if applicable)

Name Honorable Bob Dillinger

Job Title Public Defender, 6th Circuit

Address 14250 49th Street, North

Street

Phone 727-464-6516

Clearwater

FL

33762

City

State

Zip

Email bdilling@wearethehope.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)



The Florida Senate

Committee Agenda Request

To: Senator Randolph Bracy, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: February 27, 2017

I respectfully request that **Senate Bill 894**, relating to Arrest Warrants for State Prisoners, be placed on the:

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

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

Senator David Simmons
Florida Senate, District 9

CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Criminal Justice Committee

Judge:

Started: 3/13/2017 4:04:28 PM

Ends: 3/13/2017 5:58:13 PM

Length: 01:53:46

4:04:27 PM Meeting called to order- Roll Call
4:04:38 PM Tab 1 CS/SB 416 by JU, Montford (Co-Introducers) Book; Use of Animals in Proceeding Involving Minors
4:06:15 PM Amendment Barcode 461856 adopted
4:06:22 PM Bill as amended
4:06:29 PM Chuck Mitchell, Justice Best Friends Act recognized
4:07:47 PM Senator Baxley
4:09:36 PM Brian Pitts, Justice to Jesus waives in support
4:10:07 PM Barney Bishop, waives in support
4:10:37 PM Senator Bean
4:12:38 PM Senator Baxley
4:13:39 PM Senator Bradley
4:14:48 PM Senator Book
4:15:48 PM Roll Call
4:16:16 PM CS/SB 416 Passed as a Committee substitute
4:16:25 PM Tab 7 SB 852 by Garcia; Human Trafficking
4:18:13 PM Amendment Barcode 284874
4:18:22 PM Bill as amended
4:18:37 PM Barney Bishop, Florida Smart Justice-Alliance waives in support
4:19:03 PM Roll Call
4:19:58 PM CS/SB 852 Favorable
4:20:23 PM Tab 6 SB 844 by Simmons; Criminal Offenses Involving Tombs and Memorials
4:22:55 PM Substitute Delete all Amendment barcode 717080
4:23:15 PM Bill as amended
4:23:54 PM Brian Pitts, Justice-2-Jesus recognized
4:26:54 PM Senator Baxley
4:29:58 PM SB 844 passed as a committee substitute
4:30:37 PM Senator Rouson
4:31:51 PM Senator Simmons
4:32:50 PM Roll Call
4:33:21 PM Tab 8 SB 892 by Simmons; Youthful Offenders
4:34:49 PM Honorable Bob Dillinger, Florida Public Defender Association, Inc. recognized
4:36:11 PM Barney Bishop waives in support
4:36:19 PM Senator Rouson
4:36:25 PM Roll Call
4:37:09 PM SB 892 Favorable
4:37:24 PM Tab 9 SB 894 by Simmons; Arrest Warrants for State Prisoners
4:38:44 PM Honorable Bob Dillinger, Florida Public Defender Association, Inc. recognized
4:40:00 PM Senator Bradley
4:41:47 PM Barney Bishop, waives in support
4:42:55 PM Senator Simmons
4:43:10 PM Roll Call
4:43:52 PM SB 894 Favorable
4:44:03 PM Tab 2 SB 448 by Brandes; Prearrest Diversion Program
4:44:29 PM Senator Brandes recognized
4:44:42 PM Senator Rouson
4:45:39 PM Amendment Barcode 353442
4:46:08 PM Question by Senator Rouson
4:46:56 PM Bill as amended
4:47:45 PM Sal Nuzzo, The James Madison Institute Recognized
4:48:47 PM Greg Frost, Civil Citation Network Recognized
4:50:38 PM Question by Senator Baxley
4:50:54 PM Response by Greg Frost

4:51:33 PM Honorable Bob Dillinger, Florida Public Defender Association, Inc. recognized
4:53:37 PM Brian Pitts, Justice-2-Jesus recognized
4:59:17 PM Ralph Willson, Researcher Recognized
5:01:45 PM Question by Senator Bradley
5:04:38 PM Melissa Ramba, Florida Retail Federation recognized
5:06:54 PM Barney Bishop, Florida Smart Justice Alliance recognized
5:11:17 PM Question by Senator Rouson
5:13:07 PM Follow up question by Senator Rouson
5:15:05 PM Senator Baxley
5:18:24 PM Senator Rouson
5:19:55 PM Senator Bradley
5:23:50 PM Roll Call
5:24:50 PM SB 448 favorable as a committee Substitute
5:25:05 PM Tab 3 SB 450 by Brandes; Public Records
5:25:23 PM Delete All Amendment barcode 576030
5:25:41 PM Senator Rouson
5:26:07 PM Senator Bradley
5:27:00 PM Senator Brandes
5:27:16 PM Bill as amended
5:27:48 PM Brian Pitts, Justice-2-Jesus recognized
5:29:55 PM Barney Bishop, Florida Smart Justice Alliance recognized
5:31:40 PM Senator Bradley
5:32:20 PM Roll Call
5:32:50 PM SB 450 favorable as a committee substitute
5:33:05 PM Tab 4 SB 458 by Brandes; Florida Criminal Justice Reform Task Force
5:33:41 PM Senator Rouson
5:35:00 PM Mark Schlakman, FSU center for the Advancement of Human Rights Recognized
5:37:59 PM Brian Pitts, Justice-2-Jesus recognized
5:42:04 PM Senator Baxley
5:46:28 PM Senator Rouson
5:48:06 PM Senator Bradley
5:53:27 PM Roll Call
5:54:26 PM SB 458 favorable
5:54:51 PM Tab 5 SB 790 by Brandes; Probation and Community Control
5:55:31 PM Amendment Barcode 431552
5:56:03 PM Amendment Barcode 660892
5:56:31 PM Bill as amended
5:56:43 PM Brian Pitts, Justice-2-Jesus recognized
5:57:27 PM Roll Call
5:57:47 PM SB 790 Passed as a Committee Substitute
5:58:01 PM Meeting Adjourned